



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1308

Introduced 2/8/2011, by Sen. Martin A. Sandoval

SYNOPSIS AS INTRODUCED:

775 ILCS 5/8A-104
820 ILCS 112/30

from Ch. 68, par. 8A-104

Amends the Illinois Human Rights Act. Provides that, in addition to any other relief that may be awarded or penalties that may be imposed under the Act, in a proceeding brought under the Employment Article, if there is a finding that an employer committed a civil rights violation against a female employee based upon the employee's sex, the award of damages may be increased up to an amount not to exceed 3 times any actual damages sustained. Amends the Equal Pay Act of 2003. Provides that, in addition to any other relief that may be awarded or penalties that may be imposed under the Act, if there is a finding that an employer committed a violation of this Act against a female employee, the award of damages may be increased up to an amount not to exceed 3 times any underpayment.

LRB097 06236 AJ0 49893 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning discrimination.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Human Rights Act is amended by
5 changing Section 8A-104 as follows:

6 (775 ILCS 5/8A-104) (from Ch. 68, par. 8A-104)

7 Sec. 8A-104. Relief; Penalties. Upon finding a civil rights
8 violation, a hearing officer may recommend and the Commission
9 or any three-member panel thereof may provide for any relief or
10 penalty identified in this Section, separately or in
11 combination, by entering an order directing the respondent to:

12 (A) Cease and Desist Order. Cease and desist from any
13 violation of this Act.

14 (B) Actual Damages. Pay actual damages, as reasonably
15 determined by the Commission, for injury or loss suffered by
16 the complainant.

17 (C) Hiring; Reinstatement; Promotion; Backpay; Fringe
18 Benefits. Hire, reinstate or upgrade the complainant with or
19 without back pay or provide such fringe benefits as the
20 complainant may have been denied.

21 (D) Restoration of Membership; Admission To Programs.
22 Admit or restore the complainant to labor organization
23 membership, to a guidance program, apprenticeship training

1 program, on the job training program, or other occupational
2 training or retraining program.

3 (E) Public Accommodations. Admit the complainant to a
4 public accommodation.

5 (F) Services. Extend to the complainant the full and equal
6 enjoyment of the goods, services, facilities, privileges,
7 advantages, or accommodations of the respondent.

8 (G) Attorneys Fees; Costs. Pay to the complainant all or a
9 portion of the costs of maintaining the action, including
10 reasonable attorney fees and expert witness fees incurred in
11 maintaining this action before the Department, the Commission
12 and in any judicial review and judicial enforcement
13 proceedings. Provided, however, that no award of attorney fees
14 or costs shall be made pursuant to this amendatory Act of 1987
15 with respect to any charge for which the complaint before the
16 Commission was filed prior to December 1, 1987. With respect to
17 all charges for which complaints were filed with the Commission
18 prior to December 1, 1987, attorney fees and costs shall be
19 awarded pursuant to the terms of this subsection as it existed
20 prior to revision by this amendatory Act of 1987.

21 (H) Compliance Report. Report as to the manner of
22 compliance.

23 (I) Posting of Notices. Post notices in a conspicuous place
24 which the Commission may publish or cause to be published
25 setting forth requirements for compliance with this Act or
26 other relevant information which the Commission determines

1 necessary to explain this Act.

2 (J) Make Complainant Whole. Take such action as may be
3 necessary to make the individual complainant whole, including,
4 but not limited to, awards of interest on the complainant's
5 actual damages and backpay from the date of the civil rights
6 violation. Provided, however, that no award of prejudgment
7 interest shall be made pursuant to this amendatory Act of 1987
8 with respect to any charge in which the complaint before the
9 Commission was filed prior to December 1, 1987. With respect to
10 all charges for which complaints were filed with the Commission
11 prior to December 1, 1987, make whole relief shall be awarded
12 pursuant to this subsection as it existed prior to revision by
13 this amendatory Act of 1987.

14 There shall be no distinction made under this Section
15 between complaints filed by the Department and those filed by
16 the aggrieved party.

17 In addition to any other relief that may be awarded or
18 penalties that may be imposed under this Act, in a proceeding
19 brought under Article 2, if there is a finding that an employer
20 committed a civil rights violation against a female employee
21 based upon the employee's sex, the award of damages may be
22 increased up to an amount not to exceed 3 times any actual
23 damages sustained.

24 (Source: P.A. 86-910.)

25 Section 10. The Equal Pay Act of 2003 is amended by

1 changing Section 30 as follows:

2 (820 ILCS 112/30)

3 Sec. 30. Violations; fines and penalties.

4 (a) If an employee is paid by his or her employer less than
5 the wage to which he or she is entitled in violation of Section
6 10 of this Act, the employee may recover in a civil action the
7 entire amount of any underpayment together with interest and
8 the costs and reasonable attorney's fees as may be allowed by
9 the court and as necessary to make the employee whole. At the
10 request of the employee or on a motion of the Director, the
11 Department may make an assignment of the wage claim in trust
12 for the assigning employee and may bring any legal action
13 necessary to collect the claim, and the employer shall be
14 required to pay the costs incurred in collecting the claim.
15 Every such action shall be brought within 5 years from the date
16 of the underpayment. For purposes of this Act, "date of the
17 underpayment" means each time wages are underpaid.

18 (b) The Director is authorized to supervise the payment of
19 the unpaid wages owing to any employee or employees under this
20 Act and may bring any legal action necessary to recover the
21 amount of unpaid wages and penalties and the employer shall be
22 required to pay the costs. Any sums recovered by the Director
23 on behalf of an employee under this Section shall be paid to
24 the employee or employees affected.

25 (c) Any employer who violates any provision of this Act or

1 any rule adopted under the Act is subject to a civil penalty
2 not to exceed \$2,500 for each violation for each employee
3 affected. In determining the amount of the penalty, the
4 appropriateness of the penalty to the size of the business of
5 the employer charged and the gravity of the violation shall be
6 considered. The penalty may be recovered in a civil action
7 brought by the Director in any circuit court.

8 (d) In addition to any other relief that may be awarded or
9 penalties that may be imposed under this Act, if there is a
10 finding that an employer committed a violation of this Act
11 against a female employee, the award of damages may be
12 increased up to an amount not to exceed 3 times any
13 underpayment.

14 (Source: P.A. 96-467, eff. 8-14-09.)