

By Senator Dawson

30-13-00

1 A bill to be entitled
2 An act relating to wage discrimination;
3 creating the "Fair Pay Act"; amending s.
4 760.02, F.S.; providing definitions; amending
5 s. 760.06, F.S.; providing an additional duty
6 of the Florida Commission on Human Relations;
7 providing for the adoption of specified rules;
8 amending s. 760.10, F.S.; clarifying provisions
9 with respect to discrimination against
10 individuals in compensation, terms, conditions,
11 or privileges of employment which constitutes
12 an unlawful employment practice; providing
13 administrative and civil remedies; creating s.
14 760.105, F.S.; providing for specified wage
15 disclosure, recordkeeping, and reporting
16 requirements; providing for relief and damages
17 for violation of requirements; amending s.
18 760.11, F.S., relating to administrative and
19 civil remedies under the Florida Civil Rights
20 Act of 1992; including s. 760.105, F.S., within
21 the scope of the act; providing an effective
22 date.

23
24 WHEREAS, despite federal and state laws banning
25 discrimination in employment and pay in both the public and
26 private sectors, wage differentials persist between women and
27 men and between minorities and nonminorities in the same jobs
28 and in jobs that are dissimilar but that require equivalent
29 composites of skill, effort, responsibility, and working
30 conditions, and

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1 WHEREAS, the existence of such wage differentials
2 depresses wages and living standards for employees which
3 necessarily contribute to their health and efficiency, reduces
4 family incomes and contributes to higher poverty rates among
5 households headed by females and minority households, prevents
6 the maximum utilization of available labor resources, and
7 tends to cause labor disputes, thereby burdening, affecting,
8 and obstructing commerce, and

9 WHEREAS, sections 760.01-760.11, Florida Statutes, the
10 "Florida Civil Rights Act of 1992," states that it is an
11 unlawful employment practice for an employer "to discriminate
12 against any individual with respect to compensation, terms,
13 conditions, or privileges of employment because of such
14 individual's race, color, religion, sex, national origin, age,
15 handicap, or marital status," and

16 WHEREAS, discrimination in wage setting practices has
17 played a role in depressing wages for women and minorities
18 generally, and

19 WHEREAS, many individuals work in occupations that are
20 dominated by individuals of their same sex, race, or national
21 origin, and discrimination in hiring, job assignments, and
22 promotion has played a role in establishing and maintaining
23 segregated work forces, and

24 WHEREAS, eliminating discrimination in compensation
25 based on sex, race, and national origin would have positive
26 effects, including providing a solution to problems in the
27 economy created by discriminatory wage differentials, reducing
28 the number of working women and people of color earning low
29 wages, thereby lowering their incidence of poverty during
30 normal working years and in retirement, and promoting stable
31 families by raising family incomes, and

1 WHEREAS, it is the purpose of this act to correct and
2 as rapidly as practicable eliminate discriminatory wage
3 practices based on sex, race, color, religion, national
4 origin, age, handicap, or marital status, NOW, THEREFORE,

5
6 Be It Enacted by the Legislature of the State of Florida:

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8 Section 1. This act may be cited as the "Fair Pay
9 Act."

10 Section 2. Section 760.02, Florida Statutes, is
11 amended to read:

12 760.02 Definitions.--For the purposes of ss.
13 760.01-760.11 and 509.092, the term:

14 ~~(1)(10)~~ "Aggrieved person" means any person who files
15 a complaint with the Human Relations Commission.

16 (2) "Commission" means the Florida Commission on Human
17 Relations created by s. 760.03.

18 (3) "Commissioner" or "member" means a member of the
19 commission.

20 (4) "Discriminatory practice" means any practice made
21 unlawful by the Florida Civil Rights Act of 1992.

22 (5) "Employ" means to suffer or permit to work.

23 (6) "Employee" means any person employed by an
24 employer and includes all of an employer's permanent
25 employees, whether working full-time or part-time, and any
26 temporary employee employed by an employer for a period of at
27 least 3 months. "Employee" shall not include any individual
28 employed by his or her parents, spouse, or child.

29 (7) "Employer" means any person employing 15 or more
30 employees for each working day in each of 20 or more calendar
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1 weeks in the current or preceding calendar year, and any agent
2 of such a person.

3 (8) "Employment agency" means any person regularly
4 undertaking, with or without compensation, to procure
5 employees for an employer or to procure for employees
6 opportunities to work for an employer, and includes an agent
7 of such a person.

8 (9) "Equivalent jobs" means jobs or occupations that
9 are equal within the meaning of the Equal Pay Act of 1963, 39
10 U.S.C. 206(d), or jobs or occupations that are dissimilar but
11 whose requirements are equivalent, when viewed as a composite
12 of skills, effort, responsibility, and working conditions.

13 (10)~~(1)~~ "Florida Civil Rights Act of 1992" means ss.
14 760.01-760.11 and 509.092.

15 (11)~~(9)~~ "Labor organization" means any organization
16 which exists for the purpose, in whole or in part, of
17 collective bargaining or of dealing with employers concerning
18 grievances, terms or conditions of employment, or other mutual
19 aid or protection in connection with employment.

20 (12)~~(5)~~ "National origin" includes ancestry.

21 (13)~~(6)~~ "Person" includes an individual, association,
22 corporation, joint apprenticeship committee, joint-stock
23 company, labor union, legal representative, mutual company,
24 partnership, receiver, trust, trustee in bankruptcy, or
25 unincorporated organization; any other legal or commercial
26 entity; the state; or any governmental entity or agency.

27 (14) "Wages" and "wage rates" means all compensation
28 in any form that an employer provides to employees in payment
29 for work performed or services rendered, including, but not
30 limited to, base pay, bonuses, commissions, awards, tips, or
31 various forms of nonmonetary compensation if provided in lieu

1 of or in addition to monetary compensation and that have
2 economic value to an employee.

3 Section 3. Section 760.06, Florida Statutes, is
4 amended to read:

5 760.06 Powers of the commission.--Within the
6 limitations provided by law, the commission shall have the
7 following powers:

8 (1) To maintain offices in the State of Florida.

9 (2) To meet and exercise its powers at any place
10 within the state.

11 (3) To promote the creation of, and to provide
12 continuing technical assistance to, local commissions on human
13 relations and to cooperate with individuals and state, local,
14 and other agencies, both public and private, including
15 agencies of the Federal Government and of other states.

16 (4) To accept gifts, bequests, grants, or other
17 payments, public or private, to help finance its activities.

18 (5) To receive, initiate, investigate, seek to
19 conciliate, hold hearings on, and act upon complaints alleging
20 any discriminatory practice, as defined by the Florida Civil
21 Rights Act of 1992.

22 (6) To issue subpoenas for, administer oaths or
23 affirmations to and compel the attendance and testimony of
24 witnesses or to issue subpoenas for and compel the production
25 of books, papers, records, documents, and other evidence
26 pertaining to any investigation or hearing convened pursuant
27 to the powers of the commission. In conducting an
28 investigation, the commission and its investigators shall have
29 access at all reasonable times to premises, records,
30 documents, and other evidence or possible sources of evidence
31 and may examine, record, and copy such materials and take and

1 record the testimony or statements of such persons as are
2 reasonably necessary for the furtherance of the investigation.
3 The authority to issue subpoenas and administer oaths may be
4 delegated by the commission, for investigations or hearings,
5 to a commissioner or the executive director. In the case of a
6 refusal to obey a subpoena issued to any person, the
7 commission may make application to any circuit court of this
8 state, which shall have jurisdiction to order the witness to
9 appear before the commission to give testimony and to produce
10 evidence concerning the matter in question. Failure to obey
11 the court's order may be punished by the court as contempt. If
12 the court enters an order holding a person in contempt or
13 compelling the person to comply with the commission's order or
14 subpoena, the court shall order the person to pay the
15 commission reasonable expenses, including reasonable
16 attorneys' fees, accrued by the commission in obtaining the
17 order from the court.

18 (7) To recommend methods for elimination of
19 discrimination and intergroup tensions and to use its best
20 efforts to secure compliance with its recommendations.

21 (8) To furnish technical assistance requested by
22 persons to facilitate progress in human relations.

23 (9) To make or arrange for studies appropriate to
24 effectuate the purposes and policies of the Florida Civil
25 Rights Act of 1992 and to make the results thereof available
26 to the public.

27 (10) To become a deferral agency for the Federal
28 Government and to comply with the necessary federal
29 regulations to effect the Florida Civil Rights Act of 1992.

30 (11) To render, at least annually, a comprehensive
31 written report to the Governor and the Legislature. The report

1 may contain recommendations of the commission for legislation
2 or other action to effectuate the purposes and policies of the
3 Florida Civil Rights Act of 1992.

4 (12) To adopt, ~~promulgate,~~ amend, and rescind rules
5 pursuant to ss. 120.54 and 120.536(1) to effectuate the
6 purposes and policies of the Florida Civil Rights Act of 1992
7 and govern the proceedings of the commission, in accordance
8 with chapter 120. Such rules must include the establishment of
9 guidelines that specify the criteria for determining whether a
10 job is dominated by employees of a particular sex, race, or
11 national origin for purposes of the wage disclosure,
12 recordkeeping, and reporting requirements of s. 760.105. Such
13 criteria must include, but need not be limited to, factors
14 such as whether a job has ever been formally classified as, or
15 traditionally considered to be, a "male" or "female" job, or a
16 "white" or "minority" job; whether there is a history of
17 discrimination against women or people of color, or both, with
18 regard to wages, assignment or access to jobs, or other terms
19 and conditions of employment; and the demographic composition
20 of the workforce in equivalent jobs, which may include the
21 numbers or percentages of women, men, Caucasians, and people
22 of color working in equivalent jobs. The guidelines must not
23 include a list of jobs.

24 (13) To receive complaints and coordinate all
25 activities as required by the Whistle-blower's Act pursuant to
26 ss. 112.3187-112.31895.

27 Section 4. Section 760.10, Florida Statutes, is
28 amended to read:

29 760.10 Unlawful employment practices.--

30 (1) It is an unlawful employment practice for an
31 employer:

1 (a) To discharge or to fail or refuse to hire any
2 individual, or otherwise to discriminate against any
3 individual with respect to compensation, terms, conditions, or
4 privileges of employment, because of such individual's race,
5 color, religion, sex, national origin, age, handicap, or
6 marital status. This paragraph must be construed to include
7 any discrimination by an employer between employees on the
8 basis of sex, race, color, religion, national origin, age,
9 handicap, or marital status by the payment of wages to
10 employees at a rate less than the rate at which an employer
11 pays wages to employees of the opposite sex, of a different
12 race, color, religion, national origin, age, or marital
13 status, or without handicap for equal work on jobs the
14 performance of which requires equal skill, effort, and
15 responsibility, and which are performed under similar working
16 conditions.

17 (b) To limit, segregate, or classify employees or
18 applicants for employment in any way which would deprive or
19 tend to deprive any individual of employment opportunities, or
20 adversely affect any individual's status as an employee,
21 because of such individual's race, color, religion, sex,
22 national origin, age, handicap, or marital status.

23 (2) It is an unlawful employment practice for an
24 employment agency to fail or refuse to refer for employment,
25 or otherwise to discriminate against, any individual because
26 of race, color, religion, sex, national origin, age, handicap,
27 or marital status or to classify or refer for employment any
28 individual on the basis of race, color, religion, sex,
29 national origin, age, handicap, or marital status.

30 (3) It is an unlawful employment practice for a labor
31 organization:

1 (a) To exclude or to expel from its membership, or
2 otherwise to discriminate against, any individual because of
3 race, color, religion, sex, national origin, age, handicap, or
4 marital status.

5 (b) To limit, segregate, or classify its membership or
6 applicants for membership, or to classify or fail or refuse to
7 refer for employment any individual, in any way which would
8 deprive or tend to deprive any individual of employment
9 opportunities, or adversely affect any individual's status as
10 an employee or as an applicant for employment, because of such
11 individual's race, color, religion, sex, national origin, age,
12 handicap, or marital status.

13 (c) To cause or attempt to cause an employer to
14 discriminate against an individual in violation of this
15 section.

16 (4) It is an unlawful employment practice for any
17 employer, labor organization, or joint labor-management
18 committee controlling apprenticeship or other training or
19 retraining, including on-the-job training programs, to
20 discriminate against any individual because of race, color,
21 religion, sex, national origin, age, handicap, or marital
22 status in admission to, or employment in, any program
23 established to provide apprenticeship or other training.

24 (5) Whenever, in order to engage in a profession,
25 occupation, or trade, it is required that a person receive a
26 license, certification, or other credential, become a member
27 or an associate of any club, association, or other
28 organization, or pass any examination, it is an unlawful
29 employment practice for any person to discriminate against any
30 other person seeking such license, certification, or other
31 credential, seeking to become a member or associate of such

1 club, association, or other organization, or seeking to take
2 or pass such examination, because of such other person's race,
3 color, religion, sex, national origin, age, handicap, or
4 marital status.

5 (6) It is an unlawful employment practice for an
6 employer, labor organization, employment agency, or joint
7 labor-management committee to print, or cause to be printed or
8 published, any notice or advertisement relating to employment,
9 membership, classification, referral for employment, or
10 apprenticeship or other training, indicating any preference,
11 limitation, specification, or discrimination, based on race,
12 color, religion, sex, national origin, age, absence of
13 handicap, or marital status.

14 (7) It is an unlawful employment practice for an
15 employer, an employment agency, a joint labor-management
16 committee, or a labor organization to discriminate against any
17 person because that person has opposed any practice which is
18 an unlawful employment practice under this section, or because
19 that person has made a charge, testified, assisted, or
20 participated in any manner in an investigation, proceeding, or
21 hearing under this section.

22 (8) Notwithstanding any other provision of this
23 section, it is not an unlawful employment practice under ss.
24 760.01-760.10 for an employer, employment agency, labor
25 organization, or joint labor-management committee to:

26 (a) Take or fail to take any action on the basis of
27 religion, sex, national origin, age, handicap, or marital
28 status in those certain instances in which religion, sex,
29 national origin, age, absence of a particular handicap, or
30 marital status is a bona fide occupational qualification

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1 reasonably necessary for the performance of the particular
2 employment to which such action or inaction is related.

3 (b) Observe the terms of a bona fide seniority system,
4 a bona fide employee benefit plan such as a retirement,
5 pension, or insurance plan, or a system which measures
6 earnings by quantity or quality of production, which is not
7 designed, intended, or used to evade the purposes of ss.
8 760.01-760.10. However, no such employee benefit plan or
9 system which measures earnings shall excuse the failure to
10 hire, and no such seniority system, employee benefit plan, or
11 system which measures earnings shall excuse the involuntary
12 retirement of, any individual on the basis of any factor not
13 related to the ability of such individual to perform the
14 particular employment for which such individual has applied or
15 in which such individual is engaged. This subsection shall
16 not be construed to make unlawful the rejection or termination
17 of employment when the individual applicant or employee has
18 failed to meet bona fide requirements for the job or position
19 sought or held or to require any changes in any bona fide
20 retirement or pension programs or existing collective
21 bargaining agreements during the life of the contract, or for
22 2 years after October 1, 1981, whichever occurs first, nor
23 shall this act preclude such physical and medical examinations
24 of applicants and employees as an employer may require of
25 applicants and employees to determine fitness for the job or
26 position sought or held.

27 (c) Take or fail to take any action on the basis of
28 age, pursuant to law or regulation governing any employment or
29 training program designed to benefit persons of a particular
30 age group.

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1 (d) Take or fail to take any action on the basis of
2 marital status if that status is prohibited under its
3 antinepotism policy.

4 (9) This section shall not apply to any religious
5 corporation, association, educational institution, or society
6 which conditions opportunities in the area of employment or
7 public accommodation to members of that religious corporation,
8 association, educational institution, or society or to persons
9 who subscribe to its tenets or beliefs. This section shall
10 not prohibit a religious corporation, association, educational
11 institution, or society from giving preference in employment
12 to individuals of a particular religion to perform work
13 connected with the carrying on by such corporations,
14 associations, educational institutions, or societies of its
15 various activities.

16 (10) Each employer, employment agency, and labor
17 organization shall post and keep posted in conspicuous places
18 upon its premises a notice provided by the commission setting
19 forth such information as the commission deems appropriate to
20 effectuate the purposes of ss. 760.01-760.10.

21 Section 5. Section 760.105, Florida Statutes, is
22 created to read:

23 760.105 Wage disclosure; recordkeeping and reporting
24 requirements.--

25 (1) Upon commencement of an individual's employment
26 and at least annually thereafter, every employer subject to
27 this act shall provide to each employee a written statement
28 sufficient to inform the employee of his or her job title,
29 wage rate, and the manner or method in which the wage is
30 calculated. This notice must be supplemented whenever an
31 employee is promoted or reassigned to a different position

1 with the employer; however, the employer is not required to
2 issue supplemental notifications for temporary reassignments
3 that are no greater than 3 months in duration.

4 (2) Every employer subject to this act shall make and
5 preserve records that document the wages paid to employees and
6 that document and support the method, system, calculations,
7 and other bases used to establish, adjust, and determine the
8 wage rates paid to the employer's employees. Every employer
9 subject to this act shall preserve such records for such
10 periods of time and shall make such reports from the records
11 in accordance with rules adopted by the commission as provided
12 under s. 760.06(12).

13 (3) Rules adopted under s. 760.06(12) which relate to
14 the form of reports required by subsection (2) must provide
15 for protection of the confidentiality of employees, and must
16 expressly require that reports may not include the names or
17 other identifying information from which readers could discern
18 the identities of employees. The rules may also identify
19 circumstances that warrant a prohibition on disclosure of
20 reports or information identifying the employer.

21 (4) The commission may use the information and data it
22 collects under subsection (2) for statistical and research
23 purposes and may compile and publish such studies, analyses,
24 reports, and surveys based on the information and data as it
25 considers appropriate.

26 (5) A violation of the wage disclosure, recordkeeping,
27 or reporting requirements under this section by any employer
28 who is subject to this section gives rise to a cause of action
29 for all relief and damages described in s. 760.11(5), unless
30 greater damages are expressly provided for.

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1 Section 6. Section 760.11, Florida Statutes, is
2 amended to read:

3 760.11 Administrative and civil remedies;
4 construction.--

5 (1) Any person aggrieved by a violation of ss.
6 760.01-760.105 ~~760.01-760.10~~ may file a complaint with the
7 commission within 365 days after ~~of~~ the alleged violation
8 occurs, naming the employer, employment agency, labor
9 organization, or joint labor-management committee, or, in the
10 case of an alleged violation of s. 760.10(5), the person
11 responsible for the violation and describing the violation.
12 Any person aggrieved by a violation of s. 509.092 may file a
13 complaint with the commission within 365 days after ~~of~~ the
14 alleged violation occurs, naming the person responsible for
15 the violation and describing the violation. The commission, a
16 commissioner, or the Attorney General may in like manner file
17 such a complaint. On the same day the complaint is filed with
18 the commission, the commission shall clearly stamp on the face
19 of the complaint the date the complaint was filed with the
20 commission. The complaint shall contain a short and plain
21 statement of the facts describing the violation and the relief
22 sought. The commission may require additional information to
23 be in the complaint. The commission, within 5 days after ~~of~~
24 the complaint is being ~~is being~~ filed, shall by registered mail send a
25 copy of the complaint to the person who allegedly committed
26 the violation. The person who allegedly committed the
27 violation must ~~may~~ file an answer to the complaint within 25
28 days after ~~of~~ the date the complaint was filed with the
29 commission. Any answer filed shall be mailed to the aggrieved
30 person by the person filing the answer. Both the complaint
31 and the answer must ~~shall~~ be verified.

1 (2) ~~If in the event that~~ any other agency of the state
2 or of any other unit of government of the state has
3 jurisdiction of the subject matter of any complaint filed with
4 the commission and has legal authority to investigate the
5 complaint, the commission may refer the ~~such~~ complaint to the
6 ~~such~~ agency for an investigation. Referral of such a complaint
7 by the commission does ~~shall~~ not constitute agency action
8 within the meaning of s. 120.52. If a ~~In the event of any~~
9 referral is made under this subsection, the commission shall
10 accord substantial weight to any findings and conclusions of
11 any such agency. The referral of a complaint by the
12 commission to a local agency does not divest the commission's
13 jurisdiction over the complaint.

14 (3) Except as provided in subsection (2), the
15 commission shall investigate the allegations in the complaint.
16 Within 180 days after ~~of the filing of~~ the complaint is filed,
17 the commission shall determine if there is reasonable cause to
18 believe that discriminatory practice has occurred in violation
19 of the Florida Civil Rights Act of 1992. When the commission
20 determines whether or not there is reasonable cause, the
21 commission by registered mail shall promptly notify the
22 aggrieved person and the respondent of the reasonable cause
23 determination, the date of such determination, and the options
24 available under this section.

25 (4) ~~If in the event that~~ the commission determines
26 that there is reasonable cause to believe that a
27 discriminatory practice has occurred in violation of the
28 Florida Civil Rights Act of 1992, the aggrieved person may
29 either:

30 (a) Bring a civil action against the person named in
31 the complaint in any court of competent jurisdiction; or

1 (b) Request an administrative hearing under ss.
2 120.569 and 120.57.

3
4 The election by the aggrieved person of filing a civil action
5 or requesting an administrative hearing under this subsection
6 is the exclusive procedure available to the aggrieved person
7 pursuant to this act.

8 (5) In any civil action brought under this section,
9 the court may issue an order prohibiting the discriminatory
10 practice and providing affirmative relief from the effects of
11 the practice, including back pay. The court may also award
12 compensatory damages, including, but not limited to, damages
13 for mental anguish, loss of dignity, and any other intangible
14 injuries, and punitive damages. Sections ~~The provisions of~~
15 ~~ss.~~768.72 and 768.73 do not apply to this section. The
16 judgment for the total amount of punitive damages awarded
17 under this section to an aggrieved person may ~~shall~~ not exceed
18 \$100,000. In any action or proceeding under this subsection,
19 the court, in its discretion, may allow the prevailing party a
20 reasonable attorney's fee as part of the costs. It is the
21 intent of the Legislature that this provision for attorney's
22 fees be interpreted in a manner consistent with federal case
23 law involving a Title VII action. The right to trial by jury
24 is preserved in any such private right of action in which the
25 aggrieved person is seeking compensatory or punitive damages,
26 and any party may demand a trial by jury. The commission's
27 determination of reasonable cause is not admissible into
28 evidence in any civil proceeding, including any hearing or
29 trial, except to establish for the court the right to maintain
30 the private right of action. A civil action brought under this
31 section must ~~shall~~ be commenced no later than 1 year after the

1 date of determination of reasonable cause by the commission.
2 The commencement of such an action divests ~~shall divest~~ the
3 commission of jurisdiction of the complaint, except that the
4 commission may intervene in the civil action as a matter of
5 right. Notwithstanding the above, the state and its agencies
6 and subdivisions may ~~shall~~ not be held liable for punitive
7 damages. The total amount of recovery against the state and
8 its agencies and subdivisions may ~~shall~~ not exceed the
9 limitation ~~as~~ set forth in s. 768.28(5).

10 (6) Any administrative hearing brought under ~~pursuant~~
11 ~~to~~ paragraph (4)(b) must ~~shall~~ be conducted under ss. 120.569
12 and 120.57. The commission may hear the case provided that the
13 final order is issued by members of the commission who did not
14 conduct the hearing, or the commission may request that it be
15 heard by an administrative law judge pursuant to s.
16 120.569(2)(a). If the commission elects to hear the case, it
17 may be heard by a commissioner. If the commissioner, after
18 the hearing, finds that a violation of the Florida Civil
19 Rights Act of 1992 has occurred, the commissioner shall issue
20 an appropriate proposed order in accordance with chapter 120
21 prohibiting the practice and providing affirmative relief from
22 the effects of the practice, including back pay. If the
23 administrative law judge, after the hearing, finds that a
24 violation of the Florida Civil Rights Act of 1992 has
25 occurred, the administrative law judge shall issue an
26 appropriate recommended order in accordance with chapter 120
27 prohibiting the practice and providing affirmative relief from
28 the effects of the practice, including back pay. Within 90
29 days after ~~of~~ the date the recommended or proposed order is
30 rendered, the commission shall issue a final order by
31 adopting, rejecting, or modifying the recommended order as

1 provided under ss. 120.569 and 120.57. The 90-day period may
2 be extended with the consent of all the parties. An
3 administrative hearing under ~~pursuant to~~ paragraph (4)(b) must
4 be requested no later than 35 days after the date of
5 determination of reasonable cause by the commission. In any
6 action or proceeding under this subsection, the commission, in
7 its discretion, may allow the prevailing party a reasonable
8 attorney's fee as part of the costs. It is the intent of the
9 Legislature that this provision for attorney's fees be
10 interpreted in a manner consistent with federal case law
11 involving a Title VII action.

12 (7) If the commission determines that there is not
13 reasonable cause to believe that a violation of the Florida
14 Civil Rights Act of 1992 has occurred, the commission shall
15 dismiss the complaint. The aggrieved person may request an
16 administrative hearing under ss. 120.569 and 120.57, but any
17 such request must be made within 35 days after ~~of~~ the date of
18 determination of reasonable cause, and any such hearing must
19 ~~shall~~ be heard by an administrative law judge and not by the
20 commission or a commissioner. If the aggrieved person does
21 not request an administrative hearing within the 35 days, the
22 claim will be barred. If the administrative law judge finds
23 that a violation of the Florida Civil Rights Act of 1992 has
24 occurred, he or she shall issue an appropriate recommended
25 order to the commission prohibiting the practice and
26 recommending affirmative relief from the effects of the
27 practice, including back pay. Within 90 days after ~~of~~ the
28 date the recommended order is rendered, the commission shall
29 issue a final order by adopting, rejecting, or modifying the
30 recommended order as provided under ss. 120.569 and 120.57.
31 The 90-day period may be extended with the consent of all the

1 parties. In any action or proceeding under this subsection,
2 the commission, in its discretion, may allow the prevailing
3 party a reasonable attorney's fee as part of the costs. It is
4 the intent of the Legislature that this provision for
5 attorney's fees be interpreted in a manner consistent with
6 federal case law involving a Title VII action. If ~~in the~~
7 ~~event~~ the final order issued by the commission determines that
8 a violation of the Florida Civil Rights Act of 1992 has
9 occurred, the aggrieved person may bring, within 1 year after
10 ~~of~~ the date of the final order, a civil action under
11 subsection (5) as if there has been a reasonable cause
12 determination or accept the affirmative relief offered by the
13 commission, but not both.

14 (8) ~~If in the event that~~ the commission fails to
15 conciliate or determine whether there is reasonable cause on
16 any complaint under this section within 180 days after ~~of~~ the
17 filing of the complaint, an aggrieved person may proceed under
18 subsection (4), as if the commission had determined that there
19 was reasonable cause.

20 (9) No liability for back pay shall accrue from a date
21 more than 2 years prior to the filing of a complaint with the
22 commission.

23 (10) A judgment for the amount of damages and costs
24 assessed pursuant to a final order by the commission may be
25 entered in any court having jurisdiction thereof and may be
26 enforced as any other judgment.

27 (11) If a complaint is within the jurisdiction of the
28 commission, the commission shall simultaneously with its other
29 statutory obligations attempt to eliminate or correct the
30 alleged discrimination by informal methods of conference,
31 conciliation, and persuasion. Nothing said or done in the

1 course of such informal endeavors may be made public or used
2 as evidence in a subsequent civil proceeding, trial, or
3 hearing. The commission may initiate dispute resolution
4 procedures, including voluntary arbitration, by special
5 masters or mediators. The commission may adopt rules as to
6 the qualifications of persons who may serve as special masters
7 and mediators.

8 (12) All complaints filed with the commission and all
9 records and documents in the custody of the commission, which
10 relate to and identify a particular person, including, but not
11 limited to, a complainant, employer, employment agency, labor
12 organization, or joint labor-management committee shall be
13 confidential and shall not be disclosed by the commission,
14 except to the parties or in the course of a hearing or
15 proceeding under this section. The restriction of this
16 subsection does ~~shall~~ not apply to any record or document that
17 ~~which~~ is part of the record of any hearing or court
18 proceeding.

19 (13) Final orders of the commission are subject to
20 judicial review pursuant to s. 120.68. The commission's
21 determination of reasonable cause is not final agency action
22 that is subject to judicial review. Unless specifically
23 ordered by the court, the commencement of an appeal does not
24 suspend or stay the order of the commission, except as
25 provided in the Rules of Appellate Procedure. In any action
26 or proceeding under this subsection, the court, in its
27 discretion, may allow the prevailing party a reasonable
28 attorney's fee as part of the cost. It is the intent of the
29 Legislature that this provision for attorney's fees be
30 interpreted in a manner consistent with federal case law
31 involving a Title VII action. If ~~in the event~~ the order of

1 the court determines that a violation of the Florida Civil
2 Rights Act of 1992 has occurred, the court shall remand the
3 matter to the commission for appropriate relief. The
4 aggrieved party has the option to accept the relief offered by
5 the commission or may bring, within 1 year after ~~of~~ the date
6 of the court order, a civil action under subsection (5) as if
7 there had ~~has~~ been a reasonable cause determination.

8 (14) The commission may adopt, promulgate, amend, and
9 rescind rules to effectuate the purposes and policies of this
10 section and to govern the proceedings of the commission under
11 this section.

12 (15) In any civil action or administrative proceeding
13 brought under ~~pursuant to~~ this section, a finding that a
14 person employed by the state or any governmental entity or
15 agency has violated s. 760.10 shall as a matter of law
16 constitute just or substantial cause for such person's
17 discharge.

18 Section 7. This act shall take effect upon becoming a
19 law.

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LEGISLATIVE SUMMARY

Creates the "Fair Pay Act." Revises and creates various provisions of the "Florida Civil Rights Act of 1992" to:

1. Provide that the Florida Commission on Human Relations establish guidelines that specify criteria for determining whether particular jobs are dominated by employees of a particular sex, race, or national origin.

2. Provide clarifying language with respect to discrimination against individuals in compensation, terms, conditions, or privileges of employment which constitutes an unlawful employment practice.

3. Provide specified wage disclosure, recordkeeping, and reporting requirements of employers and provide administrative and civil remedies for violation of the requirements.