

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: SB 1296

INTRODUCER: Senator Davis

SUBJECT: Florida Commission on Human Relations

DATE: January 26, 2024

REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|---------|----------------|-----------|------------------|
| 1. | McVaney | McVaney        | GO        | <b>Favorable</b> |
| 2. | _____   | _____          | JU        | _____            |
| 3. | _____   | _____          | RC        | _____            |

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**I. Summary:**

SB 1296 eliminates the requirement that the Commission use registered mail to provide notice (a copy of the complaint) to the person who allegedly committed a violation under the Florida Civil Rights Act (FCRA). Likewise, the bill also eliminates the requirement that the Commission use registered mail to notify the aggrieved person and the respondent of the Commission’s determination of “reasonable cause” for such complaint.

This change allows the Commission to use a less expensive method of providing notice to parties under the FCRA.

The Commission may save an insignificant amount in mailing costs. Otherwise, the bill is not expected to impact state and local government revenues and expenditures.

The bill takes effect July 1, 2024.

**II. Present Situation:**

**Florida Civil Rights Act (Part I, Chapter 760, F.S.)**

The Florida Civil Rights Act (FCRA) protects persons from discrimination in areas of employment, housing, certain public accommodations, and other opportunities based on race, color, religion, sex, pregnancy, national origin, age, handicap, and marital status.<sup>1</sup> The FCRA establishes the Florida Commission on Human Relations (the Commission) within the Department of Management Services (DMS); however, the Commission is not subject to any control or supervision by or direction from the DMS.<sup>2</sup> The Commission possesses the requisite

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<sup>1</sup> Section 760.01(2), F.S.

<sup>2</sup> Section 760.04

powers to enforce the FCRA.<sup>3</sup> The Governor appoints, and the Senate confirms, the 12 members of the Commission.<sup>4</sup>

### **The Florida Commission on Human Relations**

The Commission is empowered to receive, initiate, investigate, conciliate, hold hearings, and act upon complaints alleging discriminatory practices.<sup>5</sup> Additionally, the Attorney General may initiate a civil action for damages, injunctive relief, civil penalties of up to \$10,000 per violation, and other appropriate relief.<sup>6</sup>

#### ***Administrative and Civil Remedies***

An aggrieved person (the person filing the complaint), the Commission, a commissioner, or the Attorney General has 365 days after the alleged violation to file a complaint with the Commission naming the person responsible for the violation and describing the violation.<sup>7</sup> The Commission is required to send by registered mail a copy of the complaint to the respondent (the person who allegedly committed the violation).<sup>8</sup> Within 180 days after the filing, the Commission must make a determination of whether reasonable cause exists to believe that discriminatory practice has occurred.<sup>9</sup> The Commission is required to notify the aggrieved person and the respondent of its determination using registered mail.<sup>10</sup>

If the Commission issues a finding of reasonable cause, the aggrieved person may request an administrative hearing or bring a civil action.<sup>11</sup> A civil action must be brought within one year after the determination of reasonable cause.<sup>12</sup> The FCRA expressly requires a plaintiff to exhaust his or her administrative remedy as a prerequisite to filing a civil action alleging unlawful discrimination, including housing discrimination.<sup>13</sup> The remedies available through an administrative hearing are affirmative relief from the effects of the practice, including back pay, and attorney's fees, while remedies available through a civil action include affirmative relief such as back pay, injunctive relief, compensatory damages, punitive damages up to \$100,000, and attorney's fees.<sup>14</sup>

Alternatively, under s. 760.11(7), F.S., if the Commission makes a determination that there is not reasonable cause, the claimant may request an administrative hearing, but must do so within

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<sup>3</sup> Section 760.06(6), F.S.

<sup>4</sup> Section 760.03(1), F.S.

<sup>5</sup> Section 760.06(5), F.S.

<sup>6</sup> Section 760.021(1), F.S.

<sup>7</sup> Section 760.11(1), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 760.11(3), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> Section 760.11(4), F.S.

<sup>12</sup> Section 760.11(5), F.S. If, however, the commission fails to make a determination of reasonable cause, the four-year statute of limitations for cause of action based on statutory liability applies. *Joshua v. City of Gainesville*, 768 So.2d 432 at 439 (Fla. 2000).

<sup>13</sup> Section 760.07, F.S.

<sup>14</sup> Section 760.11(5), (6), and (7), F.S.

35 days of the date of the “no cause” determination. If the claim is not made within 35 days, the claim is barred.<sup>15</sup>

### **Registered Mail, Certified Mail, and Regular Mail**

“First class mail” is the least expensive, most immediate option for mailing postcards, letters, and large envelopes. Tracking services is typically not available for this type of mail. The cost for first class mail is 68 cents for the first ounce and 24 cents for each additional ounce.<sup>16</sup>

“Priority mail” is an option of sending mail based on weight and dimension or via Flat Rate envelopes or boxes in a fast and affordable way. In most instances, delivery is made within one, two, or three days. The sender may purchase extra services such as Insurance and Return Receipt, but USPS Tracking is provided for priority mail items at no additional charge. The cost is generally \$9.25.<sup>17</sup>

“Certified mail” is an additional service added to first-class mail or priority mail whereby the sender is provided a mailing receipt as confirmation that the item was sent. This service requires a signature from the addressee, and Return Receipt Service can be added to provide the sender proof of signature that the item was received.<sup>18</sup> The cost for this service is generally \$4.40.<sup>19</sup>

“Registered mail” is the United States Postal Service’s most secure service, protected by safes, cages, sealed containers, locks, and keys. Tracking services are not available while the item is en route to its destination. At its destination, the package can be delivered only to the addressee or the addressee’s authorized agent and requires a signature upon delivery. Because registered mail is kept highly secured and processed manually, the delivery process is slower than other mail.<sup>20</sup> The cost of sending an item through registered mail starts at \$16.80 plus the costs of insurance.<sup>21</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 760.11, F.S., to eliminate the requirement that the Commission use registered mail to send a copy of a complaint to the person who allegedly committed a violation of the FCRA. Likewise, Section 1 eliminates the requirement that the Commission use registered mail to send the “reasonable cause determination” to the aggrieved person and the respondent relating to a complaint under the FCRA.

**Section 2** provides the bill takes effect July 1, 2024.

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<sup>15</sup> Section 760.11(7), F.S.

<sup>16</sup> USPS.COM, *Types of First-Class Mail*, <https://faq.usps.com/s/article/Types-of-First-Class-Mail> (last visited Jan. 24, 2024).

<sup>17</sup> USPS.COM, *What is Priority Mail*, <https://faq.usps.com/s/article/What-is-Priority-Mail> (last visited Jan. 24, 2024).

<sup>18</sup> USPS.COM, *Certified Mail - The Basics*, <https://faq.usps.com/s/article/Certified-Mail-The-Basics#fees> (last visited Jan. 24, 2024).

<sup>19</sup> USPS.COM, *Insurance & Extra Services*, <https://www.usps.com/ship/insurance-extra-services.htm> (last visited Jan. 24, 2024).

<sup>20</sup> USPS.COM, *Registered Mail – The Basics*, <https://faq.usps.com/s/article/Registered-Mail-The-Basics> (last visited Jan. 24, 2024).

<sup>21</sup> *Supra* note 19.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Commission should reduce its costs associated with notifying the persons involved in the alleged violations of the FCRA.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 760.11 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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