



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 98

PRINTER'S NO. 2819

PRIME SPONSOR: Bullock

### COST / (SAVINGS)

FUND	FY 2023/24	FY 2024/25
General Fund	\$0	See Fiscal Impact
Equal Pay Enforcement Fund	\$0	See Fiscal Impact

### SUMMARY:

Amends the Equal Pay Law by extending protections for race and ethnicity, altering existing exemptions, adding protections regarding wage disclosure, and increasing penalties for violations of the law.

### ANALYSIS:

House Bill 98, Printer's Number 2819 amends Act 694 of 1959, the Equal Pay Law, by extending protection to individuals on the basis of race and ethnicity and removing the current exemption for individuals covered by the Federal Fair Labor Standards Act. It also restructures existing exemptions in state so that wage differences will be permitted if they are based on:

- A bona fide seniority system;
- A bona fide merit system;
- A bona fide system based on quantity or quality of production; or,
- Factors reasonably related to the job, including education, training, and experience.

The bill also creates new protections related to wage disclosure. Employers are prevented from relying on the wage history of a prospective employee when offering employment or providing a wage offer. Employers are prevented from seeking prior wage information as a condition of interview or employment, except to confirm prior wages in the event a prospective employee bases a request for higher compensation on prior wages. Finally, employers are prevented employees from inquiring about, discussing, or disclosing information about compensation and benefits, of themselves or other employees.

The bill adds new provisions preventing employers from retaliating against or discharging employees for:

- Instituting proceedings or taking other actions with respect to violations of this law;
- Testifying or assisting in investigations regarding violations of the law; or,
- Disclosing, inquiring about, or discussing this compensation and benefits with other employees.

Additionally, the bill alters enforcement provisions, giving the secretary of the Department of Labor & Industry (Department), including giving the secretary subpoena power. It also allows for punitive damages for violations of the allows committed intentionally or with reckless indifference. Fines for violations of the Equal Pay Law are increased to a minimum of \$2,500 and maximum of \$5,000 for each day and each individual employee whose rights under the law are violated. Administrative penalties of the same amounts may also be imposed by the secretary.

Finally, the bill establishes the Equal Pay Enforcement Fund as a separate fund in the Pennsylvania Treasury to serve as the repository for fines and penalties collected. The money in the fund is appropriated on a continuing basis to the Department to defray the cost of enforcing the Equal Pay Law.

The act will take effect in one year.

**FISCAL IMPACT:**

The bill removes an existing exemption in state law for individuals covered by Section 6 of the Federal Fair Labor Standards Act. Removing this exemption would significantly increase the enforcement activities of the Department of Labor and Industry. The Department estimates that an additional 12 labor investigators will be required to carry out these new responsibilities. The cost for 12 additional investigators is estimated at approximately \$1.2 million per year, including salaries and benefits, beginning after the act takes effect in one year.

In addition to personnel costs, the Department will require a new database to track claims under the act. The cost for setting up this new database is estimated at \$2 million in the first year, with \$200,000 in operational costs to maintain the system in subsequent fiscal years.

The bill creates the Equal Pay Enforcement Fund, which will act as the repository for any administrative penalties imposed under the Equal Pay Law and be used to defray the enforcement costs of the Department. At this time, however, there is no way to estimate either the number or dollar value of penalties that will be assessed.

Finally, the bill could impose additional costs on the commonwealth, school districts, and local governments as employers to the extent that they are found to have violated the Equal Pay Law. The scope of those potential costs is indeterminate at this time.

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**DATE:** May 6, 2024

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*