WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 2002

ENROLLED

SENATE BILL NO. 639

(By Senator Unger, et al.)

PASSED March 8,

In Effect from Passage
ENROLLED

Senate Bill No. 639

(By Senators Unger, Fanning, Redd, Kessler, Caldwell, Helmick, Anderson, McCabe, Snyder, Ross, Love, Hunter, Rowe, Burnette, Facemyer, Boley, Minear, Sprouse, Mitchell, Edgell, Prezioso, Plymale, Minard, Oliverio and Sharpe)

[Passed March 8, 2002; in effect from passage.]

AN ACT to amend article five, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five; and to amend and reenact section six, article five-e, chapter twenty-one of said code, all relating to the expenditure of public funds to provide gender-based pay equity generally; providing for a limited gender-based pay equity salary adjustment for state employees; delaying implementation of statutory provisions prohibiting certain gender-based pay discrimination and discrepancies; and requiring equal pay commission and others to assess budgetary or other financial impact on the state if the statutory provisions are implemented and report findings and recommendations to the joint committee on government and finance.
Be it enacted by the Legislature of West Virginia:

That article five, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section five; and that section six, article five-e, chapter twenty-one of said code be amended and reenacted, all to read as follows:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 5. SALARY INCREASE FOR STATE EMPLOYEES.

§5-5-5. Pay equity adjustment.

1 The Legislature hereby directs that a gender-based pay equity salary adjustment be provided to public employees as determined by the secretary of the department of administration, based on recommendations of the equal pay commission, within the limitations provided by this section. This salary adjustment shall be provided from the funding appropriated to the department of administration, office of the secretary, for purposes of a "pay equity reserve" in the fiscal year two thousand two and may not be construed to require additional appropriations from the Legislature. If any provision of this section conflicts with any rule, policy or provision of this code, the provisions of this section shall control. Because the provisions of this section are rehabilitative in nature, the results of the pay equity salary adjustments are not subject to the provisions of article six-a, chapter twenty-nine of this code. Further, it is the specific intent of the Legislature that no private cause of action, either express or implied, is created by or otherwise arises from the enactment, provisions or implementation of this section.

CHAPTER 21. LABOR.
ARTICLE 5E. EQUAL PAY FOR EQUAL WORK FOR STATE EMPLOYEES.


(a) The equal pay commission shall study both the methodology and funding for the implementation of a gender discrimination prohibition and shall prepare reports for submission to the Legislature which include:

1. An analysis of state job descriptions which measures the inherent skill, effort, responsibility and working conditions of various jobs and classifications; and

2. A review of similar efforts to eliminate gender-based wage differentials implemented by other governmental entities in this and other states.

(b) The commission shall submit an initial report with recommendations for implementation of a gender discrimination prohibition to the joint committee on government and finance not later than the first day of July, two thousand, and shall submit status reports annually thereafter.

(c) Based upon the findings and recommendations in its report, the commission may propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code to implement the provisions of this article.

(d) The Legislature finds that it has not fully assessed the potential cost to the state if the provisions of sections three and four of this article are implemented and that those provisions should not be implemented until a reasonable estimate of the amount of public funds that may be required for appropriation and expenditure as a result of the implementation can be calculated. Accordingly, notwithstanding any other provisions of this article to the contrary, the provisions of sections three and four of this article shall not become effective until enactment of general law specifically providing an effective date of
implementation of those sections. During the interim
period between the two thousand two regular session of
the Legislature and the two thousand three regular session
of the Legislature, the equal pay commission shall, in the
manner prescribed by the joint committee on government
and finance, meet and consult with the joint standing
committee on the judiciary, the joint committee on finance
and others as may be prescribed for the purposes of
conducting a joint assessment of budgetary or other
financial impact on the state if the provisions of sections
three and four of this article are implemented. Prior to the
two thousand three regular session of the Legislature,
those directed to conduct the joint assessment shall report
their findings to the joint committee on government and
finance and, if warranted, report any recommendations for
the passage of legislation that would effectively lessen or
eliminate the cost of implementation of sections three and
four of this article in a manner that is consistent with
achieving the purposes for which this article was initially
enacted.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 3rd Day of April, 2002.

Governor
PRESIDENT TO THE
GOVERNOR
Date: 3/19/62
Time: 9:05 a.m.