

## SENATE PROPOSAL OF AMENDMENT

### H. 99

An act relating to equal pay

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 2, 21 V.S.A. § 495, by striking out subdivision (a)(7)(B) and inserting a new subdivision (a)(7)(B) to read:

(B)(i) No employer may do any of the following:

~~(i)(I)~~ (I) Require, as a condition of employment, that an employee refrain from disclosing the amount of his or her wages or from inquiring about or discussing the wages of other employees.

~~(ii)(II)~~ (II) Require an employee to sign a waiver or other document that purports to deny the employee the right to disclose the amount of his or her wages or to inquire about or discuss the wages of other employees.

~~(iii)~~ Discharge, formally discipline, or otherwise discriminate against an employee who discloses the amount of his or her wages.

(ii) Unless otherwise required by law, an employer may prohibit a human resources manager from disclosing the wages of other employees.

Second: In Sec. 2, 21 V.S.A. § 495, in subsection (h), by adding a sentence at the end of the subsection to read: “Unless otherwise required by law, nothing in this section shall require an employee to disclose his or her wages in response to an inquiry by another employee.

Third: In Sec. 3, 3 V.S.A. § 345, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read:

(b) A contractor subject to this section shall maintain and make available its books and records at reasonable times and upon notice to the contracting agency and the Attorney General so that either may determine whether the contractor is in compliance with this section.

Fourth: By striking out Sec. 6 in its entirety and inserting in lieu thereof a new Sec. 6 to read:

Sec. 6. 21 V.S.A. § 309 is added to read:

#### § 309. FLEXIBLE WORKING ARRANGEMENTS

(a)(1) An employee may request a flexible working arrangement that meets the needs of the employer and employee. The employer shall consider a request using the procedures in subsections (b) and (c) of this section at least twice per calendar year.

(2) As used in this section, “flexible working arrangement” means intermediate or long-term changes in the employee’s regular working arrangements including changes in the number of days or hours worked, changes in the time the employee arrives at or departs from work, work from home, or job-sharing. “Flexible working arrangement” does not include vacation, routine scheduling of shifts, or another form of employee leave.

(b)(1) The employer shall discuss the request for a flexible working arrangement with the employee in good faith. The employer and employee may propose alternative arrangements during the discussion.

(2) The employer shall consider the employee’s request for a flexible working arrangement and whether the request could be granted in a manner that is not inconsistent with its business operations or its legal or contractual obligations.

(3) As used in this section, “inconsistent with business operations” includes:

(A) the burden on an employer of additional costs;

(B) a detrimental effect on aggregate employee morale unrelated to discrimination or other unlawful employment practices;

(C) a detrimental effect on the ability of an employer to meet consumer demand;

(D) an inability to reorganize work among existing staff;

(E) an inability to recruit additional staff;

(F) a detrimental impact on business quality or business performance;

(G) an insufficiency of work during the periods the employee proposes to work; and

(H) planned structural changes to the business.

(c) The employer shall notify the employee of the decision regarding the request. If the request was submitted in writing, the employer shall state any complete or partial denial of the request in writing.

(d) This section shall not diminish any rights under this chapter or pursuant to a collective bargaining agreement. An employer may institute a flexible working arrangement policy that is more generous than is provided by this section.

(e) The Attorney General, a state’s attorney, or the Human Rights Commission in the case of state employees may enforce subsections (b) and (c) of this section by restraining prohibited acts, conducting civil investigations, and obtaining assurances of discontinuance in accordance with the procedures established in subsection 495b(a) of this title. An employer subject to a

complaint shall have the rights and remedies specified in subsection 495b(a) of this title. An investigation against an employer shall not be a prerequisite for bringing an action. The Civil Division of the Superior Court may award injunctive relief and court costs in any action. There shall be no private right of action to enforce this section.

(f) An employer shall not retaliate against an employee exercising his or her rights under this section. The provisions against retaliation in subdivision 495(a)(8) of this title and the penalty and enforcement provisions of section 495b of this title shall apply to this section.

(g) Nothing in this section shall affect any legal rights an employer or employee may have under applicable law to create, terminate, or modify a flexible working arrangement.

Fifth: By striking out Sec. 13 in its entirety and inserting in lieu thereof a new Sec. 13 to read:

#### Sec. 13. PAID FAMILY LEAVE STUDY COMMITTEE

(a) Creation. There is created a Committee to study the issue of paid family leave in Vermont and to make recommendations regarding whether and how paid family leave may benefit Vermont citizens.

(b) Membership. The Committee shall consist of the following members:

- (1) One member of the House of Representatives chosen by the Speaker;
- (2) One member of the Senate chosen by the Committee on Committees;
- (3) three representatives from the business community, one appointed by the Speaker and two by the Committee on Committees;
- (4) two representatives from labor organizations, one appointed by the Speaker and one by the Committee on Committees;
- (5) one representative appointed by the Governor;
- (6) the Attorney General or designee;
- (7) the Commissioner of Labor or designee;
- (8) the Executive Director of the Vermont Commission on Women or designee; and
- (9) the Executive Director of the Human Rights Commission or designee.

(c) Duties. The Committee shall examine:

- (1) existing paid leave laws and proposed paid leave legislation in other states;
- (2) which employees should be eligible for paid leave benefits;

- (3) the appropriate level of wage replacement for eligible employees;
- (4) the appropriate duration of paid leave benefits;
- (5) mechanisms for funding paid leave through employee contributions;
- (6) administration of paid leave benefits;
- (7) transitioning to a funded paid leave program; and
- (8) any other issues relevant to paid leave.

(d) The Committee shall make recommendations including proposed legislation to address paid family leave in Vermont.

(e) The Committee shall convene its first meeting on or before September 1, 2013. The Commissioner of Labor or designee shall be designated Chair of the Committee and shall convene the first and subsequent meetings. The Committee shall have the administrative assistance of the Department of Labor. The Committee shall meet not more than five (5) times.

(f) The Committee shall report its findings and recommendations on or before January 15, 2014 to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs.

(g) For participation on the Committee at meetings during the adjournment of the General Assembly, legislative members shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(h) Other members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their participation shall be entitled to per diem compensation or reimbursement of expenses, or both, pursuant to 32 V.S.A. § 1010.

(i) The Committee shall cease to function upon transmitting its report.