

By Senator Wasserman Schultz

34-131-04

1                                   A bill to be entitled  
2           An act relating to employment practices;  
3           amending ss. 110.105, 110.233, 112.042, and  
4           760.10, F.S.; revising provisions relating to  
5           state employment policy, career service  
6           appointments, county and municipal employment,  
7           and unlawful employment practices, to provide  
8           that discrimination on the basis of sex  
9           includes discrimination on the basis of  
10          pregnancy, childbirth, or related medical  
11          conditions; providing a limitation with respect  
12          to employer health insurance benefits;  
13          reenacting ss. 104.31(3) and 760.11(15), F.S.,  
14          to incorporate amendments to ss. 110.233 and  
15          760.10, F.S., in references thereto; providing  
16          an effective date.

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18 Be It Enacted by the Legislature of the State of Florida:

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20           Section 1. Subsection (2) of section 110.105, Florida  
21 Statutes, is amended to read:

22           110.105 Employment policy of the state.--

23           (2)(a) All appointments, terminations, assignments and  
24 maintenance of status, compensation, privileges, and other  
25 terms and conditions of employment in state government shall  
26 be made without regard to age, sex, race, religion, national  
27 origin, political affiliation, marital status, or handicap,  
28 except when a specific sex, age, or physical requirement  
29 constitutes a bona fide occupational qualification necessary  
30 to proper and efficient administration.

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1           (b) For purposes of this subsection, the phrase  
2 "without regard to sex" includes, but is not limited to,  
3 without regard to pregnancy, childbirth, or related medical  
4 conditions. Women affected by pregnancy, childbirth, or  
5 related medical conditions shall be treated the same for all  
6 employment-related purposes, including receipt of benefits  
7 under fringe benefits programs, as other persons not so  
8 affected but similar in their ability or inability to work,  
9 and the employment policy of the state may not be interpreted  
10 to permit otherwise. This paragraph does not require a state  
11 employer to pay for health insurance benefits for abortion,  
12 except where the life of the mother would be endangered if the  
13 fetus were carried to term, or except where medical  
14 complications have arisen from an abortion. However, this  
15 paragraph does not preclude a state employer from providing  
16 abortion benefits or otherwise affect bargaining agreements in  
17 regard to abortion.

18           Section 2. Subsection (1) of section 110.233, Florida  
19 Statutes, is amended to read:

20           110.233 Political activities and unlawful acts  
21 prohibited.--

22           (1)(a) No person shall be appointed to, demoted, or  
23 dismissed from any position in the career service, or in any  
24 way favored or discriminated against with respect to  
25 employment in the career service, because of race, color,  
26 national origin, sex, handicap, religious creed, or political  
27 opinion or affiliation.

28           (b) As used in this subsection, the phrase "because of  
29 sex" includes, but is not limited to, because of pregnancy,  
30 childbirth, or related medical conditions. Women affected by  
31 pregnancy, childbirth, or related medical conditions shall be

1 treated the same with respect to employment in the career  
2 service, including receipt of benefits under fringe benefits  
3 programs, as other persons not so affected but similar in  
4 their ability or inability to work, and rules or practices of  
5 the career service system of the state may not be interpreted  
6 to permit otherwise.

7 Section 3. Subsection (1) of section 112.042, Florida  
8 Statutes, is amended to read:

9 112.042 Discrimination in county and municipal  
10 employment; relief.--

11 (1)(a) It is against the public policy of this state  
12 for the governing body of any county or municipal agency,  
13 board, commission, department, or office, solely because of  
14 the race, color, national origin, sex, handicap, or religious  
15 creed of any individual, to refuse to hire or employ, to bar,  
16 or to discharge from employment such individuals or to  
17 otherwise discriminate against such individuals with respect  
18 to compensation, hire, tenure, terms, conditions, or  
19 privileges of employment, if the individual is the most  
20 competent and able to perform the services required.

21 (b) As used in this subsection, the phrase "because of  
22 sex" includes, but is not limited to, because of pregnancy,  
23 childbirth, or related medical conditions. Women affected by  
24 pregnancy, childbirth, or related medical conditions shall be  
25 treated the same for all employment-related purposes,  
26 including receipt of benefits under fringe benefits programs,  
27 as other persons not so affected but similar in their ability  
28 or inability to work, and this paragraph may not be  
29 interpreted to permit otherwise. This paragraph does not  
30 require an employer to pay for health insurance benefits for  
31 abortion, except where the life of the mother would be

1 endangered if the fetus were carried to term, or except where  
2 medical complications have arisen from an abortion. However,  
3 this paragraph does not preclude an employer from providing  
4 abortion benefits or otherwise affect bargaining agreements in  
5 regard to abortion.

6 Section 4. Present subsection (10) of section 760.10,  
7 Florida Statutes, is redesignated as subsection (11), and a  
8 new subsection (10) is added to that section, to read:

9 760.10 Unlawful employment practices.--

10 (10) As used in this section, the terms "because of  
11 sex" and "on the basis of sex" include, but are not limited  
12 to, because or on the basis of pregnancy, childbirth, or  
13 related medical conditions. Women affected by pregnancy,  
14 childbirth, or related medical conditions shall be treated the  
15 same for all employment-related purposes, including receipt of  
16 benefits under fringe benefits programs, as other persons not  
17 so affected but similar in their ability or inability to work,  
18 and this section may not be interpreted to permit otherwise.  
19 This subsection does not require an employer to pay for health  
20 insurance benefits for abortion, except where the life of the  
21 mother would be endangered if the fetus were carried to term,  
22 or except where medical complications have arisen from an  
23 abortion. However, this subsection does not preclude an  
24 employer from providing abortion benefits or otherwise affect  
25 bargaining agreements in regard to abortion.

26 Section 5. For purposes of incorporating the  
27 amendments to section 110.233, Florida Statutes, in a  
28 reference thereto, subsection (3) of section 104.31, Florida  
29 Statutes, is reenacted to read:

30 104.31 Political activities of state, county, and  
31 municipal officers and employees.--

1           (3) Nothing contained in this section or in any county  
2 or municipal charter shall be deemed to prohibit any public  
3 employee from expressing his or her opinions on any candidate  
4 or issue or from participating in any political campaign  
5 during the employee's off-duty hours, so long as such  
6 activities are not in conflict with the provisions of  
7 subsection (1) or s. 110.233.

8           Section 6. For purposes of incorporating the  
9 amendments to section 760.10, Florida Statutes, in a reference  
10 thereto, subsection (15) of section 760.11, Florida Statutes,  
11 is reenacted to read:

12           760.11 Administrative and civil remedies;  
13 construction.--

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

19           Section 7. This act shall take effect July 1, 2004.  
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22           SENATE SUMMARY

23           Revises provisions relating to state employment policy,  
24           career service appointments, county and municipal  
25           employment, and unlawful employment practices, to provide  
26           that discrimination on the basis of sex includes  
27           discrimination on the basis of pregnancy, childbirth, or  
28           related medical conditions. Provides a limitation with  
29           respect to employer health insurance benefits.  
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