

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1004

SPONSOR: Commerce, Economic Opportunities, and Consumer Services Committee and Senator Dawson

SUBJECT: Wage Discrimination

DATE: April 4, 2003

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gillespie</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable/CS</u>
2.	<u>Rubinas</u>	<u>Rubinas</u>	<u>EE</u>	<u>Favorable</u>
3.	_____	_____	<u>GO</u>	_____
4.	_____	_____	<u>ATD</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	<u>RC</u>	_____

I. Summary:

Committee Substitute for Senate Bill 1004 requires the director of Workforce Innovation to appoint a 9-member Equal Pay Commission to conduct a study and submit a report on wage disparities in the public sector between men and women and between minorities and nonminorities. The committee substitute directs the Agency for Workforce Innovation to provide staff and administrative support for the commission and provides an appropriation to fund the commission for fiscal year 2003-2004.

This committee substitute creates unnumbered sections of the Florida Statutes.

II. Present Situation:

Wage Discrimination

The United States Congress and the Legislature have enacted contemporaneous laws prohibiting certain types of employment discrimination. These federal and state laws allow aggrieved persons to file complaints seeking relief from unlawful employment discrimination.

The Florida Commission on Human Relations is the agency created by the Legislature to hear state complaints under the Florida Civil Rights Act of 1992 (ss. 760.01-760.11 and 509.092, F.S.). The act prohibits employment discrimination based on an individual's race, color, religion, sex, national origin, age, handicap, or marital status. The act applies to each employer in the state employing 15 or more employees, each employment agency, labor organization, and joint labor-management committee, state government, and each governmental entity or agency (s. 760.02, F.S.). Covered employers may not hire, discharge, segregate or classify, refer for employment, or

otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment on the basis of the individual's race, color, religion, sex, national origin, age, handicap, or marital status (s. 760.10, F.S.).

Under the act, the commission investigates complaints of employment discrimination. If, as a result of an investigation, the commission determines there is reasonable cause to believe a discriminatory practice occurred, the aggrieved person may bring a civil action against the employer, employment agency, labor organization, or joint labor-management committee named in the complaint or request an administrative hearing. The act authorizes various forms of relief from the effects of a discriminatory employment practice, including back pay, compensatory damages, and punitive damages (s. 760.11(4)-(6), F.S.).

In addition, employers are prohibited from discriminating between employees on the basis of sex by paying wages to employees at a rate less than the rate at which the employer pays wages to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions (s. 448.07, F.S.). The statute, however, exempts wages paid to employees under a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any reasonable factor other than sex when exercised in good faith (s. 448.07(2)(a), F.S.). To enforce the statute, aggrieved employees may recover, through a civil action, the difference between the amount the employee was paid and the amount he or she should have been paid (s. 448.07(3), F.S.).

The United States Equal Employment Opportunity Commission (EEOC) is the federal agency created by Congress to hear employment discrimination complaints. The EEOC hears complaints alleging violations of several federal acts that prohibit employment discrimination. Under Title VII of the Civil Rights Act of 1964 (42 U.S.C. ch. 21), as amended, the EEOC enforces federal laws that prohibit discrimination in hiring, promotion, discharge, pay, fringe benefits, job training classification, referral, and other aspects of employment on the basis of race, color, religion, sex, or national origin. In 1991, Congress expanded the remedies available in employment discrimination cases brought under Title VII. Under the Civil Rights Act of 1991 (42 U.S.C. ss. 1981a and 2000e-2), compensatory and punitive damages may be awarded in cases of intentional employment discrimination.

The EEOC also enforces the Equal Pay Act of 1963 (29 U.S.C. s. 206(d)), as amended, which prohibits employers from discriminating between employees on the basis of sex in the payment of wages. Under the federal act, employers may not pay wages to employees at a rate less than the rate at which the employer pays wages to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions. The act exempts wages paid under a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex.

In addition, the Office of Federal Contract Compliance Programs enforces Executive Order No. 11246 (1965), as amended, which prohibits covered federal contractors and subcontractors (for contracts in excess of \$10,000) from discriminating on the basis of race, color, religion, sex, or national origin.

The preamble to SB 1004 declares that, despite these federal and state laws banning discrimination in employment and pay in both the public and private sectors, wage differentials persist between women and men and between minorities and nonminorities in the same jobs and in jobs that are dissimilar but require equivalent composites of skill, labor, effort, responsibility, and working conditions.

Director of Workforce Innovation

The head of the Agency for Workforce Innovation is the director of Workforce Innovation. The director is appointed by the Governor (s. 20.50(2), F.S.).

III. Effect of Proposed Changes:

The committee substitute creates the Equal Pay Commission Act and requires the director of Workforce Innovation to appoint a 9-member commission, known as the "Equal Pay Commission," to study wage disparities in the public sector between men and women and between minorities and nonminorities. The commission is to be appointed within 90 days after the committee substitute becomes a law, to include the following members:

- Two representatives of business in the state, appointed from among individuals nominated by state business organizations and business trade associations.
- Two representatives of labor organizations nominated by state labor federations. For purposes of these appointments, a "state labor federation" must be chartered by a federation of national or international unions; must admit local unions into membership; and must exist primarily to carry on educational, legislative, and coordinating activities.
- Two representatives from organizations with objectives that include the elimination of pay disparities between men and women or between minorities and nonminorities. These organizations must have undertaken advocacy, educational, or legislative initiatives in pursuit of those objectives.
- Three individuals from higher education or research institutions who have expertise in the collection and analysis of data concerning pay disparities and whose research has already been used in efforts to promote the elimination of those disparities.

The committee substitute requires the commission, by January 15, 2004, to submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the director of Workforce Innovation. The report must comprise a full and complete study of the extent of wage disparities in the public sector between men and women and between minorities and nonminorities; the factors that cause or tend to cause these wage disparities, including segregation between women and men and between minorities and nonminorities across and within occupations, payment of lower wages for work in female-dominated occupations, child-rearing responsibilities, and education and training; and the consequences of these wage disparities on the economy and on affected families.

The committee substitute also requires the report to identify actions, including proposed legislation, which are likely to lead to the elimination and prevention of wage disparities.

The committee substitute authorizes per diem and travel expenses for commission members, but requires commission members to serve without compensation.

The committee substitute assigns the Agency for Workforce Innovation as the agency responsible for providing staff and administrative support for the commission. The committee substitute also provides the Agency for Workforce Innovation with an appropriation of \$250,000 from the General Revenue Fund to implement the committee substitute during the 2003-2004 fiscal year.

The committee substitute provides that the statutory authority creating the commission will expire June 30, 2004, thereby dissolving the commission, presumably after the commission has completed its study and submitted its report.

The committee substitute takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Agency for Workforce Innovation estimates it would need approximately \$250,000 to support the Equal Pay Commission for fiscal year 2003-2004. This amount includes salaries and benefits for 2 full-time-equivalent (FTE) positions in the Selected Exempt Service personnel system (an executive director with a salary rate not to exceed \$80,000 and a senior management analyst II with a salary rate not to exceed \$50,000) to staff the commission and approximately \$80,000 for travel and per diem expenses, meeting space, court reporting, and other miscellaneous expenses for fiscal year 2003-2004. The Agency for Workforce Innovation notes that, although no additional FTE positions would need to

be authorized within the agency for fiscal year 2003-2004 due to vacant positions, all of the funding for the commission would need to be appropriated from the General Revenue Fund due to restrictions on the use of the federal funding sources that fund the agency's operations. The committee substitute provides the Agency for Workforce Innovation with an appropriation of \$250,000 from the General Revenue Fund to implement the committee substitute during fiscal year 2003-2004.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
