

Regular Session, 2013

HOUSE BILL NO. 85

BY REPRESENTATIVE BADON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

STATE EMPLOYEES: Prohibits discrimination in state employment based on sexual identification

1 AN ACT

2 To amend and reenact R.S. 51:2231(C) and to enact Chapter 16 of Title 42 of the Louisiana
3 Revised Statutes of 1950, to be comprised of R.S. 42:1251 through 1253, relative to
4 employment discrimination in state government; to prohibit discrimination in
5 employment and employment opportunities on the basis of sexual orientation, gender
6 identity, and gender expression; to provide for enforcement; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 16 of Title 42 of the Louisiana Revised Statutes of 1950,
10 comprised of R.S. 42:1251 through 1253, is hereby enacted to read as follows:

11 CHAPTER 16. UNIFORM EMPLOYMENT STANDARDS

12 FOR STATE EMPLOYEES

13 §1251. Definitions

14 For purposes of this Chapter, the following terms shall have the following
15 meanings unless the context clearly requires a different meaning:

16 (1) "Gender expression" means all of the external characteristics or
17 behaviors that are socially defined as either masculine or feminine, such as dress,
18 mannerisms, speech patterns, and social interactions.

19 (2) "Gender identity" means a person's internal, deeply felt sense of being
20 either male or female.

1 C. The Louisiana Commission on Human Rights shall have enforcement
2 powers, including adjudication of claims of discrimination prohibited by R.S.
3 23:312, 323, and 332, sickle cell trait discrimination prohibited by R.S. 23:352, ~~and~~
4 discrimination because of pregnancy prohibited by R.S. 23:341 et seq., and state
5 employment discrimination prohibited by R.S. 42:1252.

6 Section 3. All state departments and state employers are authorized and directed to
7 adopt such rules and regulations as may be necessary to comply with the provisions of this
8 Act.

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)]

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HB No. 85

Abstract: Prohibits discrimination in state employment on the basis of sexual orientation, gender identity, or gender expression.

Proposed law provides that it shall be unlawful discrimination in employment for any state employer to subject employees to different standards of treatment or otherwise discriminate in employment on the basis of sexual orientation. Provides that employment includes recruitment, opportunity for employment, hiring, firing, a disciplinary action of any kind, promotion, tenure, compensation paid, and any other term, condition, privilege, or status of an individual's employment.

Proposed law includes the following definitions:

- (1) Gender expression - all of the external characteristics or behaviors that are socially defined as either masculine or feminine, such as dress, mannerisms, speech patterns, and social interactions.
- (2) Gender identity - a person's internal, deeply felt sense of being either male or female.
- (3) Sexual orientation - being or perceived as being heterosexual, homosexual, or bisexual.
- (4) State employer - any department, office, division, agency, commission, board, officer, or other organizational unit of the legislative, executive, or judicial branch of state government.

Proposed law provides for enforcement as follows:

- (1) Provides that a classified state employee who is discriminated against in violation of proposed law has the right to appeal to the State Civil Service Commission pursuant to Const. Art. X, §12. Present constitution (Art. X, §§8 and 12) grants the right of appeal to the State Civil Service Commission to a state employee for discrimination by the employer because of religious or political beliefs, sex, or race

and provides for hearing and decisions in such cases. Provides for appeal of commission decisions in such decisions to the First Circuit Court of Appeal.

- (2) Provides that a state employee who is discriminated against in violation of proposed law may file suit as authorized by R.S. 23:303.

[Present law (R.S. 23:301 et seq.) provides relative to discrimination in employment (public and private) and includes provisions authorizing a plaintiff who has a cause of action for prohibited discrimination to file a civil suit in a district court seeking compensatory damages, back pay, benefits, reinstatement, or if appropriate, front pay, reasonable attorney fees, and court costs; requires that a plaintiff found to have brought a frivolous claim shall be held liable for reasonable damages incurred as a result of the claim, reasonable attorney fees, and court costs; provides that the plaintiff give written notice of intention to pursue court action to the person who has allegedly discriminated at least 30 days before initiating court action with details of the alleged discrimination and requires both parties to make a good faith effort to resolve the dispute prior to initiating court action; and provides for a prescriptive period of one year to file suit.]

- (3) Provides that the La. Commission on Human Rights shall have power to enforce proposed law, including but not limited to power to adjudicate claims of discrimination pursuant to proposed law.

Proposed law provides that all state departments and state employers are authorized and directed to adopt such rules and regulations as may be necessary to comply with proposed law.

(Amends R.S. 51:2231(C); Adds R.S. 42:1251-1253)