



January 28, 2020

SUMMARY OF BILL: Enacts the *Tennessee Pay Equality Act*. Prohibits an employer from discriminating between employees on the basis of gender relative to wages. Clarifies that wage differentials based on a bona fide factor other than gender such as education, training, or experience are permitted, but that an employer must demonstrate the validity of the bona fide factors. Requires the Commissioner of the Department of Labor and Workforce Development (DLWD) to develop guidelines to enable employers to evaluate job categories based on objective criteria, and requires the guidelines be designed to enable employers to voluntarily compare wages paid for different jobs to determine if the pay scales adequately reflect job conditions and requirements with the goal of eliminating unfair pay disparities.

Prohibits an employer from forbidding its employees from discussing wages or taking a retaliatory action against an employee for doing so. Creates a cause of action against employers who violate the provisions of this legislation. Specifies that a violation of the act additionally holds the employer liable for compensatory or punitive damages, as appropriate. Any action brought to enforce this part may be maintained as a class action as provided by the Tennessee Rules of Civil Procedure. Creates a Class A misdemeanor for an employer who retaliates against an employee for making a complaint to the Commissioner for wage discrimination.

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Pursuant to Tenn. Code Ann. § 50-2-202(a), wage differentials between employees of the opposite sex are permissible only if such differentials are based on a system of seniority, merit, quality, or quantity of production, or any "other reasonable differential" that is based on a factor other than sex.
- DLWD is expected to be able to develop guidelines and execute the provisions of the legislation within existing resources without an additional appropriation or a reduced reversion.
- There will not be a sufficient number of Class A misdemeanor offenses for state or local government to experience any significant increase in revenue or expenditures associated with such offenses.
- There will be no significant impact to state or local governments as employers.

- Any other impact as a result of this legislation will be borne by private parties.

IMPACT TO COMMERCE:

Other Commerce Impact – Potential changes in wage expenditures for private employers. The extent and timing of any such changes cannot be determined for they are dependent upon several unknown factors.

Assumption:

- To the extent certain employers adjust such employee's wages as a result of the proposed legislation there may be a change in an employer's business expenditures; however, any net impact on commerce and jobs in Tennessee is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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