

1 H.407

2 Introduced by Representative Wizowaty of Burlington

3 Referred to Committee on

4 Date:

5 Subject: State funding recipients; employee compensation

6 Statement of purpose of bill as introduced: This bill proposes to condition, as
7 a considering factor for contract awards, direct appropriations, and grants,
8 funding to for-profit and nonprofit organizations that meet an 8:1
9 compensation ratio between the highest and lowest paid employees.

10 An act relating to establishing state funding eligibility for for-profit and
11 nonprofit organizations based on income ratios

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. FINDINGS AND PURPOSE

14 The General Assembly finds:

15 (1) There exists in the United States a widely documented, growing
16 income gap between the wealthiest Americans and average workers that is
17 greater now than at any time since the Great Depression.

18 (2) Vermont has not escaped this trend. According to a recent study by
19 the Public Assets Institute, the total annual income received by Vermonters
20 between 1989 and 2009 rose 60 percent—the same rate as the overall

1 economy. During the same period, the median household income of
2 Vermonters remained virtually flat—in fact, rose only 2.1 percent (figures
3 adjusted for inflation).

4 (3) In 1980, the top 10 percent of Americans collected about one-third
5 of the nation’s income and the bottom 90 percent collected two-thirds. By
6 2011, that top 10 percent collected close to one-half of the nation’s income. In
7 1980, the top one percent collected 10 percent of the nation’s income; they
8 now collect double that. Furthermore, the income of the top one-thousandth,
9 sometimes known as the super-rich, quadrupled.

10 (4) In 2009, the bottom 80 percent of Americans collectively held less
11 than 13 percent of the wealth.

12 (5) The ratio between highest and lowest paid employees in a company
13 or institution provides a measure of this growing income inequality. Even the
14 averages, by definition higher than the lowest and lower than the highest, show
15 a disparity that can only be described as astonishing. The ratio of the average
16 CEO pay to the average worker pay in the United States, estimated at 343:1 in
17 2010, is now estimated at 475:1.

18 (6) The recent Occupy Movement protested this income inequality
19 around the country. That such actions gained widespread support suggests that
20 this growing income inequality is no longer acceptable to the majority of

1 Americans. The phrase “We are the 99 percent” has become part of the
2 national conversation.

3 (7) Past efforts to address income inequality have included establishing
4 ratios between the lowest and highest paid employees in a corporation. Ben &
5 Jerry’s Ice Cream famously instituted such a policy in 1990 but dropped it in
6 1995. A few other companies continue the effort, such as Bridgeway, a highly
7 successful investment company, which still uses a ratio.

8 (8) In July 2011, President Obama signed into law the Dodd–Frank Wall
9 Street Reform and Consumer Protection Act, which includes a provision
10 requiring companies to disclose the ratio of the pay of the CEO to the median
11 pay of everyone else in the company.

12 (9) In Vermont, the ratio between lowest and highest paid state
13 employees varies from state department to department but is nowhere greater
14 than 1:8. At least one department has a ratio of 1:4.

15 (10) The General Assembly of the State of Vermont has a responsibility
16 to allocate its resources to where they can accomplish the greatest good, in
17 support of education, infrastructure, environmental protection, public health,
18 human services, and the like. It is likewise in the State’s interest to ensure that
19 its investments and appropriations go to agencies, organizations, and
20 businesses that have in turn demonstrated responsible use of resources. This

1 includes adhering to a compensation system that meets the same standard
2 upheld by the State itself.

3 (11) Thus, the State should evaluate appropriations in light of the
4 potential recipient's compensation system—specifically, the ratio between the
5 lowest and highest paid employees.

6 Sec. 2. 32 V.S.A. § 707 is added to read:

7 § 707. ELIGIBILITY OF ENTITY TO RECEIVE STATE FUNDING

8 (a) A person with two or more employees shall be ineligible to receive an
9 appropriation of state funds unless the ratio of the total compensation of the
10 employer's highest and lowest paid employees does not exceed eight to one.

11 (b) An employer who receives an appropriation of state funds shall certify,
12 on a form provided by Department of Finance and Management that he or she
13 meets the compensation ratio requirement.

14 (c) An employer who violates a provision of this section shall be subject to
15 a penalty of not less than \$2,000.00 per violation.

16 Sec. 3. 29 V.S.A. § 161 is amended to read:

17 § 161. REQUIREMENTS ON STATE CONSTRUCTION PROJECTS

18 (a) Bids; selection.

19 (1) When the construction cost of any state project exceeds the sum of
20 \$50,000.00, the ~~commissioner of buildings and general services~~ Commissioner
21 of Buildings and General Services shall publicly advertise or invite three or

1 more bids. The contract for ~~any such~~ the state project or improvement shall be
2 awarded to one of the three lowest responsible bidders, conforming to
3 specification, with consideration being given to quantities involved, time
4 required for delivery, purpose for which required, competency and
5 responsibility of bidder, and his or her ability to render satisfactory service, but
6 the ~~commissioner of buildings and general services~~ Commissioner, with the
7 approval of the ~~secretary of administration~~ Secretary of Administration, shall
8 have the right to reject ~~any and all~~ one or more bids and to invite other bids.

9 (2) When using the design-build construction delivery process, the
10 ~~commissioner of buildings and general services~~ Commissioner of Buildings
11 and General Services shall publicly advertise or invite three or more bids. The
12 award of a design-build contract shall be to the bidder determined by the
13 ~~commissioner~~ Commissioner to be most responsive to evaluation criteria
14 established by the ~~commissioner~~ Commissioner. ~~Such~~ The criteria may
15 include physical plant characteristics proposed, program response to space
16 needs, ability of the design-build team, anticipated development schedule, and
17 overall cost considerations, including alternates, allowances, and schedule of
18 values.

19 (b) Each contract awarded under this section for any state project with a
20 construction cost exceeding \$100,000.00 and ~~which~~ that is authorized or
21 funded in whole or in part by a capital construction act pursuant to 32 V.S.A.

1 § 701a, including ~~such~~ a project of the University of Vermont and State
2 Agricultural College and of the Vermont State Colleges, shall provide that all
3 construction employees working on the project shall be paid no less than the
4 mean prevailing wage published periodically by the ~~department of labor~~
5 Department of Labor in its occupational employment and wage survey.

6 (c) In the construction of any state project, local capable labor shall be
7 utilized whenever practicable, but this section shall not be construed to compel
8 any person to discharge or lay off any regular employee.

9 (d) Subsections (a) through (c) of this section shall not apply to
10 maintenance or construction projects carried out by the ~~agency of~~
11 ~~transportation and by the department of forests, parks and recreation~~ Agency of
12 Transportation or the Department of Forests, Parks and Recreation.

13 (e) The ~~agency of administration~~ Agency of Administration shall ensure
14 that the ~~state~~ State and any of its subdivisions do not contract, directly or
15 indirectly, with employers who are prohibited from contracting by the
16 ~~commissioner of labor~~ Commissioner of Labor pursuant to 21 V.S.A. §§ 692,
17 708, and 1314a or the ~~commissioner of financial regulation~~ Commissioner of
18 Financial Regulation pursuant to 8 V.S.A. § 3661.

19 (f) The ~~agency of administration~~ Agency of Administration shall maintain a
20 current list of employers that have been prohibited from contracting with the
21 ~~state~~ State or any of its subdivisions, and the ~~agencies of administration~~

1 Agencies of Administration and of ~~transportation~~ Transportation shall publish
2 that list on their websites.

3 (g)(1) When evaluating a contract subject to this section, the Commissioner
4 of Buildings and General Services shall consider and give priority to a bidder if
5 the ratio of the total compensation paid to the bidder's highest and lowest paid
6 employees does not exceed eight to one.

7 (2) Each bidder shall include in his or her bid a statement whether he or
8 she meets the total compensation ratio standard established in subdivision (1)
9 of this subsection.

10 (3) The Commissioner may include a contract provision requiring that
11 the total compensation ratio between the successful bidder's highest and lowest
12 paid employees shall not exceed eight to one.

13 Sec. 4. 29 V.S.A. § 903 is amended to read:

14 § 903. REQUISITION FOR SUPPLIES AND MATERIALS

15 (a) When any governmental agency is in need of any of the items
16 mentioned in this chapter, the responsible officer thereof shall requisition
17 therefor upon the ~~commissioner of buildings and general services~~
18 Commissioner of Buildings and General Services, and the ~~commissioner of~~
19 ~~buildings and general services~~ Commissioner shall purchase the items by either
20 advertising for bids or by letters of inquiry and the contract for those items
21 shall be awarded to the person whose bid or quotation is in the best interest of

1 the ~~state~~ State . Subject to the provisions of subsections (b) and (c) of this
2 section the ~~commissioner of buildings and general services~~ Commissioner may
3 reject any or all bids or quotations and with the approval of the ~~secretary of~~
4 ~~administration~~ Secretary of Administration procure items in such manner as
5 may be in the best interest of the ~~state~~ State.

6 (b) When purchasing any items mentioned in this chapter, the
7 ~~commissioner of buildings and general services~~ Commissioner of Buildings
8 and General Services, in any determination of the best interest of the ~~state~~
9 State, shall consider (1) specified quality; (2) price; (3) ease of access of
10 supply; (4) incidental administrative costs; (5) proven reliability of bidder; (6)
11 use of recycled materials or products; (7) minimizing the creation, by the ~~state~~
12 State, of solid waste; (8) the extent to which the usage of the item involves the
13 generation of pollutants; (9) life cycle costs, if required under the state agency
14 energy plan, as implemented; (10) the interests of the ~~state~~ State relating to the
15 proximity of the supplier and the costs of transportation, and relating to the
16 economy of the ~~state~~ State and the need to maintain and create jobs in the ~~state~~
17 State; and (11) the use of railroads and the increased revenues returning to the
18 ~~state~~ State from its railroad leasing program. The ~~commissioner~~ Commissioner,
19 in the ~~commissioner's~~ Commissioner's discretion, may spend up to 10 percent
20 more for comparable products that are made of recycled materials. If products
21 made of recycled materials are to cost more than 10 percent more than

1 comparable products, the ~~commissioner~~ Commissioner shall receive consent of
2 state entities that are to use the product, before completing the order for the
3 materials in question.

4 (c) Whenever any business or industry located in Vermont and employing
5 citizens of this ~~state~~ State has submitted a bid and the item has not been
6 purchased from ~~them it~~, the ~~commissioner of buildings and general services~~
7 Commissioner of Buildings and General Services shall record his or her reason
8 for assigning the order as he or she did and his or her report shall be a public
9 record available to any interested person. All bids or quotations shall be kept
10 on file in his or her office and open to public inspection.

11 (d) The ~~commissioner of buildings and general services~~ Commissioner of
12 Buildings and General Services, with the assistance of all state agencies, shall
13 cooperate with the generators and managers of waste materials which may be
14 recycled and with the producers of products which use recycled materials to
15 maximize the ~~state's~~ State's use of those materials and products, particularly
16 where the added cost of using waste materials rather than virgin materials is
17 less than the cost avoided by not having that waste in the waste stream.
18 Proceeds from the sale of waste materials collected by the ~~department of~~
19 ~~buildings and general services~~ Department of Buildings and General Services
20 shall be credited to a special fund and shall be available to the ~~department~~
21 Department to offset the cost of recycling efforts. The goal for the purchase of

1 recycled materials shall be at least 40 percent by the end of 2008. For
2 purposes of this section, “recycled materials” include, but are not limited to,
3 recycled paper products, retreaded automobile tires, re-refined lubricating oil,
4 used automotive parts, reclaimed solvents, recycled asphalt, recycled concrete,
5 and compost materials.

6 (e)(1) Notwithstanding the provisions of subsection (a) of this section and
7 subsection 906(d) of this chapter, the ~~commissioner of buildings and general~~
8 ~~services will~~ Commissioner of Buildings and General Services shall administer
9 an equipment revolving fund to be used for internal lease purchase of
10 equipment for state agencies. The ~~secretary of administration will~~ Secretary of
11 Administration shall establish criteria for equipment to be purchased through
12 this fund, including limiting amounts for specific equipment and the useful life
13 of the equipment.

14 (2) Agencies or departments acquiring such equipment shall repay the
15 fund through their regular operating budgets according to an amortization
16 schedule established by the ~~commissioner of finance and management~~
17 Commissioner of Finance and Management. Repayment shall include charges
18 for administrative costs of the purchase and estimated administrative inflation
19 over the term of the payback.

20 (3) The ~~secretary of administration will~~ Secretary of Administration
21 shall report to the ~~general assembly~~ General Assembly, on February 1 each

1 year, equipment purchased through this fund, plans for equipment purchased
2 through the fund for the following fiscal year, the status of the fund, and a
3 consolidated amortization schedule.

4 (4) The ~~commissioner of finance and management~~ Commissioner of
5 Finance and Management may anticipate receipts to this fund and issue
6 warrants based thereon.

7 (f) [Deleted.]

8 (g) The ~~commissioner of buildings and general services~~ Commissioner of
9 Buildings and General Services, when purchasing vehicles for state use, shall
10 consider vehicles using alternative fuels when the alternative fuel is suitable
11 for the vehicle's operation, is available in the region where the vehicle will be
12 used, and is competitively priced with traditional fuels.

13 (h)(1) When evaluating a contract subject to this section, the Commissioner
14 of Buildings and General Services shall consider and give priority to a bidder if
15 the ratio of the total compensation paid to the bidder's highest and lowest paid
16 employees does not exceed eight to one.

17 (2) Each bidder shall include in his or her bid a statement whether he or
18 she meets the total compensation ratio standard established in subdivision (1)
19 of this subsection.

1 (3) The Commissioner may include a contract provision requiring that
2 the total compensation ratio between the successful bidder's highest and lowest
3 paid employees shall not exceed eight to one.

4 Sec. 5. EFFECTIVE DATE

5 This act shall take effect on July 1, 2013.