

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/16/2017**

Bill/Resolution No.: HB 1400

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>				\$112,500	\$0	\$75,000
<b>Expenditures</b>			\$140,500	\$112,500	\$95,500	\$75,000
<b>Appropriations</b>					\$95,500	\$75,000

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>			
<b>Townships</b>			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Creates Chapter 54-44.4 and requires certain employers to obtain an equal pay certificate from the Department prior to entering into a contract with the state. The Department would develop the administrative process, provide technical assistance, review applications, and issue certificates.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

1. The bill requires a business (qualified under 54-4.4-01) to submit an application for an equal pay certificate with the Department of Labor and Human Rights. While the bill is silent as to who is responsible and authorized to develop the administrative process to support this new section, for the purposes of this note, we assume that the Department would be required to develop the administrative process, including administration guidelines, procedures, forms, updating of the website and in-house software through ITD to input, track, and issue applications and certificates, as well as the provision of technical assistance to contractors as necessary. This work would be upfront and ongoing.
2. The bill requires the Department to issue a certificate of equal pay after the contractor has certified to the requirements specified in the bill. This note assumes staff time would be required to investigate certain applications based upon the information provided by employers to ensure compliance with this chapter, and that staff time required would be significant, based on the disparity in definitions of "equal pay" under the bill and state and federal law.
3. The bill notes that the "certificate is valid for four years" but is silent as to whether the Department would be expected to proactively notify the contractor of impending expiration. For the purposes of this note we assume we would model this process after our existing process for the issuance of sub-minimum wage certificates, wherein we notify employers of impending expiration and send information and forms in advance of expiration for the purposes of renewal, expending staff time to manage this process.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The Department has assumed 500 employers will apply for an equal pay certificate in the first fiscal year in the upcoming biennium, and assume a 50% reduction in later years, as the certificate is good for 4 years. The bill is silent as to where these funds are deposited (general or special fund). For the purposes of this note we have assumed the revenue will be placed in a special fund for the Department's activities.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The Department has estimated the following expenditures associated with HB1400 in the 2017-19 biennium:

1. ITD (generate forms, update and deploy in-house software programs) - \$75,000
  2. Operating expenses (office supplies, etc.) - \$10,000
  3. 1 FTE to implement HB1400 – \$163,000
- Total - \$253,000

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

It is estimated the Department would need an appropriations increase of \$253,000 for the 2017-19 biennium. The Department's budget is found in HB1007/1067.

Notably, expenses relating to this new process should be expected to be "front-loaded" due to the necessary investment to develop and administer the process, while revenue would be received as applications are approved.

**Name:** Michelle Kommer

**Agency:** ND DOL

**Telephone:** 701-328-3708

**Date Prepared:** 01/23/2017

**2017 HOUSE INDUSTRY, BUSINESS AND LABOR**

**HB 1400**

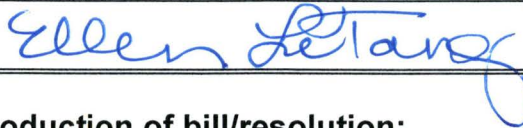
# 2017 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee  
Peace Garden Room, State Capitol

HB 1400  
1/24/2017  
27324

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Equal pay certificates for state contracts.

## Minutes:

Attachment 1, 2

**Chairman Keiser:** Opens the hearing of HB 1400.

**Mary Schneider~District 21:** I ask for a Do Not Pass on HB 1400. My goal on HB 1400, to make specific on the say a system for guaranteeing that individuals who are large employers, aware of our state & federal laws were on equal pay. Also, certifying that they are compliant with the law. This is a system used in a number of states. The more information I got, I was not doing things that was more efficient. **Attachment 1**-The amendment would have removed a separate structure & would have incorporated certification into our contracts with our big employers.

What we can do better is work with our attorney general's office, dept of labor & OMB on the procurement to agree appropriate language & appropriate that language in the procurement manual itself. What we are doing different from the main bill is removing any additional requirement of structure.

**5:00**

**Rep Ruby:** In the procurement language, is that done by rule to update or have they already instituted what we have in state & federal law in those so that's already being done. Is there going to be new language that has been changed in the last couple years that hasn't been updated?

**Rep Schneider:** We will be looking at the language as it's not developed. We have some good discussion already.

**Rep Laning:** On the back page, sub-paragraph 3, is there something different about health insurance?

**Rep Schneider:** There is complexity with health insurance contracts so it was appropriate to take that out without impacting the goals of the bill.

**Chairman Keiser:** Anyone else here to testify? What are the wishes of the committee?

**Rep Dobervich:** Moves a Do Not Pass on HB 1400.

**Rep Laning:** Second.

**Chairman Keiser:** Further discussion?

**Roll call was taken for a Do Not Pass on HB 1400 with 14 yes, 0 no, 0 absent & Rep Becker is the carrier.**

**Renee Stromme~Representing the ND Women's Network:** Attachment 2. Did not testify but handed in testimony.

Date: Jan 24, 2017

Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1400

House \_\_\_\_\_ Industry, Business and Labor \_\_\_\_\_ Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation

- Adopt Amendment
- Do Pass  Do Not Pass
- As Amended
- Place on Consent Calendar
- Reconsider
- Without Committee Recommendation
- Rerefer to Appropriations

Other Actions \_\_\_\_\_

Motion Made By Rep Dobervich Seconded By Rep Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep Laning	X	
Vice Chairman Sukut	X		Rep Lefor	X	
Rep Beadle	X		Rep Louser	X	
Rep R Becker	X		Rep O'Brien	X	
Rep Bosch	X		Rep Ruby	X	
Rep C Johnson	X		Rep Boschee	X	
Rep Kasper	X		Rep Dobervich	X	

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep Becker

**REPORT OF STANDING COMMITTEE**

**HB 1400: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
HB 1400 was placed on the Eleventh order on the calendar.

**2017 TESTIMONY**

**HB 1400**



PROPOSED AMENDMENTS TO HOUSE BILL NO. 1400

- Page 1, line 2, replace "certificates for" with "certifications included in"
- Page 1, line 6, replace "**certificates**" with "**certification**"
- Page 1, line 12, replace "has" with "executes"
- Page 1, line 12, replace "certificate" with "certification as part of the contract"
- Page 1, line 13, remove "A business may submit an application for an equal pay certificate with the department"
- Page 1, remove line 14
- Page 1, line 15, replace "issue an equal pay certificate to an applicant upon" with "The certification must provide an attestation by the employer"
- Page 1, line 16, remove "Receipt of a filing fee of one hundred fifty dollars;"
- Page 1, line 17, replace "b. Confirmation the" with "The"
- Page 1, line 19, replace "c." with "b."
- Page 1, line 19, replace "Confirmation the" with "The"
- Page 1, line 22, replace "d." with "c."
- Page 1, line 22, replace "Confirmation the" with "The"
- Page 2, line 1, replace "e." with "d."
- Page 2, line 1, replace "Confirmation wage" with "The business corrects wage"
- Page 2, line 1, remove "are corrected"
- Page 2, line 3, replace "f." with "e."
- Page 2, line 3, replace "Confirmation wage" with "The business evaluates wages"
- Page 2, line 3, remove "are evaluated"
- Page 2, line 4, after the underscored semicolon insert "and"
- Page 2, line 5, replace "g." with "f."
- Page 2, line 5, replace "Confirmation in" with "In"
- Page 2, after line 9, insert:
- "4. The certification required under this section does not prohibit a business from having wage differentials authorized under section 34-06.1-03."

Renumber accordingly



**House Industry, Business and Labor  
House Bill 1400  
January 24, 2017**

Good morning Chairman Keiser and members of the House Industry, Business, and Labor committee. I am Renee Stromme representing the North Dakota Women's Network. We are a statewide advocacy organization working to improve the lives of women. We stand in support of House Bill 1400.

North Dakota ranks first in labor force participation for both men and women. While the women's labor force participation rate was lower than men's, it was still higher than in the U.S.. In North Dakota, women (age 16 and older) working full-time, year-round, had median earnings of \$34,738 in 2014, which is \$13,202 less than their male counterparts (\$47,940). The earnings ratio was 72.5 percent, meaning that women earned about 73 cents for every dollar earned by men, a 27.5 percent earnings gap. (ND Compass)

That pay gap exists for a multitude of reasons including career choice, length of work experience, negotiation skills, and, of course pay discrimination. Legislative bodies do not necessarily have the tools to take on career choices or other factors, beyond encouraging STEM careers through education programs or similar options. But, the legislative body does have the power to address any inequities based on discrimination. Academic studies illustrate that even accounting for all factors known to affect wages, about one-quarter of the gap remains unexplained and may be attributed to discrimination (AAUW).

HB 1400 provides one tool to help address the discrimination factor of the pay gap. It sets a state standard that pay equality among employees of contractors is required.

Wage discrimination does exist and has consequences. Pay disparities cost women and their families thousands of dollars each year while they are working and thousands in retirement income when they leave the workforce. The North Dakota Women's Network supports HB 1400 and ask the committee give favorable approval to the bill.

Renee Stromme  
Executive Director