

MEMORANDUM

May 2, 2014

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Introduction:** Bill 29-14, Contracts and Procurement -- Wage Requirements - Reporting

Bill 29-14, Contracts and Procurement -- Wage Requirements - Reporting, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced on May 6. A public hearing will be scheduled at a later date.

Bill 29-14 would require a County contractor subject to the Wage Requirements Law to report summary wage data, including data by gender and race, paid to their employees who work on County contracts. It would also prohibit a County contractor from retaliating against an employee who discloses salary information to another person or employee under certain circumstances.

This packet contains:

Bill 29-14
Legislative Request Report
Memo from County Executive

Circle #
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Bill No. 29-14
Concerning: Contracts and Procurement
- Wage Requirements - Reporting
Revised: April 29, 2014 Draft No. 2
Introduced: May 6, 2014
Enacted: November 6, 2015
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the County Executive

AN ACT to:

- (1) require certain County contractors to report summary data, including data by gender and race, paid to their employees who work on County contracts;
- (2) prohibit certain County contractors from retaliating against certain employees that disclose salary information to another person or employee; and
- (3) generally amend County wage requirements law for contractors.

By amending

Montgomery County Code
Chapter 11B, Contracts and Procurement
Article VI, Contract Administration
Section 11B-33A - Wage Requirements

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 11B-33A is amended as follows:**

2 **11B-33A. Wage requirements.**

3 * * *

4 (g) Wage reporting.

5 (1) The Director must insert into each contract subject to this
 6 Section a provision that requires the contractor to submit to the
 7 Director a report (on a schedule determined by the Director)
 8 showing a summary of the wages paid to its employees, who
 9 performed direct, measurable work under the contract, by
 10 gender and race.

11 (2) Prohibition against retaliation. Except as provided in
 12 paragraph (3), a contractor must not discharge or in any other
 13 manner discriminate or retaliate against an employee, who
 14 performed direct, measurable work under the contract, because
 15 the employee:

16 (A) has inquired about, discussed, or disclosed the wages of
 17 the employee or another employee;

18 (B) asserts any right under this subsection; or

19 (C) files any complaint for violation of this subsection.

20 (3) The prohibition against retaliation under paragraph (2) does not
 21 apply to an employee who has access to wage information of
 22 other employees or applicants as part of the employee's
 23 essential job functions and discloses the wages of other
 24 employees or applicants to individuals who do not otherwise
 25 have access to the information, unless the disclosure is in
 26 response to:

27 (A) a formal complaint or charge;

28 (B) in furtherance of an investigation, proceeding, hearing, or
29 action, including an investigation conducted by the
30 contractor; or

31 (C) is consistent with the contractor's legal duty to furnish
32 information.

33 (4) The Director may refer a report to the Office of Human Rights
34 for investigation of a possible violation of Chapter 27, Human
35 Rights and Civil Liberties.

36 (h) *Conflicting requirements.* If any federal, state, or County law or
37 regulation requires payment of a higher wage, that law or regulation
38 controls. If any applicable collective bargaining agreement requires
39 payment of a higher wage, that agreement controls.

40 [(h)] (i) *Enforcement*

41 * * *

42 (5) Each contract may specify that liquidated damages for any
43 noncompliance with this Section includes the amount of any
44 unpaid wages, with interest, and that the contractor is jointly
45 and severally liable for any noncompliance by a subcontractor.
46 In addition, each contract must specify:

47 (A) that liquidated damages be imposed in the event that a
48 contractor violates the wage reporting requirement in
49 subsection (g); and

50 (B) that an aggrieved employee, as a third-party beneficiary,
51 may by civil action enforce the payment of wages due
52 under this Section and recover any unpaid wages with
53 interest, a reasonable attorney's fee, and damages for any
54 retaliation for asserting any right under this Section.

LEGISLATIVE REQUEST REPORT

Bill 29-14

Contracts and Procurement – Wage Requirements - Reporting

- DESCRIPTION:** Bill 29-14 would require a County contractor subject to the Wage Requirements Law to report summary wage data, including date, by gender and race, paid to their employees who work on County contracts. It would also prohibit a County contractor from retaliating against an employee who discloses salary information to another person or employee under certain circumstances.
- PROBLEM:** President Obama recently recognized the lack of equality in pay between men and women in the workforce, with women consistently receiving less than men. Without current and accurate data to trace compensation based upon race and gender, the root that causes this disparity is difficult to trace. Employees, in some circumstances, may face discrimination or retaliation for discussing their compensation with one another, impeding efforts by individuals to assert their right to equal pay. In an effort to encourage equal pay, this Bill adds wage reporting requirements for County contractors to Chapter 11B of the County Code. Contractors must report, by race and gender, the annual wages paid to employees that performed direct, measurable work under a County contract. Additionally, the Bill prohibits discrimination or retaliation against a Contractor's employees discussing their compensation. The Bill requires liquidated damages provisions in contracts for violations, empowers the Director of General Services to perform audits to verify compliance and to refer matters to the Office of Human Rights under Chapter 27 for investigation.
- GOALS AND OBJECTIVES:** Wage equality.
- COORDINATION:** Department of General Services.
- FISCAL IMPACT:** To be requested.
- ECONOMIC IMPACT:** To be requested.
- EVALUATION:** To be requested.
- EXPERIENCE ELSEWHERE:** Not applicable.
- SOURCE OF INFORMATION:** David E. Dise, Director
240 777 6191

**APPLICATION
WITHIN
MUNICIPALITIES:**

Not applicable.

PENALTIES:

Contractual liquidated damages.

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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

April 24, 2014

TO: Craig L. Rice, President
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Legislation to Add to Chapter 11B, Contracts and Procurement – Equal Wage

I am attaching for the Council's consideration a bill that would amend the County's Contract and Procurement law to require certain County contractors to report wages paid by race and gender and to prohibit discrimination against employees who discuss wage information.

President Obama recently recognized the lack of equality in pay between men and women in the workforce, with women consistently receiving less than men. Without current and accurate data to trace compensation based upon race and gender, the root that causes this disparity is difficult to trace. Employees, in some circumstances, may face discrimination or retaliation for discussing their compensation with one another, impeding efforts by individuals to assert their right to equal pay. In an effort to encourage equal pay, this Bill adds wage reporting requirements for County contractors to Chapter 11B of the County Code. Contractors must report, by race and gender, the annual wages paid to employees that performed direct, measurable work under a County contract. Additionally, the Bill prohibits discrimination or retaliation against a Contractor's employees discussing their compensation. The Bill requires liquidated damages provisions in contracts for violations, empowers the Director of General Services to perform audits to verify compliance and to refer matters to the Office of Human Rights under Chapter 27 for investigation. The amendment exempts the same contractors presently exempt from the wage provisions of Code § 11B-33A.

Thank you for your consideration of this matter.

IL:lh

Attachments: Draft legislation
Legislative Request Report

cc: David Dise, Director, DGS
Jennifer A. Hughes, Director, OMB
Joseph Adler, Director, OHR
Marc Hansen, County Attorney
Joseph F. Beach, Director, DOF