

SENATE BILL NO. 153

BY SENATOR MURRAY AND REPRESENTATIVES ARMES, ARNOLD, BADON, BARROW, BILLIOT, BROSSETT, BURRELL, CONNICK, COX, DIXON, EDWARDS, GUILLORY, HONORE, HOWARD, HUNTER, GIROD JACKSON, KATRINA JACKSON, JAMES, JEFFERSON, JOHNSON, JONES, NANCY LANDRY, TERRY LANDRY, MORENO, NORTON, PIERRE, PRICE, REYNOLDS, RITCHIE, SMITH, STOKES, THIERRY, ALFRED WILLIAMS AND PATRICK WILLIAMS

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

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AN ACT

To enact Chapter 6-A of Title 23 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 23:661 through 669, relative to payment of wages; to provide for employment in state government; to provide for definitions; to provide for prohibited acts constituting unequal pay; to provide for a complaint procedure; to provide for damages; to limit actions of employees; to require certain records be kept by employers; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 6-A of Title 23 of the Louisiana Revised Statutes of 1950, comprised of R.S. 23:661 through 669, is hereby enacted to read as follows:

CHAPTER 6-A. LOUISIANA EQUAL PAY FOR WOMEN ACT

§661. Short title; citation

This Chapter shall be known and may be cited as the "Louisiana Equal Pay for Women Act".

§662. Declaration of public policy

The public policy of this state is that a woman who performs public service for the state is entitled to be paid the same compensation for her service as is paid to a man who performs the same kind, grade and quality of service, and a distinction in compensation may not be made because of sex.

§663. Definitions

As used in this Chapter, the following terms shall have the definitions

1 ascribed in this Section unless the context indicates otherwise:

2 (1) "Commission" means the Louisiana Commission on Human Rights.

3 (2) "Employee" means any female individual who is employed to work
4 forty or more hours a week and who is employed by the employer.

5 (3) "Employer" means any department, office, division, agency,
6 commission, board, committee or other organizational unit of the state.

7 §664. Prohibited acts

8 A. No employer may discriminate against an employee on the basis of
9 sex by paying wages to an employee at a rate less than that paid within the same
10 agency to another employee of a different sex for the same or substantially
11 similar work on jobs in which the employee's performance requires equal skill,
12 effort, education, and responsibility and that are performed under similar
13 working conditions including time worked in the position.

14 B. Nothing in Subsection A of this Section shall prohibit the payment of
15 different wage rates to employees when such payment is made pursuant to any
16 of the following:

17 (1) A seniority system.

18 (2) A merit system.

19 (3) A system that measures earnings by quantity or quality of
20 production.

21 (4) A differential based on a bona fide factor other than sex, including
22 but not limited to education, training, or experience, provided that both:

23 (a) The employer demonstrates that such factor is related to the job
24 position in question.

25 (b) No alternative employment practice would serve the same legitimate
26 business purpose without producing such a differential.

27 C. An employer who is paying wages in violation of this Chapter may
28 not, in order to comply with this Chapter, reduce the wages of any other
29 employee.

30 D. It shall be unlawful for an employer to interfere with, restrain, or

1 deny the exercise of, or attempt to exercise, any right provided under this
 2 Chapter. It shall be unlawful for any employer to discriminate, retaliate, or
 3 take any adverse employment action, including but not limited to termination
 4 or in any other manner discriminate against any employee for inquiring about,
 5 disclosing, comparing, or otherwise discussing the employee's wages or the
 6 wages of any other employee, or aiding or encouraging any other employee to
 7 exercise his or her rights under this Chapter.

8 E. It shall be unlawful for an employer subject to this Chapter to
 9 discriminate, retaliate, or take any adverse employment action, including but
 10 not limited to termination against an employee because, in exercising or
 11 attempting to exercise the employee's rights under this Chapter, such employee:

12 (1) Has filed any complaint or has instituted or caused to be instituted
 13 any proceeding to enforce the employee's rights under this Chapter.

14 (2) Has provided or will provide any information in connection with any
 15 inquiry or proceeding relating to any right afforded to an employee pursuant
 16 to this Chapter.

17 (3) Has testified or will testify in any inquiry or proceeding relating to
 18 any right afforded to an employee pursuant to this Chapter.

19 §665. Complaint procedure

20 A. An employee who in good faith believes that her employer is in
 21 violation of this Chapter shall submit written notice of the alleged violation to
 22 the employer. An employer who receives such written notice from an employee
 23 shall have sixty days from receipt of the notice to investigate the matter and
 24 remedy any violation of this Chapter. If an employer remedies the violation in
 25 a manner that complies with the statute and within the time provided herein,
 26 the employee may not bring any action against the employer pursuant to this
 27 Chapter except as provided in Subsections B and C of this Section.

28 B. If an employer fails to resolve the dispute to the satisfaction of such
 29 employee within the time provided herein, the employee may file a complaint
 30 with the commission requesting an investigation of the complaint pursuant to

1 **R.S. 23:301.**

2 **C. If the commission finds evidence of discriminatory, retaliatory or**
3 **other adverse employment action on the part of the employer in violation of this**
4 **Chapter but is unable to resolve or mediate the dispute, or fails to render a**
5 **decision as to the dispute, or issues a finding of no discrimination on the part of**
6 **the employer, the employee may institute a civil suit in the Nineteenth Judicial**
7 **District Court.**

8 **§666. Damages**

9 **A. An employer who violates the provisions of this Chapter shall be**
10 **liable to the affected employees in the amount of the employee's unpaid wages**
11 **and reasonable attorney fees and costs.**

12 **B. The award of monetary relief shall be limited to those violations**
13 **which have occurred within a thirty-six-month period prior to the employee's**
14 **written notice to the employer, as required in R.S. 23:665(A).**

15 **C. In cases where suit is filed in the district court, no monetary relief**
16 **may be awarded the employee for losses incurred between the date that the**
17 **district court rendered its final judgment and the date upon which all appeals**
18 **of that judgment have been exhausted.**

19 **D. Interim earnings by the employee discriminated against shall operate**
20 **to reduce the monetary relief otherwise allowable under this Chapter.**

21 **E. Nothing in this Chapter prevents the settlement of a claim by**
22 **agreement of the employer and employee for a lesser amount than the employee**
23 **alleges the employee is due.**

24 **F. An employee found by a court to have brought a frivolous claim**
25 **under this Chapter shall be held liable to the employer or any agent of the**
26 **employer who was named a defendant in the suit, or both, for reasonable**
27 **damages, reasonable attorney fees, and court costs incurred as a result of the**
28 **claim.**

29 **§667. Limitation of actions**

30 **A. Any action filed in the Nineteenth Judicial District Court to recover**

1 unpaid wages or any other form of relief for a violation of this Chapter shall be
2 commenced within one year of the date that an employee is aware or should
3 have been aware that the employee's employer is in violation of this Chapter.

4 B. This one-year prescriptive period shall be suspended during the
5 sixty-day period allowed the employer by this Chapter to respond to the
6 employee's written notice, during the pendency of any administrative review or
7 investigation of the employee's claim by the commission or the United States
8 Department of Labor, or both.

9 §668. Records to be kept by employers

10 An employer subject to this Chapter shall create and preserve records
11 reflecting the name, address, and position of each employee, and all wages paid
12 to each employee. These records shall be preserved for a period of not less than
13 three years from the employee's last date of employment with the employer.

14 §669. Supplemental application

15 This Chapter is supplemental and is not intended to supercede any
16 provision provided for in Chapter 3-A of this Title, the "Louisiana Employment
17 Discrimination Act", which prohibits discrimination based upon sex regardless
18 of whether the employer is a state entity, a private business, or other employer.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____