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LEGISLATIVE ACTION

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

1           **Senate Amendment to Amendment (409726) (with title**  
2 **amendment)**

3  
4           Delete lines 5 - 160

5 and insert:

6           Section 7. Subsections (1), (5), and (8) of section 760.11,  
7 Florida Statutes, are amended to read:

8           760.11 Administrative and civil remedies; construction.—

9           (1) Any person aggrieved by a violation of ss. 760.01-  
10 760.10 may file a complaint with the commission within 365 days  
11 after ~~of~~ the alleged violation, naming the employer, employment



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



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41 the complaint was filed with the commission. Any answer filed  
42 shall be mailed to the aggrieved person by the person filing the  
43 answer. Both the complaint and the answer shall be verified.

44 (5) (a) In any civil action brought under this section, the  
45 court may issue an order prohibiting the discriminatory practice  
46 and providing affirmative relief from the effects of the  
47 practice, including back pay. The court may also award  
48 compensatory damages, including, but not limited to, damages for  
49 mental anguish, loss of dignity, and any other intangible  
50 injuries, and punitive damages. The provisions of ss. 768.72 and  
51 768.73 do not apply to this section. ~~The judgment for the total~~  
52 ~~amount of punitive damages awarded under this section to an~~  
53 ~~aggrieved person shall not exceed \$100,000.~~ In any action or  
54 proceeding under this subsection, the court, in its discretion,  
55 may allow the prevailing party a reasonable attorney's fee as  
56 part of the costs. It is the intent of the Legislature that this  
57 provision for attorney's fees be interpreted in a manner  
58 consistent with federal case law involving a Title VII action.  
59 The right to trial by jury is preserved in any such private  
60 right of action in which the aggrieved person is seeking  
61 compensatory or punitive damages, and any party may demand a  
62 trial by jury. The commission's determination of reasonable  
63 cause is not admissible into evidence in any civil proceeding,  
64 including any hearing or trial, except to establish for the  
65 court the right to maintain the private right of action. A civil  
66 action brought under this section shall be commenced no later  
67 than 90 days ~~1 year~~ after the date of determination of  
68 reasonable cause by the commission. The commencement of such  
69 action shall divest the commission of jurisdiction of the



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70 complaint, except that the commission may intervene in the civil  
71 action as a matter of right. Notwithstanding the above, the  
72 state and its agencies and subdivisions are ~~shall~~ not be liable  
73 for punitive damages. The total amount of recovery against the  
74 state and its agencies and subdivisions may ~~shall~~ not exceed the  
75 limitation as set forth in s. 768.28(5).

76 (b) The judgment for the total amount of punitive damages  
77 and the amount of compensatory damages for future pecuniary  
78 losses, emotional pain, suffering, inconvenience, mental  
79 anguish, loss of enjoyment of life, and other nonpecuniary  
80 losses awarded under this section to an aggrieved person may not  
81 exceed:

82 1. For a respondent with at least 15 but not more than 100  
83 employees in each of 20 or more calendar weeks in the current or  
84 preceding calendar year, \$50,000.

85 2. For a respondent with at least 101 but not more than 200  
86 employees in each of 20 or more calendar weeks in the current or  
87 preceding calendar year, \$100,000.

88 3. For a respondent with at least 201 but not more than 500  
89 employees in each of 20 or more calendar weeks in the current or  
90 preceding calendar year, \$200,000.

91 4. For a respondent with more than 500 employees in each of  
92 20 or more calendar weeks in the current or preceding calendar  
93 year, \$300,000.

94 (8) ~~If In the event that~~ the commission fails to conciliate  
95 or determine whether there is reasonable cause on any complaint  
96 under this section within 180 days after ~~of~~ the filing of the  
97 complaint, an aggrieved person may proceed under subsection (4),  
98 as if the commission determined that there were ~~was~~ reasonable



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99 cause, and may commence a civil action against the person named  
100 in the complaint in any court of competent jurisdiction no later  
101 than 270 days after the complaint was filed.

102

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

104 And the title is amended as follows:

105 Delete lines 166 - 173

106 and insert:

107 pregnancy; amending s. 760.11, F.S.; revising the  
108 required commencement dates of certain civil actions  
109 brought under the act; revising the amount of punitive  
110 and compensatory damages recoverable by an aggrieved  
111 person for violations of