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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/12/2014	.	
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The Committee on Rules (Ring) recommended the following:

Senate Amendment (with title amendment)

Delete lines 173 - 212

and insert:

Section 7. Subsections (1), (3), (5), (7), (8), 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 (3) Except as provided in subsection (2), the commission
44 shall investigate the allegations in the complaint. Within 270
45 ~~180~~ days after ~~of~~ the filing of the complaint, the commission
46 shall determine if there is reasonable cause to believe that
47 discriminatory practice has occurred in violation of the Florida
48 Civil Rights Act of 1992. When the commission determines whether
49 or not there is reasonable cause, the commission by registered
50 mail shall promptly notify the aggrieved person and the
51 respondent of the reasonable cause determination, the date of
52 such determination, and the options available under this
53 section.

54 (5) (a) In any civil action brought under this section, the
55 court may issue an order prohibiting the discriminatory practice
56 and providing affirmative relief from the effects of the
57 practice, including back pay. The court may also award
58 compensatory damages, including, but not limited to, damages for
59 mental anguish, loss of dignity, and any other intangible
60 injuries, and punitive damages. The provisions of ss. 768.72 and
61 768.73 do not apply to this section. The judgment for the total
62 amount of punitive damages awarded under this section to an
63 aggrieved person may shall not exceed \$100,000, except that in
64 an action by an aggrieved person regarding employment, the
65 judgment for the total amount of punitive and compensatory
66 damages awarded under this section to the aggrieved person may
67 not exceed the amounts specified in paragraph (b). In any action
68 or proceeding under this subsection, the court, in its
69 discretion, may allow the prevailing party a reasonable



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70 attorney's fee as part of the costs. It is the intent of the
71 Legislature that this provision for attorney ~~attorney's~~ fees be
72 interpreted in a manner consistent with federal case law
73 involving a Title VII action. The right to trial by jury is
74 preserved in any such private right of action in which the
75 aggrieved person is seeking compensatory or punitive damages,
76 and any party may demand a trial by jury. The commission's
77 determination of reasonable cause is not admissible into
78 evidence in any civil proceeding, including any hearing or
79 trial, except to establish for the court the right to maintain
80 the private right of action. A civil action brought under this
81 section shall be commenced no later than 90 days ~~1-year~~ after
82 the date of determination of reasonable cause by the commission
83 or, if the commission does not make a determination of
84 reasonable cause within 270 days after the filing of a
85 complaint, no later than 90 days after the expiration of the
86 investigatory period under subsection (3). The commencement of
87 such action shall divest the commission of jurisdiction of the
88 complaint, except that the commission may intervene in the civil
89 action as a matter of right. Notwithstanding the above, the
90 state and its agencies and subdivisions shall not be liable for
91 punitive damages. The total amount of recovery against the state
92 and its agencies and subdivisions shall not exceed the
93 limitation as set forth in s. 768.28(5).

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

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



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

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

103 4. For an employer with more than 500 full-time employees,
104 \$300,000.

105 (7) If the commission determines that there is not
106 reasonable cause to believe that a violation of the Florida
107 Civil Rights Act of 1992 has occurred, the commission shall
108 dismiss the complaint. The aggrieved person may request an
109 administrative hearing under ss. 120.569 and 120.57, but any
110 such request must be made within 35 days of the date of
111 determination of reasonable cause and any such hearing shall be
112 heard by an administrative law judge and not by the commission
113 or a commissioner. If the aggrieved person does not request an
114 administrative hearing within the 35 days, the claim will be
115 barred. If the administrative law judge finds that a violation
116 of the Florida Civil Rights Act of 1992 has occurred, he or she
117 shall issue an appropriate recommended order to the commission
118 prohibiting the practice and recommending affirmative relief
119 from the effects of the practice, including back pay. Within 90
120 days of the date the recommended order is rendered, the
121 commission shall issue a final order by adopting, rejecting, or
122 modifying the recommended order as provided under ss. 120.569
123 and 120.57. The 90-day period may be extended with the consent
124 of all the parties. In any action or proceeding under this
125 subsection, the commission, in its discretion, may allow the
126 prevailing party a reasonable attorney's fee as part of the
127 costs. It is the intent of the Legislature that this provision



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128 for attorney's fees be interpreted in a manner consistent with
129 federal case law involving a Title VII action. In the event the
130 final order issued by the commission determines that a violation
131 of the Florida Civil Rights Act of 1992 has occurred, the
132 aggrieved person may bring, within 90 days after ~~1 year of~~ the
133 date of the final order, a civil action under subsection (5) as
134 if there has been a reasonable cause determination or accept the
135 affirmative relief offered by the commission, but not both.

136 (8) In the event that the commission fails to conciliate or
137 determine whether there is reasonable cause on any complaint
138 under this section within 270 ~~180~~ days after ~~of~~ the filing of
139 the complaint, an aggrieved person may proceed under subsection
140 (4), as if the commission determined that there was reasonable
141 cause.

142 (13) Final orders of the commission are subject to judicial
143 review pursuant to s. 120.68. The commission's determination of
144 reasonable cause is not final agency action that is subject to
145 judicial review. Unless specifically ordered by the court, the
146 commencement of an appeal does not suspend or stay the order of
147 the commission, except as provided in the Rules of Appellate
148 Procedure. In any action or proceeding under this subsection,
149 the court, in its discretion, may allow the prevailing party a
150 reasonable attorney's fee as part of the cost. It is the intent
151 of the Legislature that this provision for attorney's fees be
152 interpreted in a manner consistent with federal case law
153 involving a Title VII action. In the event the order of the
154 court determines that a violation of the Florida Civil Rights
155 Act of 1992 has occurred, the court shall remand the matter to
156 the commission for appropriate relief. The aggrieved party has



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157 the option to accept the relief offered by the commission or may
158 bring, within 90 days after ~~1 year of~~ the date of the court
159 order, a civil action under subsection (5) as if there has been
160 a reasonable cause determination.

161

162 ===== T I T L E A M E N D M E N T =====

163 And the title is amended as follows:

164 Delete lines 23 - 27

165 and insert:

166 pregnancy; amending s. 760.11, F.S.; extending the
167 time for the commission to investigate a complaint and
168 determine if a discriminatory practice has occurred
169 under the Florida Civil Rights Act; revising the
170 required commencement dates of certain civil actions
171 brought under the act; revising the amount of punitive
172 and compensatory damages recoverable by an aggrieved
173 person against his or her employer for violations of
174 the act; providing an effective date.