
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

Peterson (SB 334)

Present law prohibits any employer, whether public or private, from intentionally discriminating against an employee on the basis of sex.

Present law prohibits employment discrimination against women who are state government employees, whether the discrimination is intentional or unintentional, which is known as the "Louisiana Equal Pay for Women Act".

Proposed law retains present law but provides that private sector, local government, and political subdivision employers would also be subject to the prohibition for unintentional employment discrimination.

Proposed law removes the gender distinction in the "Louisiana Equal Pay for Women Act" and makes the proposed law applicable to men.

Proposed law provides that, in any action for discrimination based upon sex that an employer may not raise as a defense any agreement by an employee to work for less than the rate to which the employee is entitled under proposed law.

Present law provides that, if a state employer remedies the violation in a manner that complies with the statute, the employee may not bring any action against the employer except that a lawsuit may be filed in the 19th Judicial District Court in East Baton Rouge Parish.

Present law provides that, when a lawsuit is filed on the basis of sex discrimination pursuant to the "Louisiana Employment Discrimination Law" against a private sector, local government, or political subdivision employers, the venue of the lawsuit will be in the parish where the violation occurred.

Proposed law provides that should a claim against any employer, whether public or private, be filed pursuant to proposed law and be joined with an action authorized under the "Louisiana Employment Discrimination Law", the venue can be either in the parish where the violation occurred, or in the parish where the employee is domiciled, or in the parish where the employer's business is located.

Proposed law provides that if an employer remedies the violation in a manner that is satisfactory to the employee, then no further action is necessary on the part of the employer.

Proposed law provides that the employee may institute a civil suit in a court of competent district court where the employee is domiciled or where a defendant is domiciled or doing business in

Louisiana.

Present law provides that a state employer who violates the provisions of discrimination on the basis of sex, whether intentional or unintentional, shall be liable to the affected employees in the amount of the employee's unpaid wages and reasonable attorney fees and costs.

Proposed law retains present law but also provides for judicial interest in addition to unpaid wages and attorney fees as well as reinstatement, promotion, benefits lost or not received, front pay, any combination of these, and any other relief that the court in its discretion determines is necessary or appropriate.

Proposed law provides that when an employer knowingly discriminates on the basis of sex or the employer retaliated against an employee for filing a discrimination claim, the employer shall be liable for liquidated damages.

Present law provides that the provisions of the "Louisiana Equal Pay for Women Act" are intended to be supplemental to the provisions of the "Louisiana Employment Discrimination Act", which prohibits discrimination based upon sex regardless of whether the employer is a state entity, a private business, or other employer.

Proposed law provides that proposed law will be construed to prohibit unintentional, as well as intentional discrimination in pay.

Present law requires most individuals and private companies that do business with a state or local government agency to adhere to public bid laws and supply certain information to government entity that is hiring the individual or private company.

Proposed law retains present law but requires individuals and private companies that do business with a state or local government agency to attest to the fact that they will provide sworn affidavits and verification that they will comply with proposed law.

Proposed law provides that a public entity may not enter into a contract for goods or services with any private employer unless the private employer does all of the following:

- (1) Provides a sworn affidavit attesting that the pay practices of the private employer comply with proposed law.
- (2) Maintains and makes available its records at reasonable times upon notice from the contracting public entity. Records to be made available include the name, address, and position of each employee, and all wages paid to each employee and such records shall be preserved for a period of not less than three and one half years from the employee's last date of employment with the employer.
- (3) A private employer must require all subcontractors to satisfy the requirements of proposed law.

Proposed law provides that a public entity contracting with a private employer that is in violation of the provisions of proposed law must require the employer to comply with the provisions of proposed law within a reasonable amount of time. Proposed law provides that a private employer that fails to meet such requirement is subject to cancellation of any public contract.

Proposed law provides that a private employer penalized in accordance with proposed law has the right to appeal to the appropriate agency, department, or other public entity sanctioning the employer.

Proposed law provides that a private employer who is subject to cancellation of a contract pursuant to proposed law for the actions of a subcontractor may only be penalized if the private employer had actual knowledge of the subcontractor's failure to comply with the proposed law.

Present law provides that the Louisiana Commission on Human Rights is a state commission that enforces the policies embodied in the Federal Civil Rights Act of 1964, 1968, and 1972 and the Age Discrimination in Employment Act of 1967. Present law provides that Louisiana Commission on Human Rights accepts the deferral of cases from the Federal Equal Employment Opportunity Commission.

Present law provides that the Louisiana Commission on Human Rights shall have enforcement powers including adjudication of claims of discrimination on the basis of age, race, color, religion, sex, or national origin.

Proposed law retains present law but provides that the Louisiana Commission on Human Rights would also have jurisdiction over proposed law.

Effective August 1, 2014.

(Amends R.S. 23:661, 662, 663(2), and (3), 664(A), 665, 666(A), (B), and (C), 667, 668, 669 and R.S. 38:2212(A)(1)(b)(ii)(bb) and R.S. 51:2231(C), 2232(12), 2235(intro para), (9), (11), (12), (13), (14), and (16) (intro para) and (16)(c); adds R.S. 23:663(4), 664(F) and R.S. 38:2212.11; repeals R.S. 23:666(F))