

**Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0096.01 Nicole Myers x4326

**HOUSE BILL 16-1001**

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**HOUSE SPONSORSHIP**

**Danielson and Buckner**, Court, Duran, Esgar, Foote, Hamner, Hullinghorst, Kagan, Kraft-Tharp, Lebsock, Lee, Lontine, McCann, Melton, Moreno, Pettersen, Salazar, Singer, Tyler, Arndt, Becker K., Fields, Garnett, Ginal, Mitsch Bush, Pabon, Primavera, Rosenthal, Ryden, Vigil, Williams, Winter, Young

**SENATE SPONSORSHIP**

**(None)**,

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**House Committees**  
Business Affairs and Labor

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING A REQUIREMENT THAT A BUSINESS PERFORMING WORK**  
102                    **FOR THE STATE PURSUANT TO A STATE CONTRACT COMPLY WITH**  
103                    **EQUAL PAY STANDARDS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill requires a business that bids for a contract with a governmental body to submit with its bid certification that it is in compliance with state and federal equal pay standards and laws; except that this requirement does not apply to businesses that have 50 or fewer employees.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

The executive director of the department of personnel, or the executive director's designee (executive director), is required to develop a form for a business to use to certify that it is in compliance with equal pay standards and laws and that, if awarded a contract, it will remain in compliance with such standards and laws throughout the term of the contract. The executive director is required to ensure that the form requires a business to certify certain general information regarding its employees and employment and hiring practices in connection with equal pay laws.

A business that is awarded a contract is required to ensure that any subcontractor that it uses to fulfill the terms of the contract is also in compliance with equal pay standards and laws.

All businesses that are awarded contracts by a governmental body or that are subcontractors for a business that was awarded a contract by a governmental body are required to keep and maintain certain information related to their employees, broken down into categories by gender, race, ethnicity, and national origin, for the term of the contract with the governmental body.

If, after awarding a contract to a business, a governmental body determines that the business knowingly submitted false information on the certification form for equal pay compliance required by the bill, the governmental body is required to terminate the contract.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-103-405 as  
3 follows:

4 **24-103-405. Business compliance with equal pay standards.**

5 (1) A GOVERNMENTAL BODY SHALL NOT AWARD A CONTRACT TO A  
6 BUSINESS PURSUANT TO THIS CODE UNLESS THE BUSINESS IS IN  
7 COMPLIANCE WITH THE EQUAL PAY STANDARDS SPECIFIED IN SUBSECTION  
8 (2) OF THIS SECTION; EXCEPT THAT THIS SECTION SHALL NOT APPLY TO  
9 BUSINESSES WITH FIFTY OF FEWER EMPLOYEES.

10 (2) A BUSINESS THAT BIDS TO BE AWARDED A STATE CONTRACT  
11 PURSUANT TO THIS CODE SHALL COMPLY WITH THE FOLLOWING  
12 REQUIREMENTS:

13 (a) THE BUSINESS DOES NOT PAY ANY OF ITS EMPLOYEES AT WAGE

1 RATES LESS THAN THE RATES PAID TO OTHER EMPLOYEES ON THE BASIS OF  
2 DISABILITY, RACE, CREED, COLOR, SEX, SEXUAL ORIENTATION,  
3 TRANSGENDER STATUS, RELIGION, AGE, NATIONAL ORIGIN, OR ANCESTRY  
4 FOR SUBSTANTIALLY SIMILAR WORK, WHEN VIEWED AS A COMPOSITE OF  
5 SKILL, EFFORT, AND RESPONSIBILITY AND PERFORMED UNDER SIMILAR  
6 WORKING CONDITIONS, EXCEPT WHERE THE WAGE DIFFERENTIAL IS BASED  
7 UPON ONE OR MORE OF THE FOLLOWING FACTORS:

8 (I) A SENIORITY SYSTEM;

9 (II) A MERIT SYSTEM;

10 (III) A SYSTEM THAT MEASURES AN EMPLOYEE'S EARNINGS BY THE  
11 QUANTITY OR QUALITY OF PRODUCTION BY THE EMPLOYEE; OR

12 (IV) A BONA FIDE FACTOR OTHER THAN DISABILITY, RACE, CREED,  
13 COLOR, SEX, SEXUAL ORIENTATION, TRANSGENDER STATUS, RELIGION,  
14 AGE, NATIONAL ORIGIN, OR ANCESTRY, SUCH AS EDUCATION, TRAINING, OR  
15 EXPERIENCE;

16 (b) EMPLOYEES OF THE BUSINESS CANNOT BE DISCIPLINED FOR  
17 SHARING INFORMATION REGARDING EMPLOYEE COMPENSATION WITH  
18 OTHER EMPLOYEES OF THE BUSINESS;

19 (c) FOR ANY JOB POSTING, THE BUSINESS INCLUDES INFORMATION  
20 REGARDING THE SALARY RANGE FOR THE AVAILABLE POSITION;

21 (d) THE BUSINESS DOES NOT RESTRICT EMPLOYEES OF ONE  
22 DISABILITY, RACE, CREED, COLOR, SEX, SEXUAL ORIENTATION,  
23 TRANSGENDER STATUS, RELIGION, AGE, NATIONAL ORIGIN, OR ANCESTRY  
24 TO CERTAIN JOB CLASSIFICATIONS AND MAKES RETENTION AND  
25 PROMOTION DECISIONS WITHOUT REGARD TO DISABILITY, RACE, CREED,  
26 COLOR, SEX, SEXUAL ORIENTATION, TRANSGENDER STATUS, RELIGION,  
27 AGE, NATIONAL ORIGIN, OR ANCESTRY;

1 (e) WAGE AND BENEFIT DISPARITIES ARE CORRECTED WHEN  
2 IDENTIFIED TO ENSURE COMPLIANCE WITH EQUAL PAY STANDARDS AND  
3 LAWS; AND

4 (f) WAGES AND BENEFITS ARE PERIODICALLY EVALUATED TO  
5 ENSURE COMPLIANCE WITH EQUAL PAY STANDARDS AND LAWS, INCLUDING  
6 HOW OFTEN SUCH EVALUATION OCCURS.

7 (3) A BUSINESS THAT IS AWARDED A CONTRACT BY A  
8 GOVERNMENTAL BODY SHALL REQUIRE THAT ANY SUBCONTRACTOR THAT  
9 THE BUSINESS USES TO FULFILL THE TERMS OF THE CONTRACT COMPLIES  
10 WITH THE CRITERIA SPECIFIED IN PARAGRAPHS (a) TO (f) OF SUBSECTION  
11 (2) OF THIS SECTION.

12 (4) ANY BUSINESS THAT IS AWARDED A CONTRACT BY A  
13 GOVERNMENTAL BODY OR THAT IS A SUBCONTRACTOR FOR A BUSINESS  
14 THAT WAS AWARDED A CONTRACT BY A GOVERNMENTAL BODY SHALL  
15 KEEP AND MAINTAIN THE FOLLOWING INFORMATION FOR THE TERM OF THE  
16 CONTRACT WITH THE GOVERNMENTAL BODY:

17 (a) WAGES EARNED BY EMPLOYEES OF THE BUSINESS,  
18 CATEGORIZED BY OCCUPATION, AND WITHIN EACH OCCUPATION,  
19 CATEGORIZED BY RACE, SEX, AND NATIONAL ORIGIN;

20 (b) THE NUMBER OF EMPLOYEES THAT THE BUSINESS EMPLOYS  
21 CATEGORIZED BY OCCUPATION, AND WITHIN EACH OCCUPATION,  
22 CATEGORIZED BY RACE, SEX, AND NATIONAL ORIGIN;

23 (c) THE AVERAGE ANNUALIZED SALARIES PAID TO EMPLOYEES, IN  
24 THE MANNER MOST CONSISTENT WITH THE EMPLOYER'S COMPENSATION  
25 SYSTEM, WITHIN EACH MAJOR JOB CATEGORY, CATEGORIZED BY RACE,  
26 SEX, AND NATIONAL ORIGIN; AND

27 (d) THE AVERAGE LENGTH OF EMPLOYMENT BY THE BUSINESS FOR

1 EMPLOYEES IN EACH MAJOR JOB CATEGORY, CATEGORIZED BY RACE, SEX,  
2 AND NATIONAL ORIGIN.

3 (5) (a) THE DEPARTMENT OF LABOR AND EMPLOYMENT MAY  
4 RECEIVE COMPLAINTS ABOUT A CONTRACTOR OR SUBCONTRACTOR'S  
5 POTENTIAL VIOLATIONS OF THE REQUIREMENTS OF THIS SECTION. AFTER  
6 RECEIVING A COMPLAINT, THE DEPARTMENT OF LABOR AND EMPLOYMENT  
7 MAY INVESTIGATE THE RECORDS THAT A CONTRACTOR AND  
8 SUBCONTRACTOR ARE REQUIRED TO KEEP PURSUANT TO SUBSECTION (4)  
9 OF THIS SECTION AND IMPOSE FINES PURSUANT TO PARAGRAPH (b) OF THIS  
10 SUBSECTION (5) ON A CONTRACTOR OR SUBCONTRACTOR, AS APPLICABLE,  
11 FOR THE VIOLATION OF THE REQUIREMENTS OF THIS SECTION.

12 (b) AFTER CONDUCTING AN INVESTIGATION OF A CONTRACTOR OR  
13 SUBCONTRACTOR'S RECORDS PURSUANT TO PARAGRAPH (a) OF THIS  
14 SUBSECTION (5), IF THE DEPARTMENT OF LABOR AND EMPLOYMENT  
15 DETERMINES THAT A CONTRACTOR OR SUBCONTRACTOR HAS KNOWINGLY  
16 VIOLATED THE REQUIREMENTS OF THIS SECTION BY FAILING TO COMPLY  
17 WITH EQUAL PAY STANDARDS, THE EXECUTIVE DIRECTOR OF THE  
18 DEPARTMENT OF LABOR AND EMPLOYMENT MAY IMPOSE A FINE ON THE  
19 CONTRACTOR OR SUBCONTRACTOR, AS APPLICABLE, AS FOLLOWS:

20 (I) FOR THE FIRST VIOLATION, FIVE THOUSAND DOLLARS OR AN  
21 AMOUNT EQUAL TO ONE PERCENT OF THE COST OF THE CONTRACT OR  
22 SUBCONTRACT, AS APPLICABLE, WHICHEVER IS LESS;

23 (II) FOR THE SECOND VIOLATION, TEN THOUSAND DOLLARS OR AN  
24 AMOUNT EQUAL TO ONE PERCENT OF THE COST OF THE CONTRACT OR  
25 SUBCONTRACT, AS APPLICABLE, WHICHEVER IS LESS; OR

26 (III) FOR THE THIRD VIOLATION AND ANY VIOLATION THEREAFTER,  
27 TWENTY-FIVE THOUSAND DOLLARS OR AN AMOUNT EQUAL TO ONE

1 PERCENT OF THE COST OF THE CONTRACT OR SUBCONTRACT, AS  
2 APPLICABLE, WHICHEVER IS LESS.

3 (c) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND  
4 EMPLOYMENT MAY DISMISS A COMPLAINT IN HIS OR HER DISCRETION IF,  
5 AFTER CONDUCTING AN INVESTIGATION PURSUANT TO THIS SECTION, THE  
6 DEPARTMENT DETERMINES THAT THE CIRCUMSTANCES THAT LED TO THE  
7 COMPLAINT WERE THE RESULT OF A MINOR PAPERWORK VIOLATION.

8 (d) A CONTRACTOR OR SUBCONTRACTOR WHO IS FOUND TO BE IN  
9 VIOLATION OF THE PROVISIONS OF THIS SECTION MAY APPEAL SUCH  
10 FINDING TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND  
11 EMPLOYMENT. THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S  
12 DESIGNEE SHALL HOLD A HEARING TO REVIEW SUCH NOTICE OR ORDER AND  
13 TAKE FINAL ACTION IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE. FINAL  
14 AGENCY ACTION IS SUBJECT TO JUDICIAL REVIEW PURSUANT TO ARTICLE  
15 4 OF THIS TITLE.

16 (e) ANY REVENUE COLLECTED FROM THE FINES IMPOSED PURSUANT  
17 TO THIS SUBSECTION (5) SHALL BE TRANSMITTED TO THE STATE  
18 TREASURER, WHO SHALL CREDIT THE SAME TO THE COLORADO LABOR  
19 ENFORCEMENT CASH FUND CREATED IN SECTION 8-17-104, C.R.S.

20 (f) NOTHING IN THIS SUBSECTION (5) SHALL BE CONSTRUED TO  
21 LIMIT ANY INDIVIDUAL'S RIGHT TO PURSUE AN ACTION THROUGH THE  
22 COLORADO CIVIL RIGHTS DIVISION PURSUANT TO PART 3 OF ARTICLE 34 OF  
23 THIS TITLE.

24 (6) IF, AFTER AWARDING A CONTRACT, A GOVERNMENTAL BODY  
25 DETERMINES THAT THE CONTRACTOR OR SUBCONTRACTOR PERFORMING  
26 WORK ON THE CONTRACT WAS KNOWINGLY NOT IN COMPLIANCE WITH THE  
27 PROVISIONS OF THIS SECTION WHILE PERFORMING WORK ON THE

1 CONTRACT, THE GOVERNMENTAL BODY MAY TERMINATE THE CONTRACT.

2 **SECTION 2.** In Colorado Revised Statutes, 8-17-104, **amend** (4)  
3 as follows:

4 **8-17-104. Enforcement - violation - penalties - Colorado labor**  
5 **enforcement cash fund - creation.** (4) The revenue collected from the  
6 fines imposed pursuant to subsection (2) of this section AND PURSUANT  
7 TO SECTION 24-103-405 (5), C.R.S., shall be transmitted to the state  
8 treasurer, who shall credit the same to the Colorado labor enforcement  
9 cash fund, which is hereby created. The general assembly shall make  
10 appropriations from the fund as necessary to cover the direct and indirect  
11 costs of the department of labor and employment in connection with the  
12 requirements of this article AND THE REQUIREMENTS OF SECTION  
13 24-103-405 (5), C.R.S. All moneys not expended or encumbered and all  
14 interest earned on the investment or deposit of moneys in the fund remain  
15 in the fund and do not revert to the general fund or any other fund at the  
16 end of any fiscal year.

17 **SECTION 3. Applicability.** This act applies to contracts entered  
18 into on and after the effective date of this act.

19 **SECTION 4. Act subject to petition - effective date.** This act  
20 takes effect at 12:01 a.m. on the day following the expiration of the  
21 ninety-day period after final adjournment of the general assembly (August  
22 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a  
23 referendum petition is filed pursuant to section 1 (3) of article V of the  
24 state constitution against this act or an item, section, or part of this act  
25 within such period, then the act, item, section, or part will not take effect  
26 unless approved by the people at the general election to be held in

- 1 November 2016 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.