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H.138

Introduced by Representative Kornheiser of Brattleboro

Referred to Committee on

Date:

Subject: Executive; administration; State funding and contracting; business
practices

Statement of purpose of bill as introduced: This bill proposes to require that
employers receiving State funds through grants or contracts comply with
certain governance, operations, hiring, auditing, and employment practices.

An act relating to business practices for employers and contractors
receiving State funds

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

Sec. 1. 3 V.S.A. § 2222(1) is added to read:

(1)(1) The Secretary shall adopt standards and practices applicable to all
Executive Branch agencies to require that any employer that receives State
funds or funds that are accepted through the process set forth in 32 V.S.A.
chapter 5 through a grant or contract provides enhanced protections for and
accountability to its employees by agreeing to comply with the following
requirements:

1 (A) The employer certifies compliance with the provisions of
2 21 V.S.A. chapter 5, subchapter 6 (nondiscrimination and fair employment
3 practices).

4 (B) The employer provides reliable work schedules for its employees.

5 (C) The employer provides equitable pay ratios, which at minimum
6 means that the compensation of the highest-paid employee of the employer
7 does not exceed 10 times the compensation of its lowest-paid employee.

8 (D) The employer does not terminate employees for other than good
9 cause shown.

10 (E) The employer complies with the requirements of 21 V.S.A.
11 § 496a (prohibition on use of State funds to interfere with union organizing).

12 (2) As used in this subsection:

13 (A) “Good cause” means either a reasonable, good-faith reason for
14 discharge related to a legitimate business reason or that the employee has been
15 employed by the employer for fewer than 90 days. “Good cause” does not
16 include reasons for discharge that are trivial, arbitrary, capricious, in violation
17 of the terms of a contract or collective bargaining agreement, or otherwise
18 unrelated to a legitimate business reason. As used in this subdivision (1)(2)(A),
19 “legitimate business reason” includes the employee’s failure to satisfactorily
20 perform job duties.

1 (B) “On-call shift” means a time period when the employer requires
2 the employee to be available for work, regardless of whether the employee
3 actually works or is required to report to the employee’s work location. The
4 term “on-call shift” does not include a regular shift.

5 (C) “Regular shift” means a time period during which the employee
6 is scheduled to work for the employer or to report to the employee’s work
7 location, or both.

8 (D)(i) “Reliable work schedules” means that an employer does the
9 following:

10 (I) not later than 14 days before the first day of a schedule
11 period, which shall be at least one week, provides each employee with a work
12 schedule covering the period that shows all regular and on-call shifts for the
13 employee during the period;

14 (II) except as provided in subdivision (III) of this subdivision
15 (1)(2)(D)(i), does not change an employee’s schedule at any time after 14 days
16 before the first day of the relevant schedule period except under the following
17 circumstances:

18 (aa) the employer’s operation at the scheduled work location
19 cannot begin or continue on a particular day due to threats made to employees
20 or property at the work location, a utility failure, a natural disaster, a fire at or
21 near the work location, a state of emergency declared by the Governor or the

1 president of the United States, or severe weather conditions that pose a threat
2 to employee safety;

3 (bb) the employee requested a change to the employee's
4 schedule;

5 (cc) the employee voluntarily traded the employee's shift
6 with another employee;

7 (dd) the employer requests the employee to work additional
8 hours due to an unanticipated absence or high volume of work, provided that
9 the employer shall pay the employee one-and-one-half times the employee's
10 regular wage rate for any additional hours that the employee agrees to work;
11 and

12 (III) pays an employee for the number of hours that the
13 employee was scheduled to work during any shifts that are eliminated after
14 14 days before the first day of the relevant schedule period for any reason other
15 than as permitted pursuant to subdivision (II) of this subdivision (1)(2)(D)(i).

16 (ii) Nothing in this subdivision (1)(2)(D) shall be interpreted to
17 require an employee to agree to work an additional shift or additional hours if
18 the employer requests the employee to perform the additional work fewer than
19 14 days before the first day of the relevant schedule period.

20 (iii) As used in this subdivision (1)(2)(D), "employee" has the
21 same meaning as in 21 V.S.A. § 341, except that it does not include an

1 individual employed in a bona fide executive, administrative, or professional
2 capacity.

3 Sec. 2. 21 V.S.A. § 496a is amended to read:

4 § 496a. STATE FUNDS; UNION ORGANIZING

5 (a) An employer that is the recipient of a grant of State funds or funds that
6 are accepted through the process set forth in 32 V.S.A. chapter 5 in a single
7 grant of more than \$1,000.00 shall certify to the State that none of the funds
8 will be used to interfere with or restrain the exercise of an employee's rights
9 with respect to unionization or for activities directly related to influencing or
10 coercing employees with respect to unionization or union organizing and, upon
11 request, shall provide records to the Attorney General or Secretary of
12 Administration which that attest to such certification.

13 (b)(1) An employer that is the recipient of a grant of State funds or funds
14 that are accepted through the process set forth in 32 V.S.A. chapter 5 shall not
15 interfere with or restrain the exercise of an employee's rights with respect to
16 unionization or engage in activities directly related to influencing or coercing
17 employees with respect to unionization or union organizing.

18 (2)(A) An employer that violates subdivision (1) of this subsection (b)
19 shall be liable to the State for two times the amount of any State funds
20 expended in violation of subdivision (1) of this subsection (b), costs and
21 attorney's fees incurred in an action brought pursuant to subdivision (B) of this

1 subdivision (b)(2), and a civil penalty equal to not more than \$5,000.00 or two
2 times the amount of any State funds expended in violation of subdivision (1) of
3 this subsection (b), whichever is greater.

4 (B) The Attorney General may conduct an investigation of an alleged
5 violation of this subsection (b) and may enforce the provisions of this
6 subsection (b) by bringing an action in the Civil Division of the Superior
7 Court. An investigation shall not be a prerequisite to bringing an action.

8 Sec. 3. STATE CONTRACTING; SECRETARY OF ADMINISTRATION;
9 AUDIT AUTHORITY

10 On or before October 1, 2023, the Secretary of Administration shall include
11 in Administrative Bulletin 3.5 a requirement that State contracts include terms
12 and conditions authorizing the State auditor to have discretion to examine the
13 records, accounts, books, papers, reports, and returns in all formats of any
14 contractor that provides services to the State in compliance with 32 V.S.A.
15 § 163.

16 Sec. 4. 32 V.S.A. § 163 is amended to read:

17 § 163. DUTIES OF THE AUDITOR OF ACCOUNTS

18 In addition to any other duties prescribed by law, the Auditor of Accounts
19 shall:

20 (1) Annually perform or contract for:

21 (A) an audit of the basic financial statements of the State of Vermont;

1 (a) For the purpose of examination and audit authorized by law, and except
2 as provided in subdivision 163(13) of this title, all the records, accounts,
3 books, papers, reports, and returns in all formats of all departments,
4 institutions, and agencies of the State, including the trustees or custodians of
5 trust funds and all municipal, school supervisory union, school district, and
6 county officers who receive or disburse funds for the benefit of the State, shall
7 be made available to the Auditor of Accounts. It shall be the duty of each
8 officer of each department, institution, and agency of the State or municipality,
9 school supervisory union, school district, or county to provide the records,
10 accounts, books, papers, reports, returns, and such other explanatory
11 information when required by the Auditor of Accounts.

12 * * *

13 Sec. 6. EFFECTIVE DATE

14 This act shall take effect on July 1, 2023.