

**HOUSE COMMITTEE AMENDMENTS**

2016 Regular Session

Amendments proposed by House Committee on Labor and Industrial Relations to Reengrossed Senate Bill No. 254 by Senator Morrell

1 AMENDMENT NO. 1

2 On page 1, line 2, after "amend and reenact" insert "R.S. 23:302(introductory paragraph) and  
 3 R.S. 51:2256(introductory paragraph), to enact Part IV-A of Chapter 3-A of Title 23 of the  
 4 Louisiana Revised Statutes of 1950, to be comprised of R.S. 23:334.1 through 334.8, and to  
 5 repeal R.S. 23:332(A)(3) and"

6 AMENDMENT NO. 2

7 On page 1, line 3, delete "to be"

8 AMENDMENT NO. 3

9 On page 1, line 4, delete "further"

10 AMENDMENT NO. 4

11 On page 1, line 6, after "damages;" insert "to repeal provisions applicable only to public  
 12 employees;"

13 AMENDMENT NO. 5

14 On page 1, delete lines 8 through 17 and delete pages 2 through 6 in their entirety and on  
 15 page 7, delete lines 1 through 6 and insert the following:

16 "Section 1. R.S. 23:302(introductory paragraph) is hereby amended and reenacted and Part  
 17 IV-A of Chapter 3-A of Title 23 of the Louisiana Revised Statutes of 1950, comprised of  
 18 R.S. 23:334.1 through 334.8, is hereby enacted to read as follows:

19 §302. Definitions

20 For purposes of this Chapter and unless the context clearly indicates  
 21 otherwise, **or unless expressly specified to the contrary**, the following terms shall  
 22 have the following meanings ascribed to them:

23 \* \* \*

24 **PART IV-A. LOUISIANA EQUAL PAY ACT**

25 **§334.1. Short title; citation**

26 **This Part shall be known and may be cited as the "Louisiana Equal Pay**  
 27 **Act".**

28 **§334.2. Declaration of public policy**

29 **The public policy of this state is that all employees shall be compensated**  
 30 **equally for work that is the same or equal in kind and quality. No distinction**  
 31 **in compensation may be made because of sex.**

32 **§334.3. Definitions**

33 **As used in this Part, the following terms have the definitions ascribed in**  
 34 **this Section unless the context indicates otherwise:**

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

36 **(2) "Employee" means any individual who is employed to work forty or**  
 37 **more hours a week and who is employed by an employer.**

38 **(3) "Employer" means any department, office, division, agency,**  
 39 **commission, board, committee or other organizational unit of the state or any**  
 40 **unit of local government or political subdivision, any individual, partnership,**  
 41 **corporation, association, business, trust, person, contractor, labor organization,**

employment agency, joint labor-management committee controlling apprenticeship or other training or retraining program, insurer, or entity for which fifty or more employees are employed within the state.

(4) "Unpaid wages" means the difference between the compensation actually paid to an employee and the amount owed to the employee.

§334.4. Prohibited acts; discrimination based on sex

A. No employer may discriminate against an employee on the basis of sex by paying wages to an employee at a rate less than that paid by the same employer to another employee of a different sex for the same or equal work on jobs that require equal skill, effort, education, and responsibility and involve the same or equal working conditions including time worked in the position.

B. Notwithstanding any other provision of this Part, it shall not be unlawful discrimination in employment for an employer to pay an employee at a rate less than that paid to another employee on the basis of any of the following:

(1) A seniority system.

(2) A merit system.

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

(4) A differential based on a bona fide factor other than sex and consistent with a business necessity, including but not limited to education, training, or experience.

C. An employer may not, in order to comply with this Part, reduce the wages of any other employee.

D. It shall be unlawful for an employer to interfere with, restrain, or deny the exercise of, or attempt to exercise, any right provided pursuant to this Part. It shall be unlawful for any employer to discriminate, retaliate, or take any adverse employment action, including but not limited to termination or in any other manner discriminate against any employee for inquiring about, disclosing, comparing, or otherwise discussing the employee's wages or the wages of any other employee, or aiding or encouraging any other employee to exercise his rights pursuant to this Part.

E. It shall be unlawful for an employer to discriminate, retaliate, or take any adverse employment action, including but not limited to termination against an employee because, in exercising or attempting to exercise the employee's rights pursuant to this Part, the employee:

(1) Has filed any complaint or has instituted or caused to be instituted any proceeding to enforce the employee's rights pursuant to this Part.

(2) Has provided or will provide any information in connection with any inquiry, hearing, or proceeding relating to any right afforded to an employee pursuant to this Part, regardless of whether the information is related to the employee's rights or the rights of another employee.

(3) Has testified or will testify in any inquiry, hearing, or proceeding relating to any right afforded to an employee pursuant to this Part, regardless of whether the testimony is related to the employee's rights or the rights of another employee.

F. An employee's agreement to work at a rate of compensation that is less than the rate to which the employee is entitled may not be used as a defense by the employer in any action against him brought pursuant to this Part unless the employee negotiated the lesser compensation for specific accommodations.

§334.5. Complaint procedure

A. Any employee who in good faith believes that his employer is in violation of this Part shall submit written notice of the alleged violation to his employer. An employer who receives such written notice from an employee shall have sixty days from receipt of the notice to investigate the matter and remedy any discriminatory differential in pay. If the employer remedies the violation in a manner that complies with the provisions of this Part and does so within the time provided in this Section, the employee may not bring any action against or seek unpaid wages from the employer regarding the remedied complaint.

1 B. If the employer fails to resolve the dispute in a manner that complies  
 2 with the provisions of this Part within the allotted sixty days, the employee may  
 3 file a complaint with the commission requesting an investigation of the  
 4 complaint pursuant to this Part or R.S. 51:2257.

5 C. The commission shall conduct the investigation in compliance with the  
 6 provisions of R.S. 51:2257.

7 D. If the commission finds evidence of discriminatory, retaliatory, or  
 8 other adverse employment action on the part of the employer in violation of this  
 9 Part but is unable to resolve or mediate the dispute, or fails to render a decision  
 10 regarding the dispute within one hundred eighty days from the filing of the  
 11 complaint, or issues a finding of no discrimination on the part of the employer,  
 12 the employee may institute a civil suit in a district court of competent  
 13 jurisdiction. In no event shall a civil suit be instituted prior to the expiration of  
 14 one hundred eighty days from the filing of the complaint with the commission.  
 15 §334.6. Damages

16 A.(1) An employer who is found to have violated the provisions of this  
 17 Part shall be liable to the employee for unpaid wages, interest, and may be  
 18 awarded reasonable attorney fees and court costs. The award for unpaid wages  
 19 shall not exceed the payment of unpaid wages for thirty-six months.

20 (2) In addition to the damages provided for in this Subsection, the court  
 21 may order reinstatement of employment or compensation for lost benefits.

22 B. The award of monetary relief beyond attorney fees shall be limited to  
 23 violations that occurred within a thirty-six-month period prior to the  
 24 employee's written notice to the employer.

25 C. Interim earnings by the employee shall operate to reduce the  
 26 monetary relief otherwise allowable pursuant to this Part.

27 D. Nothing in this Part prevents the voluntary settlement of a claim by  
 28 agreement between the employer and the employee for a lesser amount than the  
 29 employee alleges the employee is due.

30 E. An employee found by the court to have brought a frivolous claim  
 31 pursuant to this Part shall be held liable to the employer or any agent of the  
 32 employer who was named a defendant in the suit, or both, for reasonable  
 33 damages, reasonable attorney fees, and court costs incurred as a result of the  
 34 claim.

35 §334.7. Limitation of actions

36 A. Any action filed in district court to recover unpaid wages or any  
 37 other form of relief for a violation of this Part shall be commenced within one  
 38 year of the date that an employee is aware or should have been aware that the  
 39 employee's employer is in violation of this Part.

40 B. The one-year prescriptive period shall be suspended during the  
 41 sixty-day period allowed to the employer by this Part to respond to the  
 42 employee's written notice and during the one hundred eighty day pendency  
 43 allowed for administrative review or investigation of the employee's claim by  
 44 the commission or the United States Equal Employment Opportunity  
 45 Commission, or both.

46 C. Any action relative to discrimination based on pay shall be limited to  
 47 those included in this Part.

48 §334.8. Records to be kept by employers

49 A. Each employer subject to this Part shall create and preserve records  
 50 reflecting the name, sex, address, position of each employee, and all wages paid  
 51 to each employee. The records shall be preserved for each employee for the  
 52 preceding three years during employment and for a period one year following  
 53 a separation of employment.

54 B.(1) Any records created, preserved, or obtained pursuant to this Part  
 55 shall be confidential and privileged, and shall not be subject to disclosure under  
 56 the Public Records Law when in the custody or control of the commission.

57 (2) Any records created, preserved, or obtained pursuant to this Part  
 58 shall be confidential. The employer may seek a protective order and an in

