
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

Proposed law provides that the public policy of this state is declared to be that paying unequal wages based on sex unjustly discriminates against the person receiving the lesser rate, leads to low morale, threatens the well-being of the citizens of this state, and adversely affects the general welfare. Provides for the state to eliminate discriminatory wage practices based on sex, cites proposed law as the "Louisiana Equal Pay for Women Act".

Proposed law provides for the following definitions:

- (1) (a) "Public employee" means any individual who is an employee of the state, or any branch of state government, including the executive, legislative, and judicial branches, or any state department, board, commission, or any other state agency, including but not limited to any individual who meets any of the following conditions:
 - (i) A non-elected administrative officer or official of a state governmental entity.
 - (ii) Appointed by any elected official when acting in an official capacity to a post or position wherein the appointee is to serve the state governmental entity or an agency thereof, either as a member of an agency or as an employee thereof.
 - (iii) Engaged in the performance of a state governmental function.
 - (iv) Under the supervision or authority of an elected official or another employee of a state governmental entity.
 - (b) (i) Excludes any elected official.
 - (ii) Excludes anyone whose public service is limited to part-time, periodic duty in the National Guard.
- (2) "Diminished wages" means that amount which is equal to the sum of the wages that the employee would have been paid if the employee had not been a victim of discriminatory wage practices, minus the amount which the employee was actually paid.
 - (3) "Employer" means the state of Louisiana, any state officer, any department or agency, any political subdivision, any unit of local government, and any school district.

- (4) "Labor organization" means any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or other mutual aid or protection in connection with employment.

Proposed law prohibits an employer from paying wages to an employee at a rate less than the rate at which the employer pays wages to another employee of the opposite sex for the same or substantially similar work.

Proposed law prohibits a labor organization to cause or attempt to cause an employer to pay wages to an employee at a rate less than the rate at which the employer pays wages to another employee of the opposite sex for the same or substantially similar work.

Proposed law allows exceptions for instances where pay is made under a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on a factor other than sex as long as such system is job-related or furthers a legitimate governmental purpose.

Proposed law provides that the legitimate governmental purpose may serve as an exception unless the employee can show that some alternative governmental practice could have been utilized without producing such a differential and the employer refused to adopt such alternative practice.

Proposed law prohibits an employer from reducing another employee's pay in order to comply with proposed law. Proposed law prohibits an employer from discharging or discriminating against an individual who has filed any charges, given any information, or testified in any inquiry relating to any right provided under proposed law.

Proposed law provides that an employee who believes that his employer has violated a provision of proposed law may provide written notice to the employer of the violation. Provides that such employer shall have 90 days to remedy the violation. Provides that if the employer remedies the violation within the 90 days, the employee may not bring an action against the employer.

Proposed law provides that if the employer fails to remedy the violation, the employee may file an action in a district court of competent jurisdiction.

Proposed law provides that an employer who violates proposed law may be liable for damages inclusive of unpaid wages, diminished wages, an amount of one-half of unpaid wages in liquidated damages, reasonable attorney fees, costs, employment, reinstatement, promotion, and any benefits lost.

Proposed law limits the award of monetary relief to violation occurring within a 36-month period prior to the employee's written notice. Prohibits award for monetary relief for losses incurred between the time of the district court's final decision and the final determination of any higher appellate court. Proposed law provides that interim earnings by the employee shall reduce the

amount of damages. Further provides that the employer and employee may settle for a lesser amount of damages.

Proposed law provides an employer with reasonable damages, attorney fees, and court costs when an employee is found by a court to have brought a frivolous claim.

Proposed law provides for a one-year prescriptive period in bringing any action to recover from the time the employee knows or has reason to know about the violation. Proposed law provides for a suspension of this period during the 90-day period in which the employer has to respond to the employee's written notice.

Proposed law requires employers to make and preserve for a three-year period records that document names, addresses, occupations of employees, and their wages.

Proposed law directs the La. State Law Institute to make technical changes.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 42:5 - 5.7)