
SENATE COMMITTEE AMENDMENTS

Amendments proposed by Senate Committee on Senate and Governmental Affairs to Original Senate Bill No. 153 by Senator Murray

1 AMENDMENT NO. 1

2 On page 1, delete lines 14 through 17, delete pages 2 through 5 in their entirety and insert
3 the following:

4 **"§662. Declaration of public policy**

5 **The public policy of this state is declared to be that the practice of paying wages**
6 **to employees of one sex at a lesser rate than the rate paid to employees of the**
7 **opposite sex for comparable work on jobs which have comparable requirements**
8 **unjustly discriminates against the person receiving the lesser rate, leads to low**
9 **worker morale, threatens the well-being of citizens of this state, and adversely**
10 **affects the general welfare. It is therefore declared to be the policy of this state**
11 **through the exercise of its police power to correct and, as rapidly as possible, to**
12 **eliminate discriminatory wage practices based on sex.**

13 **§663. Definitions**

14 **As used in this Chapter, the following terms shall have the definitions ascribed**
15 **in this Section unless the context indicates otherwise:**

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

17 **(2) "Employee" means any individual permitted to work by an employer.**

18 **(3) "Employer" means an individual, partnership, corporation, association,**
19 **business, trust, person, labor organization as defined in this Section, or other**
20 **entity employing fifteen or more employees within the state and includes the**
21 **state, any state officer or agent, any state department or agency, and any unit**
22 **of local government, and school district within the state.**

23 **(4) "Labor organization" means any organization which exists for the purpose,**
24 **in whole or in part, of collective bargaining or of dealing with employers**
25 **concerning grievances, terms or conditions of employment, or other mutual aid**
26 **or protection in connection with employment, or any agent acting for such an**
27 **organization.**

28 **§664. Prohibited acts**

29 **A. No employer may discriminate against an employee on the basis of sex by**
30 **paying wages to an employee at a rate less than that paid in the same**
31 **establishment to another employee of a different sex for the same or**
32 **substantially similar work on jobs in which the employee's performance**
33 **requires equal skill, effort, education, and responsibility and which are**
34 **performed under similar working conditions including time worked in the**
35 **position.**

36 **B. No labor organization or its agent representing employees of an employer**
37 **shall cause or attempt to cause an employer to discriminate against an employee**
38 **in violation of this Chapter.**

39 **C. Nothing in Subsection A or B of this Section shall prohibit the payment of**
40 **different wage rates to employees where such payment is made pursuant to any**
41 **of the following:**

1 (1) A seniority system.
2 (2) A merit system.

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

4 (4)(a) A differential based on a bona fide factor other than sex, such as
5 education, training, or experience, provided that both:

6 (i) The employer demonstrates that such factor is related to the job position in
7 question.

8 (ii) No alternative employment practice would serve the same legitimate
9 business purpose, without producing such a differential.

10 (b) However, the employer may not claim such a differential serves a legitimate
11 business purpose, if the employee demonstrates both:

12 (i) The existence of an alternative employment practice that would serve the
13 same business purpose without producing such differential.

14 (ii) That the employer has refused to adopt such alternative practice.

15 D. An employer who is paying wages in violation of this Chapter may not, in
16 order to comply with this Chapter, reduce the wages of any other employee.

17 E. It shall be unlawful for an employer to interfere with, restrain, or deny the
18 exercise of, or attempt to exercise, any right provided under this Chapter. It
19 shall be unlawful for any employer to discriminate, retaliate, or take any
20 adverse employment action, including but not limited to termination or in any
21 other manner discriminate against any employee for inquiring about, disclosing,
22 comparing, or otherwise discussing the employee's wages or the wages of any
23 other employee, or aiding or encouraging any other employee to exercise his or
24 her rights under this Chapter.

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

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

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

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

36 **§665. Complaint procedure**

37 A. An employee who in good faith believes that the employee's employer is in
38 violation of this Chapter shall submit written notice of the alleged violation to
39 the employer. An employer who receives such written notice from an employee
40 shall have sixty days from receipt of the notice to investigate the matter and
41 remedy any violation of this Chapter. If an employer remedies the violation in
42 a manner that complies with the statute and within the time provided herein,
43 the employee may not bring any action against the employer pursuant to this
44 Chapter except as provided in Subsections B and C of this Section.

1 B. If an employer fails to resolve the dispute to the satisfaction of such employee
2 within the time provided herein, the employee may file a complaint with the
3 commission requesting an investigation of the complaint pursuant to R.S.
4 23:301.

5 C. If the commission finds evidence of discriminatory, retaliatory or other
6 adverse employment action on the part of the employer in violation of this
7 Chapter but is unable to resolve or mediate the dispute, or fails to render a
8 decision as to the dispute, or issues a finding of no discrimination on the part of
9 the employer, the employee may institute a civil suit in a district court of
10 competent jurisdiction.

11 §666. Liquidated damages

12 A. An employer who violates the provisions of this Chapter shall be liable to the
13 affected employees in the amount of the employee's unpaid wages, liquidated
14 damages in an amount of one-half of such unpaid wages, and reasonable
15 attorney fees and costs.

16 B. In addition to the relief provided for in Subsection A of this Section, an
17 employer who violates the provisions of this Chapter may also be liable to the
18 affected employees for reinstatement, promotion, any benefits lost, or any
19 combination of these.

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

23 D. In cases where suit is filed in the district court, no monetary relief may be
24 awarded the employee for losses incurred between the date that the district
25 court rendered its final judgment and the date upon which all appeals of that
26 judgment have been exhausted.

27 E. Interim earnings by the employee discriminated against shall operate to
28 reduce the monetary relief otherwise allowable under this Chapter.

29 F. Nothing in this Chapter prevents the settlement of a claim by agreement of
30 the employer and employee for a lesser amount than the employee alleges the
31 employee is due.

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

36 §667. Limitation of actions

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

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

46 §668. Records to be kept by employers

1 An employer subject to this Chapter shall create and preserve records
2 reflecting the name, address, and occupation of each employee, and all wages
3 paid to each employee. These records shall be preserved for a period of not less
4 than three years from the employee's last date of employment with the
5 employer."