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FISCAL IMPACT REPORT

SPONSOR: HAFC DATE TYPED: 02/24/03 HB 41/HAFCS

SHORT TITLE: Prohibit Gender-Based Wage Discrimination SB _____

ANALYST: Gilbert

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Bill

The HAFC Substitute for House Bill 41 prohibits wage discrimination based on gender, unless such discrimination results from a seniority system, merit system, system that measures earnings by quantity or quality of production, or a differential based on factors other than gender. Violations of this Act would entitle an employee to file a civil suit and recover back wages, costs, and reasonable attorney fees.

If an employee recovers amounts due pursuant to this bill, and also brings action pursuant to 29 U.S.C. 206(d) that results in recovery under federal law for the same violation, the employee must return to the employer the amount recovered pursuant to this section or the amount recovered under federal law, whichever is less.

RELATIONSHIP

The federal Equal Pay Act is currently available to redress gender pay discrimination, and with potential for greater damages and back pay recovery.

OTHER SUBSTANTIVE ISSUES

This bill does not require that seniority, merit, or incentive systems be **bona fide** in order to operate as employer defenses under the Act. The federal Equal Pay Act includes such language as outlined below:

- Such systems were not adopted with discriminatory intent;
- They are established systems containing predetermined criteria for measuring seniority, merit, or productivity;
- They have been communicated to employees;
- They have been consistently and even-handedly applied to employees of both sexes; and
- They are in fact the basis for the compensation differential.

AMENDMENTS

An amendment to HB41/HAFCS, Section 1A, clarifying that seniority, merit, or incentive systems must be **bona fide** in order to serve as employer defenses under the Act, may be appropriate.

RLG/yr/njw