2018 Regular Session

HOUSE BILL NO. 328

BY REPRESENTATIVE JEFFERSON

## EMPLOYMENT/DISCRIMINATN: Provides with respect to wage secrecy

1	AN ACT
2	To amend and reenact R.S. 23:332(H)(3) and to enact R.S. 23:332(A)(4) through (6),
3	relative to employment discrimination; to provide for pay transparency; to provide
4	for voluntary wage disclosure; and to provide for related matters.
5	Be it enacted by the Legislature of Louisiana:
6	Section 1. R.S. 23:332(H)(3) is hereby amended and reenacted and R.S.
7	23:332(A)(4) through (6) is hereby enacted to read as follows:
8	§332. Intentional discrimination in employment
9	A. It shall be unlawful discrimination in employment for an employer to
10	engage in any of the following practices:
11	* * *
12	(4) Intentionally require as a condition of employment that an employee
13	refrain from inquiring about, discussing, or disclosing the amount of his wages, or
14	to sign a waiver, nondisclosure, or other document that denies the employee the right
15	to inquire about, discuss, or disclose the amount of his wages.
16	(5) Intentionally retaliate, discipline, discharge, or otherwise discriminate
17	against an employee who has inquired about, discussed, or disclosed his own wages
18	or inquired about or discussed wage information with another employee who
19	voluntarily discloses his own wage information.

1	(6)(a) Nothing in this Subsection shall be construed to create an obligation
2	for an employee to disclose his wage information.
3	(b) The protections provided in this Subsection do not apply to any employee
4	who has access to wage information as a part of his job function unless the employee
5	is making a disclosure of his own wage information or providing wage information
6	pursuant to a charge, complaint, investigation, court order, proceeding, hearing, or
7	as otherwise required by law.
8	* * *
9	H. Notwithstanding any other provision of this Section, it shall not be
10	unlawful discrimination in employment for:
11	* * *
12	(3) An employer to apply different standards of compensation or different
13	terms, conditions, or privileges of employment pursuant to a bona fide seniority or
14	merit system, or a system which measures earnings by quantity or quality of
15	production, or any other differential based on any bona fide business factor other
16	than sex or prior salary history, or to employees who work in different locations,
17	provided that such differences are not the result of an intention to discriminate
18	because of race, color, religion, sex, or national origin.
19	* * *

## 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)]

HB 328 Original	2018 Regular Session	Jefferson

Abstract: Allows but does not require an employee to inquire, discuss, or disclose his wage rate information without fear of retaliation or discrimination.

Present law prohibits intentional discrimination in employment.

<u>Present law</u> provides that it is unlawful discrimination in employment to intentionally fail to hire, to discharge from employment, or to limit, segregate, or classify a person in order to adversely affect him because of his race, color, religion, sex, or national origin.

<u>Present law</u> further prohibits any employer from paying employees of the opposite sex differently for equal work.

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

<u>Proposed law</u> retains <u>present law</u> and further prohibits an employer from coercing an employee to sign an agreement to keep his wage information confidential.

<u>Proposed law</u> prohibits an employer from retaliating or discriminating against an employee who voluntarily discloses his own wage information.

<u>Proposed law</u> does not extend protection to an employee who has access to wage information as a result of his position unless that employee is discussing his own wage rate or unless the wage information he discloses is pursuant to a charge, complaint, investigation, court order, proceeding, hearing, or is otherwise required by law.

<u>Present law</u> provides exceptions that allow for pay differentials regardless of race, color, religion, sex, or national origin such as different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system or other factor. <u>Proposed law</u> adds that another bona fide factor may be considered.

<u>Proposed law</u> retains <u>present law</u> but provides that prior salary history shall not be considered when determining fair pay.

(Amends R.S. 23:332(H)(3); Adds R.S. 23:332(A)(4)-(6))