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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 2002



ENROLLED

SENATE BILL NO. 639

(By Senator Unget, ET AL)



PASSED MARCH 8,

In Effect FROM Passage

FILED

2002 APR -3 P 7:01

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

Senate Bill No. 639

(BY SENATORS UNGER, FANNING, REDD, KESSLER, CALDWELL,
HELMICK, ANDERSON, MCCABE, SNYDER, ROSS, LOVE,
HUNTER, ROWE, BURNETTE, FACEMYER, BOLEY, MINEAR,
SPOUSE, MITCHELL, EDGELL, PREZIOSO, PLYMALE,
MINARD, OLIVERIO AND SHARPE)

[Passed March 8, 2002; in effect from passage.]

AN ACT to amend article five, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five; and to amend and reenact section six, article five-e, chapter twenty-one of said code, all relating to the expenditure of public funds to provide gender-based pay equity generally; providing for a limited gender-based pay equity salary adjustment for state employees; delaying implementation of statutory provisions prohibiting certain gender-based pay discrimination and discrepancies; and requiring equal pay commission and others to assess budgetary or other financial impact on the state if the statutory provisions are implemented and report findings and recommendations to the joint committee on government and finance.

Be it enacted by the Legislature of West Virginia:

That article five, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section five; and that section six, article five-e, chapter twenty-one of said code be amended and reenacted, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY
OF THE GOVERNOR, SECRETARY OF STATE
AND ATTORNEY GENERAL; BOARD OF PUBLIC
WORKS; MISCELLANEOUS AGENCIES,
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

ARTICLE 5. SALARY INCREASE FOR STATE EMPLOYEES.

§5-5-5. Pay equity adjustment.

1 The Legislature hereby directs that a gender-based pay
2 equity salary adjustment be provided to public employees
3 as determined by the secretary of the department of
4 administration, based on recommendations of the equal
5 pay commission, within the limitations provided by this
6 section. This salary adjustment shall be provided from the
7 funding appropriated to the department of administration,
8 office of the secretary, for purposes of a "pay equity
9 reserve" in the fiscal year two thousand two and may not
10 be construed to require additional appropriations from the
11 Legislature. If any provision of this section conflicts with
12 any rule, policy or provision of this code, the provisions of
13 this section shall control. Because the provisions of this
14 section are rehabilitative in nature, the results of the pay
15 equity salary adjustments are not subject to the provisions
16 of article six-a, chapter twenty-nine of this code. Further,
17 it is the specific intent of the Legislature that no private
18 cause of action, either express or implied, is created by or
19 otherwise arises from the enactment, provisions or imple-
20 mentation of this section.

CHAPTER 21. LABOR.

ARTICLE 5E. EQUAL PAY FOR EQUAL WORK FOR STATE EMPLOYEES.**§21-5E-6. Commission's duties; promulgation of rules.**

1 (a) The equal pay commission shall study both the
2 methodology and funding for the implementation of a
3 gender discrimination prohibition and shall prepare
4 reports for submission to the Legislature which include:

5 (1) An analysis of state job descriptions which measures
6 the inherent skill, effort, responsibility and working
7 conditions of various jobs and classifications; and

8 (2) A review of similar efforts to eliminate gender-based
9 wage differentials implemented by other governmental
10 entities in this and other states.

11 (b) The commission shall submit an initial report with
12 recommendations for implementation of a gender discrim-
13 ination prohibition to the joint committee on government
14 and finance not later than the first day of July, two
15 thousand, and shall submit status reports annually there-
16 after.

17 (c) Based upon the findings and recommendations in its
18 report, the commission may propose legislative rules for
19 promulgation in accordance with article three, chapter
20 twenty-nine-a of this code to implement the provisions of
21 this article.

22 (d) The Legislature finds that it has not fully assessed the
23 potential cost to the state if the provisions of sections three
24 and four of this article are implemented and that those
25 provisions should not be implemented until a reasonable
26 estimate of the amount of public funds that may be
27 required for appropriation and expenditure as a result of
28 the implementation can be calculated. Accordingly,
29 notwithstanding any other provisions of this article to the
30 contrary, the provisions of sections three and four of this
31 article shall not become effective until enactment of
32 general law specifically providing an effective date of

33 implementation of those sections. During the interim
34 period between the two thousand two regular session of
35 the Legislature and the two thousand three regular session
36 of the Legislature, the equal pay commission shall, in the
37 manner prescribed by the joint committee on government
38 and finance, meet and consult with the joint standing
39 committee on the judiciary, the joint committee on finance
40 and others as may be prescribed for the purposes of
41 conducting a joint assessment of budgetary or other
42 financial impact on the state if the provisions of sections
43 three and four of this article are implemented. Prior to the
44 two thousand three regular session of the Legislature,
45 those directed to conduct the joint assessment shall report
46 their findings to the joint committee on government and
47 finance and, if warranted, report any recommendations for
48 the passage of legislation that would effectively lessen or
49 eliminate the cost of implementation of sections three and
50 four of this article in a manner that is consistent with
51 achieving the purposes for which this article was initially
52 enacted.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Carly M...
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *3rd*
Day of *April*, 2002.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/19/62

Time 9:05 am