



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB3539

by Rep. Michael Halpin

#### SYNOPSIS AS INTRODUCED:

- 30 ILCS 500/Art. 47 heading new
- 30 ILCS 500/47-5 new
- 30 ILCS 500/47-10 new
- 30 ILCS 500/47-15 new
- 30 ILCS 500/47-20 new
- 30 ILCS 500/47-25 new
- 30 ILCS 500/47-30 new
- 30 ILCS 500/47-35 new
- 30 ILCS 500/47-40 new
- 30 ILCS 500/47-45 new
- 30 ILCS 500/47-50 new
- 30 ILCS 105/5.878 new

Amends the Illinois Procurement Code. Requires bidders to obtain an equal pay certificate before a purchasing agency may issue a contract to the bidder. Provides for the Department of Employment Security to issue the certificates. Specifies information to be included in an application for an equal pay certificate. Requires bidders to comply with the Equal Pay Act of 2003, Equal Wage Act, Illinois Human Rights Act, and Title VII of the Civil Rights Act of 1964. Amends the State Finance Act to create the Equal Pay Certificate Fund. Provides for moneys in the Fund to be used to administer the equal pay certificate requirements.

LRB100 05496 MLM 15507 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Procurement Code is amended by  
5 adding Article 47 as follows:

6 (30 ILCS 500/Art. 47 heading new)

7 ARTICLE 47

8 EQUAL PAY CERTIFICATES

9 (30 ILCS 500/47-5 new)

10 Sec. 47-5. Scope of Article.

11 (a) No contract to which this Act applies shall be executed  
12 with a bidder unless the bidder has an equal pay certificate or  
13 it has certified in writing that it is exempt.

14 (b) A certificate is valid for 4 years.

15 (30 ILCS 500/47-10 new)

16 Sec. 47-10. Application for equal pay certificate.

17 (a) A bidder shall apply for an equal pay certificate by  
18 paying a \$150 filing fee and submitting an equal pay compliance  
19 statement to the Department of Employment Security. The  
20 proceeds from the fees collected under this Article shall be  
21 deposited into the Equal Pay Certificate Fund, a special fund

1 created in the State Treasury. Money in the Fund shall be  
2 appropriated to the Department of Employment Security for the  
3 purposes of this Article. The Department of Employment Security  
4 shall issue an equal pay certificate of compliance to a  
5 business that submits to the Department of Employment Security  
6 a statement signed by the chairperson of the board or chief  
7 executive officer of the business:

8 (1) that the business is in compliance with Title VII  
9 of the Civil Rights Act of 1964, the Equal Pay Act of 2003,  
10 the Equal Wage Act, and the Illinois Human Rights Act;

11 (2) that the average compensation for its female  
12 employees is not consistently below the average  
13 compensation for its male employees within each of the  
14 major job categories in the EEO-1 employee information  
15 report for which an employee is expected to perform work  
16 under the contract, taking into account factors such as  
17 length of service, requirements of specific jobs,  
18 experience, skill, effort, responsibility, working  
19 conditions of the job, or other mitigating factors;

20 (3) that the business does not restrict employees of  
21 one sex to certain job classifications and makes retention  
22 and promotion decisions without regard to sex;

23 (4) that wage and benefit disparities are corrected  
24 when identified to ensure compliance with the laws cited in  
25 item (1) and with item (2); and

26 (5) how often wages and benefits are evaluated to

1 ensure compliance with the laws cited in item (1) and with  
2 item (2).

3 (b) The equal pay compliance statement shall also indicate  
4 whether the business, in setting compensation and benefits,  
5 utilizes:

6 (1) a market pricing approach;

7 (2) state prevailing wage or union contract  
8 requirements;

9 (3) a performance pay system;

10 (4) an internal analysis; or

11 (5) an alternative approach to determine what level of  
12 wages and benefits to pay its employees.

13 If the business uses an alternative approach, the business  
14 must provide a description of its approach.

15 (c) Receipt of the equal pay compliance statement by the  
16 Department of Employment Security does not establish  
17 compliance with the laws identified in item (1) of subsection  
18 (a).

19 (30 ILCS 500/47-15 new)

20 Sec. 47-15. Issuance or rejection or certificate. The  
21 Department of Employment Security must issue an equal pay  
22 certificate, or a statement of why the application was  
23 rejected, within 15 days after receipt of the application. An  
24 application may be rejected only if it does not comply with the  
25 requirements of Section 47-10.

1 (30 ILCS 500/47-20 new)

2 Sec. 47-20. Revocation of certificate. An equal pay  
3 certificate for a business may be suspended or revoked by the  
4 Department of Employment Security when the business fails to  
5 make a good-faith effort to comply with the laws identified in  
6 item (1) of subsection (a) of Section 47-10, fails to make a  
7 good-faith effort to comply with this Article, or has multiple  
8 violations of this Article or the laws identified in item (1)  
9 of subsection (a) of Section 47-10. Prior to suspending or  
10 revoking a certificate, the Department of Employment Security  
11 must first have sought to conciliate with the business  
12 regarding wages and benefits due to employees.

13 (30 ILCS 500/47-25 new)

14 Sec. 47-25. Revocation of contract.

15 (a) If a contract is awarded to a business that does not  
16 have an equal pay certificate as required under Section 47-5,  
17 or that is not in compliance with subsection (a) of Section  
18 47-10, the Department of Employment Security may void the  
19 contract on behalf of the State. The purchasing agency that is  
20 a party to the agreement must be notified by the Department of  
21 Employment Security prior to the Department of Employment  
22 Security taking action to void the contract.

23 (b) A contract subject to this Article may be abridged or  
24 terminated upon notice that the Department of Employment

1 Security has suspended or revoked the certificate of the  
2 business.

3 (30 ILCS 500/47-30 new)

4 Sec. 47-30. Administrative review.

5 (a) A business may obtain an administrative hearing before  
6 the suspension or revocation of its certificate is effective  
7 pursuant to the Illinois Administrative Procedure Act.

8 (b) A business may obtain an administrative hearing before  
9 the abridgement or termination of a contract is effective  
10 pursuant to the Illinois Administrative Procedure Act.

11 (30 ILCS 500/47-35 new)

12 Sec. 47-35. Technical assistance. The Department of  
13 Employment Security must provide technical assistance to any  
14 business that requests assistance regarding this Article.

15 (30 ILCS 500/47-40 new)

16 Sec. 47-40. Audit. The Department of Employment Security  
17 may audit the business's compliance with this Article. As part  
18 of an audit, upon request, a business must provide the  
19 Department of Employment Security the following information  
20 with respect to employees expected to perform work under the  
21 contract in each of the major job categories in the EEO-1  
22 employee information report:

23 (1) number of male employees;

- 1           (2) number of female employees;  
2           (3) average annualized salaries paid to male employees  
3           and to female employees, in the manner most consistent with  
4           the employer's compensation system, within each major job  
5           category;  
6           (4) information on performance payments, benefits, or  
7           other elements of compensation, in the manner most  
8           consistent with the employer's compensation system, if  
9           requested by the Department of Employment Security as part  
10           of a determination as to whether these elements of  
11           compensation are different for male and female employees;  
12           (5) average length of service for male and female  
13           employees in each major job category; and  
14           (6) other information identified by the business or by  
15           the Department of Employment Security, as needed, to  
16           determine compliance with items specified in subsection  
17           (a) of Section 47-10.

18           (30 ILCS 500/47-45 new)  
19           Sec. 47-45. Access to data. Data submitted to the  
20           Department of Employment Security related to equal pay  
21           certificates are private data on individuals or nonpublic data  
22           with respect to persons other than Department employees. The  
23           Department's decision to issue, not issue, revoke, or suspend  
24           an equal pay certificate is public data.

1 (30 ILCS 500/47-50 new)

2 Sec. 47-50. Report. The Department of Employment Security  
3 shall report to the Governor and the General Assembly by  
4 January 31 of every odd-numbered year, beginning January 31,  
5 2019. The report shall indicate the number of equal pay  
6 certificates issued, the number of audits conducted, the  
7 processes used by contractors to ensure compliance with  
8 subsection (a) of Section 47-10, and a summary of its auditing  
9 efforts.

10 Section 10. The State Finance Act is amended by adding  
11 Section 5.878 as follows:

12 (30 ILCS 105/5.878 new)

13 Sec. 5.878. The Equal Pay Certificate Fund.