

By Senator Brodeur

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1 A bill to be entitled
2 An act relating to civil remedies for unlawful
3 employment practices; amending s. 760.11, F.S.;
4 providing limits on a judgment for punitive and
5 compensatory damages for certain claims; authorizing
6 an aggrieved party to bring a civil action for certain
7 claims within a specified timeframe, regardless of the
8 determination made by the Florida Commission on Human
9 Relations; making technical changes; providing an
10 effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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

16 760.11 Administrative and civil remedies; construction.—

17 (5) (a) In any civil action brought under this section, the
18 court may issue an order prohibiting the discriminatory practice
19 and providing affirmative relief from the effects of the
20 practice, including back pay. The court may also award
21 compensatory damages, including, but not limited to, damages for
22 mental anguish, loss of dignity, and any other intangible
23 injuries, and punitive damages.

24 (b) Sections ~~The provisions of ss.~~ 768.72 and 768.73 do not
25 apply to this section.

26 1. The judgment for the total amount of punitive damages
27 awarded under this section to an aggrieved person may ~~shall~~ not
28 exceed \$100,000. However, in a civil action brought under this
29 section alleging a violation of s. 760.10(8)(a)1.-5., the

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30 judgment for the total amount of punitive damages awarded to the
31 aggrieved person must be at least \$50,000 but may not exceed \$1
32 million.

33 2. The state and its agencies and subdivisions may not be
34 liable for punitive damages.

35 (c) In a civil action brought under this section alleging a
36 violation of s. 760.10(8)(a)1.-5., the judgment for the total
37 amount of compensatory damages awarded to the aggrieved person
38 for mental anguish and loss of dignity must be the amount of the
39 aggrieved person's actual damages or three times the amount of
40 his or her highest annual salary, whichever is greater.

41 (d) The total amount of recovery against the state and its
42 agencies and subdivisions may not exceed the limitation as set
43 forth in s. 768.28(5).

44 (e) In any action or proceeding under this section
45 ~~subsection~~, the court, in its discretion, may allow the
46 prevailing party a reasonable attorney fees ~~attorney's fee~~ as
47 part of the costs. It is the intent of the Legislature that this
48 provision for attorney ~~attorney's~~ fees be interpreted in a
49 manner consistent with federal case law involving a Title VII
50 action.

51 (f) The right to trial by jury is preserved in any such
52 private right of action in which the aggrieved person is seeking
53 compensatory or punitive damages, and any party may demand a
54 trial by jury. The commission's determination of reasonable
55 cause is not admissible into evidence in any civil proceeding,
56 including any hearing or trial, except to establish for the
57 court the right to maintain the private right of action. A civil
58 action brought under this section must ~~shall~~ be commenced no

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59 later than 1 year after the date of determination of reasonable
60 cause by the commission. The commencement of such action divests
61 ~~shall divest~~ the commission of jurisdiction of the complaint,
62 except that the commission may intervene in the civil action as
63 a matter of right. ~~Notwithstanding the above, the state and its~~
64 ~~agencies and subdivisions shall not be liable for punitive~~
65 ~~damages. The total amount of recovery against the state and its~~
66 ~~agencies and subdivisions shall not exceed the limitation as set~~
67 ~~forth in s. 768.28(5).~~

68 (7) (a) If the commission determines that there is not
69 reasonable cause to believe that a violation of the Florida
70 Civil Rights Act of 1992 has occurred, the commission must ~~shall~~
71 dismiss the complaint, except as provided in paragraph (d).

72 (b) The aggrieved person may request an administrative
73 hearing under ss. 120.569 and 120.57, but any such request must
74 be made within 35 days after ~~of~~ the date of determination of
75 reasonable cause by the commission. An administrative ~~and any~~
76 ~~such~~ hearing must ~~shall~~ be heard by an administrative law judge
77 and may not be heard by the commission or a commissioner. If the
78 aggrieved person does not request an administrative hearing
79 within the 35 days, the claim is ~~will be~~ barred. If the
80 administrative law judge finds that a violation of the Florida
81 Civil Rights Act of 1992 has occurred, he or she shall issue an
82 appropriate recommended order to the commission prohibiting the
83 practice and recommending affirmative relief from the effects of
84 the practice, including back pay. Within 90 days after ~~of~~ the
85 date the recommended order is rendered, the commission shall
86 issue a final order by adopting, rejecting, or modifying the
87 recommended order as provided under ss. 120.569 and 120.57. The

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88 90-day period may be extended with the consent of all the
89 parties. ~~In any action or proceeding under this subsection, the~~
90 ~~commission, in its discretion, may allow the prevailing party a~~
91 ~~reasonable attorney's fee as part of the costs. It is the intent~~
92 ~~of the Legislature that this provision for attorney's fees be~~
93 ~~interpreted in a manner consistent with federal case law~~
94 ~~involving a Title VII action.~~

95 (c) If ~~In the event~~ the final order issued by the
96 commission determines that a violation of the Florida Civil
97 Rights Act of 1992 has occurred, the aggrieved person may bring,
98 within 1 year after ~~of~~ the date of the final order, a civil
99 action under subsection (5) as if there has been a reasonable
100 cause determination or accept the affirmative relief offered by
101 the commission, but not both.

102 (d) An aggrieved person who claims a violation of s.
103 760.10(8)(a)1.-5. may bring a civil action under this section
104 within 1 year after the date the aggrieved person receives
105 notice of the commission's decision on reasonable cause,
106 regardless of the commission's determination.

107 Section 2. This act shall take effect July 1, 2023.