

2021 Regular Session

HOUSE BILL NO. 245

BY REPRESENTATIVE CARPENTER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

EMPLOYMENT/DISCRIMINATN: Provides relative to employment practices related to wage history, wage disclosure, and retaliation

1 AN ACT

2 To amend and reenact R.S. 23:664(D) and to enact R.S. 23:333 and 664(F), relative to
3 employment discrimination; to prohibit certain employment practices; to prohibit the
4 use of wage history under certain circumstances; to provide for wage disclosure; to
5 provide for the limitations on protections; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 23:664(D) is hereby amended and reenacted and R.S. 23:333 and
8 664(F) are hereby enacted to read as follows:

9 §333. Unlawful employment practice by employers prohibited; wage history, wage
10 disclosure, and retaliation

11 A. It is an unlawful employment practice for an employer to inquire about
12 or rely on the wage history of an applicant for an offer of employment by doing any
13 of the following:

14 (1) Screening job applicants based on their current or prior wages, benefits
15 or other compensation, or salary histories, including requiring that an applicant's
16 prior wages, benefits or other compensation, or salary history satisfy minimum or
17 maximum criteria.

18 (2) Relying on the wage history of an applicant in deciding whether to offer
19 employment to an applicant, or in determining the salary, benefits, or other

1 compensation for such applicant during the hiring process, including the negotiation
2 of an employment contract.

3 (3) Refusing to hire or otherwise disfavor, injure, or retaliate against an
4 applicant for not disclosing his wage history to an employer.

5 B.(1) Except as provided in Paragraph (2) of this Subsection, an employer
6 shall not discriminate, retaliate, or take any adverse employment action, including
7 but not limited to termination or in any other manner of discrimination against any
8 employee for inquiring about, disclosing, comparing, or otherwise discussing the
9 employee's wages or the wages of any other employee, or aiding or encouraging any
10 other employee to exercise the same actions.

11 (2) The protections provided for in this Subsection shall not be applicable
12 if an employee who has access to the wage information of other employees as a part
13 of the employee's essential job function discloses the wages of other employees to
14 individuals who do not otherwise have access to such information unless the
15 disclosure is required under law.

16 * * *

17 §664. Prohibited acts

18 * * *

19 D.(1) Except as provided in Paragraph (2) of this Subsection, it ~~it~~ shall be
20 unlawful for an employer to interfere with, restrain, or deny the exercise of, or
21 attempt to exercise, any right provided pursuant to this Chapter. It shall be unlawful
22 for any employer to discriminate, retaliate, or take any adverse employment action,
23 including but not limited to termination or in any other manner discriminate against
24 any employee for inquiring about, disclosing, comparing, or otherwise discussing the
25 employee's wages or the wages of any other employee, or aiding or encouraging any
26 other employee to exercise his or her rights under this Chapter.

27 (2) The protections provided in this Subsection shall not be applicable if an
28 employee who has access to the wage information of other employees as a part of the
29 employee's essential job function discloses the wage of other employees to

1 individuals who do not otherwise have access to such information unless the
2 disclosure is required under law.

3 * * *

4 F. It is an unlawful employment practice for an employer to inquire about
5 or rely on the wage history of an applicant for an offer of employment by doing any
6 of the following:

7 (1) Screening job applicants based on their current or prior wages, benefits
8 or other compensation, or salary histories, including requiring that an applicant's
9 prior wages, benefits or other compensation, or salary history satisfy minimum or
10 maximum criteria.

11 (2) Relying on the wage history of an applicant in deciding whether to offer
12 employment to an applicant, or in determining the salary, benefits, or other
13 compensation for such applicant during the hiring process, including the negotiation
14 of an employment contract.

15 (3) Refusing to hire or otherwise disfavor, injure, or retaliate against an
16 applicant for not disclosing his wage history to an employer.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 245 Original

2021 Regular Session

Carpenter

Abstract: Provides relative to prohibiting unlawful employment practices related to wage history, wage disclosure, and retaliation.

Proposed law provides that it shall be an unlawful employment practice for any employer to inquire about or rely on the wage history of an applicant for an offer of employment by doing any of the following:

- (1) Screening job applicants based on the applicant's current or prior wages, benefits or other compensation, or salary histories.
- (2) Relying on the applicant's wage history in deciding whether to offer employment to an applicant or to determine the applicant's salary, benefits, or other compensation.
- (3) Refusing to hire or otherwise disfavor, injure, or retaliate against an applicant for not disclosing his wage history.

Proposed law prohibits the discrimination, retaliation, or any other adverse employment action, including but not limited to termination or other forms of discrimination, by an employer against any employee for inquiring, disclosing, comparing, or discussing the employee's wages or any other employee's wages, or aiding or encouraging any other employee to exercise the same actions.

Proposed law provides that protections shall not be applicable to an employee who already has access to the wage information of other employees because it is an essential part of the employee's job function.

Present law provides that it shall be unlawful for an employer to interfere with, restrain, or deny the exercise of, or attempt to exercise, any right provided under present law. Further, present law provides that it shall be unlawful for any employer to discriminate, retaliate, or take any adverse employment action, including but not limited to termination or other forms of discrimination, against any employee for inquiring, disclosing, comparing, or discussing the employee's wages or another employee's wages, or aiding or encouraging any other employee to exercise his or her rights under present law.

Proposed law provides that protections shall not be applicable to an employee who already has access to the wage information of other employees because it is an essential part of the employee's job function.

Proposed law provides that it shall be an unlawful employment practice for any employer to inquire about or rely on the wage history of an applicant for an offer of employment by doing any of the following:

- (1) Screening job applicants based on the applicant's current or prior wages, benefits or other compensation, or salary histories.
- (2) Relying on the applicant's wage history in deciding whether to offer employment to an applicant or to determine the applicant's salary, benefits, or other compensation.
- (3) Refusing to hire or otherwise disfavor, injure, or retaliate against an applicant for not disclosing his wage history.

(Amends R.S. 23:664(D); Adds R.S. 23:333 and 664(F))