
The original instrument was prepared by Carla S. Roberts. The following digest, which does not constitute a part of the legislative instrument, was prepared by Tim Prather.

DIGEST

Murray (SB 153)

Proposed law provides that the public policy of this state is declared to be that paying unequal wages based on sex unjustly discriminates against the person receiving the lesser rate, leads to low morale, threatens the well-being of the citizens of this state, and adversely affects the general welfare.

Proposed law defines certain terms used within proposed law, including "employee" and "labor organization".

Proposed law makes it unlawful for an employer who employs 15 or more employees to pay wages to an employee at a rate less than the rate at which the employer pays wages to another employee of the opposite sex for the same or substantially similar work in the same establishment.

Proposed law makes it unlawful for a labor organization or its agent to cause or attempt to cause an employer to pay wages to an employee at a rate less than the rate at which the employer pays wages to another employee of the opposite sex for the same or substantially similar work.

Proposed law allows exceptions for instances where pay is made under a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on a factor other than sex as long as such system is job related or furthers a legitimate business purpose.

Proposed law provides that the legitimate business purpose may serve as an exception unless the employee can show that some alternative business practice could have been utilized without producing such a differential and the employer refused to adopt such alternative practice.

Proposed law prohibits an employer from reducing an employee's pay in order to comply with proposed law. Proposed law declares it unlawful for a person to discharge or discriminate against an individual who has filed any charges, given any information, or testified in any inquiry relating to any right provided under proposed law.

Proposed 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 proposed law. It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for inquiring about, disclosing, comparing, or otherwise discussing the employee's wages or the wages of any other employee, or aiding or encouraging any person to exercise his or her rights under proposed law.

Proposed law provides that an employee who believes that his employer has violated a provision of proposed law may provide written notice to the employer of the violation. Proposed law provides that an employer who receives written notice of a violation shall have 60 days to remedy the violation. Proposed law further provides that if the employer remedies the violation within the 60 days, the employee may not bring an action against the employer with the Human Rights Commission.

Proposed law provides that if the commission finds evidence of discriminatory action on the part of the employer but fails to resolve the dispute, or fails to render a decision on the dispute within 120 days, the employee may institute a civil suit in a district court of competent jurisdiction.

Proposed law provides that an employer in violation of the provisions of proposed law may be liable for damages inclusive of unpaid wages, an amount of ½ of unpaid wages in liquidated damages, reasonable attorney fees, costs, employment, reinstatement, promotion, and any benefits lost.

Proposed law provides that monetary relief for a violation of proposed law is limited to a 36-month period prior to the employee's written notice. Proposed law provides that said monetary relief cannot be awarded for losses incurred between the time of the district court's final decision and the final determination of any higher appellate court, as the case may be.

Proposed law provides that interim earnings by the employee shall reduce the amount of damages. Proposed law provides that the employer and employee may settle for a lesser amount of damages.

Proposed law provides an employer with reasonable damages, attorney fees, and court costs when an employee is found by a court to have brought a frivolous claim.

Proposed law provides for a one-year prescriptive period in bringing any action to recover from the time the employee knows about the violation. Proposed law provides for a suspension of this period during the 90-day period in which the employer has to respond to the employee's written notice and during the pendency of any administrative review or investigation by the commission or the U.S. Dept. of Labor.

Proposed law requires employers to make and preserve records that document names, addresses, occupations of employees, and their wages. The records shall be preserved for not less than three years.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 23:661-668)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental

Affairs to the original bill

1. Makes it unlawful for an employer who employs 15 or more employees to pay wages to an employee at a rate less than the rate at which the employer pays wages to another employee of the opposite sex for the same or substantially similar work in the same establishment.
2. Provides that if the commission finds evidence of discriminatory action on the part of the employer but fails to resolve the dispute, or fails to render a decision on the dispute within 120 days, the employee may institute a civil suit in a district court of competent jurisdiction.
3. Deletes provisions relative to the inclusion of a copy of the written notice in such suit.
4. Suspends the one year prescriptive period during the 90-day period in which the employer has to respond to the employee's written notice and during the pendency of any administrative review or investigation by the commission or the U.S. Dept. of Labor.