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H.B. 396
134th General Assembly

Bill Analysis

Version: As Introduced

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SUMMARY

- Creates the fair paycheck workplace certificate, which certifies that an employer compensated its female employees within 5% of the compensation paid to male employees during the previous calendar year.
- Requires the Director of Commerce to issue an employer a fair paycheck workplace certificate if specified requirements are met and specifies reasons the Director must deny a certificate.

DETAILED ANALYSIS

Fair paycheck workplace certificate

The bill allows an employer to obtain a fair paycheck workplace certificate from the Director of Commerce, who may adopt rules as the Director considers appropriate to implement the bill. A certificate signifies that less than a 5% difference exists between the average gross compensation an employer paid to its male and female employees during the preceding calendar year. An employer cannot claim to possess a certificate or otherwise indicate that the employer has a certificate unless the employer possesses an unexpired certificate.¹

Application

An employer seeking a certificate under the bill must submit an application to the Director on a form the Director prescribes with the application fee the Director establishes by rule (the fee amount cannot exceed the amount necessary to administer the certificate

¹ R.C. 4145.02, 4145.03, and 4145.06.

program). If an employer is a business entity, the individual responsible for making decisions on behalf of the employer must sign the application.

An employer must include all of the following information in the application:

- The employer's name and address;
- The total number of employees employed by the employer;
- The number of female and male employees employed by the employer;
- Payroll records from the preceding calendar year that show the gross amount of compensation (all money paid to an employee for services performed by the employee, including commissions, bonuses, and tips, but not fringe benefits) paid to each female and male employee;
- Any other information the Director determines is necessary to determine whether to issue a certificate.

Any data on individuals submitted to the Director in an application is confidential and is not a public record.²

Issuance and renewal

The Director must issue a certificate within 15 days after receiving an application if the Director determines, based on the information provided in the application, that less than a 5% difference exists between the average gross compensation the employer paid to its male employees and female employees during the calendar year preceding the year in which the employer applied for the certificate.

An initial certificate is valid for six months. An employer may renew a certificate by submitting an application and paying the required fee. Each renewed certificate expires one year after the date it was renewed.³

Denial and appeal

The Director must reject a certificate application only if one of the following applies:

- The employer does not include the required information in the application;
- The employer fails to pay the required fee; or
- The Director determines that the employer does not meet the compensation requirement described above.

If the Director rejects an application, the Director must issue a statement to the employer explaining the reason for the rejection within 15 days after receiving the application.

² R.C. 4145.01(A), 4145.03(A), 4145.05 by reference to R.C. 149.43, not in the bill, and R.C. 4145.06.

³ R.C. 4145.03.

An employer that is denied a certificate may appeal the denial in accordance with the Administrative Procedure Act.⁴

Database

The Director's decision to issue or not issue a certificate is a public record. The Director must establish and operate on the internet a database of employers who have been granted a certificate and include, for each employer, the employer's name and address and whether the employer's certificate is current or expired. The database is a public record open for inspection, and it must be searchable by the public.⁵

HISTORY

Action	Date
Introduced	08-18-21

H0396-I-134/ar

⁴ R.C. 4145.03; R.C. Chapter 119, not in the bill.

⁵ R.C. 4145.04, by reference to R.C. 149.43, not in the bill, and R.C. 4145.05.