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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