

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 23-0061.01 Kristen Forrestal x4217

SENATE BILL 23-105

SENATE SPONSORSHIP

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Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

State, Civic, Military, & Veterans Affairs
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE IMPLEMENTATION OF MEASURES TO ENSURE EQUAL**
102 **PAY FOR EQUAL WORK, AND, IN CONNECTION THEREWITH,**
103 **MAKING AN APPROPRIATION.**

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://leg.colorado.gov>.)

Current law authorizes the director of the division of labor standards and statistics in the department of labor and employment (director) to create and administer a process to accept and mediate complaints, to provide legal resources concerning alleged wage inequity, and to promulgate rules as necessary for this purpose. The bill changes

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

HOUSE
Amended 2nd Reading
April 29, 2023

SENATE
3rd Reading Unamended
April 13, 2023

SENATE
Amended 2nd Reading
April 12, 2023

these authorizations to requirements.

Additionally, the bill requires the director to:

- Investigate complaints or other leads concerning wage inequity;
- Upon finding of a violation, order compliance and relief; and
- Promulgate rules to enforce the bill.

The bill also requires an employer to:

- For each job opportunity or promotional opportunity where the employer is considering more than one candidate, follow specific guidelines for posting the opportunity;
- For all job opportunities and promotional opportunities, provide specific information to employees regarding the candidate selected for the opportunity; and
- For all objectively defined career progressions, disclose the requirements for career progression and the terms of compensation, benefits, status, duties, and access to further advancement.

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

2 **SECTION 1.** In Colorado Revised Statutes, 8-5-101, **add** (1.3),
3 (1.5), (5.5), and (8.5) as follows:

4 **8-5-101. Definitions.** As used in this article 5, unless the context
5 otherwise requires:

6 (1.3) "CAREER DEVELOPMENT" MEANS A CHANGE TO AN
7 EMPLOYEE'S TERMS OF COMPENSATION, BENEFITS, FULL-TIME OR
8 PART-TIME STATUS, DUTIES, OR ACCESS TO FURTHER ADVANCEMENT IN
9 ORDER TO UPDATE THE EMPLOYEE'S JOB TITLE OR COMPENSATE THE
10 EMPLOYEE TO REFLECT WORK PERFORMED OR CONTRIBUTIONS ALREADY
11 MADE BY THE EMPLOYEE.

12 (1.5) "CAREER PROGRESSION" MEANS A REGULAR OR AUTOMATIC
13 MOVEMENT FROM ONE POSITION TO ANOTHER BASED ON TIME IN A SPECIFIC
14 ROLE OR OTHER OBJECTIVE METRICS.

15 (5.5) (a) "JOB OPPORTUNITY" MEANS A CURRENT OR ANTICIPATED

1 VACANCY FOR WHICH THE EMPLOYER IS CONSIDERING A CANDIDATE OR
2 CANDIDATES OR INTERVIEWING A CANDIDATE OR CANDIDATES OR THAT
3 THE EMPLOYER EXTERNALLY POSTS.

4 (b) "JOB OPPORTUNITY" DOES NOT INCLUDE CAREER DEVELOPMENT
5 OR CAREER PROGRESSION.

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7 (8.5) "VACANCY" MEANS AN OPEN POSITION, WHETHER AS A
8 RESULT OF A NEWLY CREATED POSITION OR A VACATED POSITION.

9 **SECTION 2.** In Colorado Revised Statutes, 8-5-103, **amend** (1)
10 and (3) as follows:

11 **8-5-103. Enforcement - rules - complaints.** (1) (a) The director
12 ~~is authorized to~~ SHALL:

13 (I) Create and administer a process to accept ~~and mediate~~
14 complaints and ~~to~~ provide legal resources concerning alleged violations
15 of section 8-5-102 and ~~to~~ SHALL promulgate rules as necessary for this
16 purpose;

17 (II) ON OR BEFORE JULY 1, 2024, CREATE AND ADMINISTER A
18 PROCESS TO MEDIATE COMPLAINTS REGARDING ALLEGED VIOLATIONS OF
19 SECTION 8-5-102 AND PROMULGATE RULES AS NECESSARY FOR THIS
20 PURPOSE;

21 (III) INVESTIGATE COMPLAINTS OR OTHER LEADS CONCERNING
22 EMPLOYER VIOLATIONS OF SECTION 8-5-102, EXCEPT IF THE COMPLAINT
23 CONCERNS THE STATE OF COLORADO AS THE EMPLOYER, THAT, IN THE
24 DIRECTOR'S GOOD FAITH DISCRETION AND JUDGMENT, WARRANT
25 INVESTIGATION;

26 (IV) UPON FINDING OF A VIOLATION OF SECTION 8-5-102, ORDER
27 COMPLIANCE AND RELIEF AS AUTHORIZED BY THIS PART 1; AND

1 (V) PROMULGATE RULES TO ENFORCE THIS ARTICLE 5.

2 (b) FOR THE PURPOSE OF INVESTIGATING A VIOLATION OF THIS
3 PART 1, THE DIRECTOR MAY APPLY THE INFORMATION-GATHERING
4 PROVISIONS OF ARTICLE 1 OF THIS TITLE 8 TO AN EMPLOYER, EMPLOYEE,
5 OR OTHER PERSON.

6 (c) The process created and administered by the director,
7 INCLUDING THE RULES FOR THE INVESTIGATION OF ALLEGED COMPLAINTS
8 FOR VIOLATIONS OF SECTION 8-5-102 AND ANY FINES LEVIED OR
9 CORRECTIVE ACTION TAKEN BY THE DIRECTOR, does not affect or prevent
10 the right of an aggrieved person from commencing a civil action pursuant
11 to subsection (2) of this section.

12 (3) A person aggrieved by a violation of section 8-5-102 may
13 obtain relief for back pay for the entire time the violation continues, not
14 to exceed ~~three~~ SIX years.

15 **SECTION 3.** In Colorado Revised Statutes, **amend** 8-5-201 as
16 follows:

17 **8-5-201. Employment opportunities - job opportunities or**
18 **advancement - pay rates in job listings - rules.** (1) ___ An employer
19 shall make reasonable efforts to announce, post, or otherwise make
20 known ~~all opportunities for promotion~~ EACH JOB OPPORTUNITY ___ to all
21 ~~current~~ employees on the same calendar day and prior to ~~making a~~
22 ~~promotion decision~~ THE DATE ON WHICH THE EMPLOYER MAKES A
23 SELECTION DECISION; EXCEPT THAT, IF AN EMPLOYER IS ONLY PHYSICALLY
24 LOCATED OUTSIDE OF COLORADO AND HAS FEWER THAN FIFTEEN
25 EMPLOYEES WORKING IN COLORADO, ALL OF WHOM WORK ONLY
26 REMOTELY, THEN, THROUGH JULY 1, 2029, THE EMPLOYER IS ONLY
27 REQUIRED TO PROVIDE NOTICE OF REMOTE JOB OPPORTUNITIES. THE

1 DEPARTMENT OF LABOR AND EMPLOYMENT SHALL PROMULGATE RULES
2 FOR TEMPORARY, INTERIM, OR ACTING JOB OPPORTUNITIES THAT
3 NECESSITATE IMMEDIATE HIRE.

4 (2) AN EMPLOYER MUST IN GOOD FAITH DISCLOSE THE FOLLOWING
5 IN THE NOTIFICATION OF EACH JOB OPPORTUNITY:

6 (a) THE HOURLY OR SALARY COMPENSATION OR THE RANGE OF THE
7 HOURLY OR SALARY COMPENSATION;

8 (b) A GENERAL DESCRIPTION OF THE BENEFITS AND OTHER
9 COMPENSATION APPLICABLE TO THE JOB OPPORTUNITY; AND

10 (c) THE DATE THE APPLICATION WINDOW IS ANTICIPATED TO
11 CLOSE.

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13 ~~(2) (3) An employer shall disclose in each posting for each job~~
14 ~~opening the hourly or salary compensation, or a range of the hourly or~~
15 ~~salary compensation, and a general description of all of the benefits and~~
16 ~~other compensation to be offered to the hired applicant. MAKE~~
17 ~~REASONABLE EFFORTS TO ANNOUNCE, POST, OR OTHERWISE MAKE KNOWN,~~
18 ~~WITHIN THIRTY CALENDAR DAYS AFTER A CANDIDATE WHO IS SELECTED~~
19 ~~TO FILL A JOB OPPORTUNITY BEGINS WORKING IN THE POSITION, THE~~
20 ~~FOLLOWING INFORMATION TO, AT A MINIMUM, THE EMPLOYEES WITH~~
21 ~~WHOM THE EMPLOYER INTENDS THE SELECTED CANDIDATE TO WORK WITH~~
22 ~~REGULARLY:~~

23 (a) THE NAME OF THE CANDIDATE SELECTED FOR THE JOB
24 OPPORTUNITY;

25 (b) THE SELECTED CANDIDATE'S FORMER JOB TITLE IF SELECTED
26 WHILE ALREADY EMPLOYED BY THE EMPLOYER;

27 (c) THE SELECTED CANDIDATE'S NEW JOB TITLE; AND

1 (d) INFORMATION ON HOW EMPLOYEES MAY DEMONSTRATE
2 INTEREST IN SIMILAR JOB OPPORTUNITIES ___ IN THE FUTURE, INCLUDING
3 IDENTIFYING INDIVIDUALS OR DEPARTMENTS TO WHOM THE EMPLOYEES
4 CAN EXPRESS INTEREST IN SIMILAR JOB OPPORTUNITIES.

5 (4) FOR POSITIONS WITH CAREER PROGRESSION, AN EMPLOYER
6 SHALL DISCLOSE AND MAKE AVAILABLE TO ALL ELIGIBLE EMPLOYEES THE
7 REQUIREMENTS FOR CAREER PROGRESSION, IN ADDITION TO EACH
8 POSITION'S TERMS OF COMPENSATION, BENEFITS, FULL-TIME OR PART-TIME
9 STATUS, DUTIES, AND ACCESS TO FURTHER ADVANCEMENT.

10 (5) NOTHING IN THIS SECTION REQUIRES AN EMPLOYER TO
11 IDENTIFY A SELECTED CANDIDATE FOR A JOB OPPORTUNITY ___ IN ANY
12 MANNER THAT VIOLATES THE CANDIDATE'S PRIVACY RIGHTS UNDER
13 APPLICABLE LOCAL, STATE, OR FEDERAL LAW OR IN A MANNER THAT
14 WOULD PLACE AT RISK THE SELECTED CANDIDATE'S HEALTH OR SAFETY.

15 **SECTION 4. Appropriation.** (1) For the 2023-24 state fiscal
16 year, \$292,590 is appropriated to the department of labor and
17 employment. This appropriation is from the general fund. To implement
18 this act, the department may use this appropriation as follows:

19 (a) \$250,294 for use by division of labor standards and statistics
20 for program costs related to labor standards, which amount is based on an
21 assumption that the department will require an additional 2.1 FTE; and

22 (b) \$42,296 for the purchase of legal services.

23 (2) For the 2023-24 state fiscal year, \$42,296 is appropriated to
24 the department of law. This appropriation is from reappropriated funds
25 received from the department of labor and employment under subsection
26 (1)(b) of this section and is based on an assumption that the department
27 of law will require an additional 0.2 FTE. To implement this act, the

1 department of law may use this appropriation to provide legal services for
2 the department of labor and employment.

3 (3) For the 2023-24 state fiscal year, \$119,848 is appropriated to
4 the department of personnel for use by the division of human resources.
5 This appropriation is from the general fund. To implement this act, the
6 department may use this appropriation as follows:

7 (a) \$97,813 for personal services related to state agency services,
8 which amount is based on an assumption that the department will require
9 an additional 1.2 FTE; and

10 (b) \$22,035 for operating expenses related to state agency
11 services.

12 **SECTION 5. Act subject to petition - effective date -**
13 **applicability.** (1) This act takes effect January 1, 2024; except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within the ninety-day period after final adjournment of the general
17 assembly, then the act, item, section, or part will not take effect unless
18 approved by the people at the general election to be held in November
19 2024 and, in such case, will take effect on the date of the official
20 declaration of the vote thereon by the governor.

21 (2) Section 8-5-201, Colorado Revised Statutes, as amended in
22 section 3 of this act, applies to job opportunities, career progressions, and
23 career developments that take place on or after the applicable effective
24 date of this act.