

Regular Session, 2014

HOUSE BILL NO. 744

BY REPRESENTATIVE MORENO

EMPLOYMENT: Provides with respect to retaliation in employment

1 AN ACT

2 To amend and reenact R.S. 23:665(B) and R.S. 51:2231(C), 2232(12) and (13),
3 2235(introductory paragraph) and (9), 2237(1), and 2256 and to enact R.S. 23:304,
4 relative to employer retaliation; to provide with respect to the Louisiana Commission
5 on Human Rights; to provide with respect to whistle blower protection in
6 discrimination cases; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 23:665(B) is hereby amended and reenacted and R.S. 23:304 is
9 hereby enacted to read as follows:

10 §304. Retaliation

11 A. It shall be unlawful for an employer to discriminate, retaliate, terminate,
12 or take any adverse employment action against any employee for inquiring about,
13 disclosing, comparing, or otherwise discussing the employee's wages or the wages
14 of any other employee, or aiding or encouraging any other employee to exercise his
15 rights pursuant to this Chapter.

16 B. Any employee who has filed a complaint or instituted any proceeding or
17 investigation relative to discrimination pursuant to this Section, or any employee
18 who has provided any information in connection with an inquiry or proceeding

1 relative to any discrimination pursuant to this Section shall be protected by, and may
2 institute an action pursuant to R.S. 23:967 or R.S. 51:2256.

3 * * *

4 §665. Complaint procedure

5 * * *

6 B. If an employer fails to resolve the dispute to the satisfaction of such
7 employee within the time provided herein, the employee may file a complaint with
8 the commission requesting an investigation of the complaint pursuant to R.S. 23:301
9 et seq. and R.S. 51:2257.

10 * * *

11 Section 2. R.S. 51:2231(C), 2232(12) and (13), 2235(introductory paragraph) and
12 (9), 2237(1), and 2256 are hereby amended and reenacted to read as follows

13 §2231. Statement of purpose; limitation on prohibitions against discrimination
14 ~~because of age~~

15 * * *

16 C. The Louisiana Commission on Human Rights shall have enforcement
17 powers including adjudication of claims of discrimination prohibited by ~~R.S. 23:312,~~
18 ~~323, and 332, sickle cell trait discrimination prohibited by R.S. 23:352, and~~
19 ~~discrimination because of pregnancy prohibited by R.S. 23:341 et seq. Chapter 3-A~~
20 of Title 23 of the Louisiana Revised Statutes of 1950 and R.S. 23:664.

21 §2232. Definitions

22 As used in this Chapter:

23 * * *

24 (12) "Discriminatory practice in connection with employment" means an
25 employment practice prohibited by ~~R.S. 23:312, 323, or 332. Chapter 3-A of Title~~
26 23 of the Louisiana Revised Statutes of 1950 or R.S. 23:664.

27 (13) "Unlawful practice" means a discriminatory practice in connection with
28 employment, a discriminatory practice in connection with public accommodations,

1 or any other practice prohibited by this Chapter, Chapter 3-A of Title 23 of the
2 Louisiana Revised Statutes of 1950, or R.S. 23:664.

3 * * *

4 §2235. Powers and duties of commission

5 In the enforcement of this Chapter, Chapter 3-A of Title 23 of the Louisiana
6 Revised Statutes of 1950, or R.S. 23:664, the commission shall have the following
7 powers and duties:

8 * * *

9 (9) To receive, initiate, investigate, seek to conciliate, hold hearings on, and
10 pass upon complaints alleging violations of this Chapter, Chapter 3-A of Title 23 of
11 the Louisiana Revised Statutes of 1950, or R.S. 23:664.

12 * * *

13 §2237. Local human rights commissions

14 Any parish or municipality, or one or more parishes and municipalities acting
15 jointly, may create a human rights commission, hereinafter referred to as a "local
16 commission":

17 (1) To provide for execution within its jurisdiction of the policies embodied
18 in this Chapter, Chapter 3-A of Title 23 of the Louisiana Revised Statutes of 1950,
19 R.S. 23:664, and the Federal Civil Rights Act of 1964 (78 Stat. 241).

20 * * *

21 §2256. Conspiracy to violate ~~this Chapter~~ human rights and discrimination laws
22 unlawful

23 It shall be an unlawful practice for a person or for two or more persons to
24 conspire:

25 (1) To retaliate or discriminate in any manner against a person because he
26 has opposed a practice declared unlawful by this Chapter, Chapter 3-A of Title 23
27 of the Louisiana Revised Statutes of 1950, or R.S. 23:664, or because he has made
28 a charge, filed a complaint, testified, assisted, or participated in any manner in any

1 investigation, proceeding, or hearing under this Chapter, Chapter 3-A of Title 23 of
2 the Louisiana Revised Statutes of 1950, or R.S. 23:664.

3 (2) To aid, abet, incite, compel, or coerce a person to engage in any of the
4 acts or practices declared unlawful by this Chapter, Chapter 3-A of Title 23 of the
5 Louisiana Revised Statutes of 1950, or R.S. 23:664.

6 (3) To obstruct or prevent a person from complying with the provisions of
7 this Chapter, Chapter 3-A of Title 23 of the Louisiana Revised Statutes of 1950, or
8 R.S. 23:664, or any order issued thereunder.

9 (4) To resist, prevent, impede, or interfere with the commission, or any of
10 its members or representatives, in the lawful performance of duty under this Chapter,
11 Chapter 3-A of Title 23 of the Louisiana Revised Statutes of 1950, or R.S. 23:664.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Moreno

HB No. 744

Abstract: Provides protection from employer retaliation for information given by an employee regarding any violation of labor laws.

Present law (R.S. 23:967) protects an employee from reprisal when the employee, in good faith, and after advising the employer of the violation of law, discloses or threatens to disclose the violation of state law, provides information during an investigation of the violation, or objects or refuses to participate in the violation of law.

Proposed law creates a provision regarding protection from retaliation in employment to the Chapter in which the discrimination statutes exist.

Proposed law (R.S. 23:665(B)) clarifies that the Louisiana Commission on Human Rights has authority to investigate and enforce the provisions of the Louisiana Equal Pay for Women Act.

Present law (R.S. 51:2232(12)) defines "discriminatory practice in connection with employment" to include employment practices prohibited by Title 23, including age, disability, race, color, religion, sex, or national origin.

Proposed law retains present law and extends the definition of "discriminatory practice in connection with employment" to include all of the discrimination statutes in present law (Chapter 3-A of Title 23), which would add veterans, pregnancy, childbirth, and related medical conditions, sickle cell trait, and genetic information.

Present law provides that the Louisiana Commission on Human Rights has the authority to receive, initiate, investigate, seek to conciliate, hold hearings on, and pass upon complaints alleging violations involving discrimination in employment.

Proposed law clarifies that the procedures in present law shall be used in the investigation and complaint process for all employment discrimination laws.

(Amends R.S. 23:665(B), R.S. 51:2231(C), 2232(12) and (13), 2235(intro. para.) and (9), 2237(1), and 2256; Adds R.S. 23:304)