



145552

LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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03/19/2014 06:00 PM

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Senator Stargel moved the following:

Senate Amendment (with title amendment)

Delete lines 173 - 212

and insert:

Section 7. Subsections (1), (5), (7), and (13) of section 760.11, Florida Statutes, are amended to read:

760.11 Administrative and civil remedies; construction.—

(1) Any person aggrieved by a violation of ss. 760.01-760.10 may file a complaint with the commission within 365 days after ~~of~~ the alleged violation, naming the employer, employment agency, labor organization, or joint labor-management committee,



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12 or, in the case of an alleged violation of s. 760.10(5), the
13 person responsible for the violation and describing the
14 violation. Any person aggrieved by a violation of s. 509.092 may
15 file a complaint with the commission within 365 days after ~~of~~
16 the alleged violation naming the person responsible for the
17 violation and describing the violation. The commission, a
18 commissioner, or the Attorney General may in like manner file
19 such a complaint. On the same day the complaint is filed with
20 the commission, the commission shall clearly stamp on the face
21 of the complaint the date the complaint was filed with the
22 commission. In lieu of filing the complaint with the commission,
23 a complaint under this section may be filed with the federal
24 Equal Employment Opportunity Commission or with any unit of
25 government of the state which is a fair-employment-practice
26 agency under 29 C.F.R. ss. 1601.70-1601.80. If the date the
27 complaint is filed is clearly stamped on the face of the
28 complaint, that date is the date of filing. The date the
29 complaint is filed with the commission for purposes of this
30 section is the earliest date of filing with the Equal Employment
31 Opportunity Commission, the fair-employment-practice agency, or
32 the commission. The complaint shall contain a short and plain
33 statement of the facts describing the violation and the relief
34 sought. The commission may require additional information to be
35 in the complaint. The commission, within 5 days of the complaint
36 being filed, shall by registered mail send a copy of the
37 complaint to the person who allegedly committed the violation.
38 The person who allegedly committed the violation may file an
39 answer to the complaint within 25 days after ~~of~~ the date the
40 complaint was filed with the commission. Any answer filed shall



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41 be mailed to the aggrieved person by the person filing the
42 answer. Both the complaint and the answer shall be verified.

43 (5) (a) In any civil action brought under this section, the
44 court may issue an order prohibiting the discriminatory practice
45 and providing affirmative relief from the effects of the
46 practice, including back pay. The court may also award
47 compensatory damages, including, but not limited to, damages for
48 mental anguish, loss of dignity, and any other intangible
49 injuries, and punitive damages. The provisions of ss. 768.72 and
50 768.73 do not apply to this section. The judgment for the total
51 amount of punitive damages awarded under this section to an
52 aggrieved person may ~~shall~~ not exceed \$100,000, except that in
53 an action by an aggrieved person regarding employment, the
54 judgment for the total amount of punitive and compensatory
55 damages awarded under this section to the aggrieved person may
56 not exceed the amounts specified in paragraph (b). In any action
57 or proceeding under this subsection, the court, in its
58 discretion, may allow the prevailing party a reasonable
59 attorney's fee as part of the costs. It is the intent of the
60 Legislature that this provision for attorney ~~attorney's~~ fees be
61 interpreted in a manner consistent with federal case law
62 involving a Title VII action. The right to trial by jury is
63 preserved in any such private right of action in which the
64 aggrieved person is seeking compensatory or punitive damages,
65 and any party may demand a trial by jury. The commission's
66 determination of reasonable cause is not admissible into
67 evidence in any civil proceeding, including any hearing or
68 trial, except to establish for the court the right to maintain
69 the private right of action. A civil action brought under this



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70 section shall be commenced no later than 1 year, or 90 days if
71 it is an action by an aggrieved person regarding employment,
72 after the date of determination of reasonable cause by the
73 commission or, if the commission does not make a determination
74 of reasonable cause within 180 days after the filing of a
75 complaint, no later than 90 days after the expiration of the
76 investigatory period under subsection (3). The commencement of
77 such action shall divest the commission of jurisdiction of the
78 complaint, except that the commission may intervene in the civil
79 action as a matter of right. Notwithstanding the above, the
80 state and its agencies and subdivisions shall not be liable for
81 punitive damages. The total amount of recovery against the state
82 and its agencies and subdivisions shall not exceed the
83 limitation as set forth in s. 768.28(5).

84 (b) The judgment for the total amount of punitive and
85 compensatory damages awarded under this section to an aggrieved
86 person in an action regarding employment may not exceed:

87 1. For an employer with at least 15 but not more than 100
88 full-time employees, \$50,000.

89 2. For an employer with at least 101 but not more than 200
90 full-time employees, \$100,000.

91 3. For an employer with at least 201 but not more than 500
92 full-time employees, \$200,000.

93 4. For an employer with more than 500 full-time employees,
94 \$300,000.

95 (7) If the commission determines that there is not
96 reasonable cause to believe that a violation of the Florida
97 Civil Rights Act of 1992 has occurred, the commission shall
98 dismiss the complaint. The aggrieved person may request an



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99 administrative hearing under ss. 120.569 and 120.57, but any
100 such request must be made within 35 days of the date of
101 determination of reasonable cause and any such hearing shall be
102 heard by an administrative law judge and not by the commission
103 or a commissioner. If the aggrieved person does not request an
104 administrative hearing within the 35 days, the claim will be
105 barred. If the administrative law judge finds that a violation
106 of the Florida Civil Rights Act of 1992 has occurred, he or she
107 shall issue an appropriate recommended order to the commission
108 prohibiting the practice and recommending affirmative relief
109 from the effects of the practice, including back pay. Within 90
110 days of the date the recommended order is rendered, the
111 commission shall issue a final order by adopting, rejecting, or
112 modifying the recommended order as provided under ss. 120.569
113 and 120.57. The 90-day period may be extended with the consent
114 of all the parties. In any action or proceeding under this
115 subsection, the commission, in its discretion, may allow the
116 prevailing party a reasonable attorney's fee as part of the
117 costs. It is the intent of the Legislature that this provision
118 for attorney's fees be interpreted in a manner consistent with
119 federal case law involving a Title VII action. In the event the
120 final order issued by the commission determines that a violation
121 of the Florida Civil Rights Act of 1992 has occurred, the
122 aggrieved person may bring, within 1 year of the date of the
123 final order, or 90 days if it is an action by an aggrieved
124 person regarding employment, a civil action under subsection (5)
125 as if there has been a reasonable cause determination or accept
126 the affirmative relief offered by the commission, but not both.

127 (13) Final orders of the commission are subject to judicial



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128 review pursuant to s. 120.68. The commission's determination of
129 reasonable cause is not final agency action that is subject to
130 judicial review. Unless specifically ordered by the court, the
131 commencement of an appeal does not suspend or stay the order of
132 the commission, except as provided in the Rules of Appellate
133 Procedure. In any action or proceeding under this subsection,
134 the court, in its discretion, may allow the prevailing party a
135 reasonable attorney's fee as part of the cost. It is the intent
136 of the Legislature that this provision for attorney's fees be
137 interpreted in a manner consistent with federal case law
138 involving a Title VII action. In the event the order of the
139 court determines that a violation of the Florida Civil Rights
140 Act of 1992 has occurred, the court shall remand the matter to
141 the commission for appropriate relief. The aggrieved party has
142 the option to accept the relief offered by the commission or may
143 bring, within 1 year of the date of the court order or 90 days
144 if it is an action by an aggrieved person regarding employment,
145 a civil action under subsection (5) as if there has been a
146 reasonable cause determination.

147
148 ===== T I T L E A M E N D M E N T =====

149 And the title is amended as follows:

150 Delete lines 23 - 27

151 and insert:

152 pregnancy; amending s. 760.11, F.S.; reenacting
153 provisions relating to administrative and civil
154 remedies for violations of the Florida Civil Rights
155 Act of 1992, to incorporate amendments to s.
156 760.10(5), F.S.; revising the required commencement



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157 | dates of certain civil actions brought under the act;
158 | revising the amount of punitive and compensatory
159 | damages recoverable by an aggrieved person against his
160 | or her employer for violations of the act; providing
161 | an effective date.