

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 01-0379.01 Julie Hoerner

SENATE BILL 01-041

SENATE SPONSORSHIP

Windels, Linkhart, and Hanna

HOUSE SPONSORSHIP

Williams S.,

Senate Committees

Business, Labor, and Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING A PROHIBITION AGAINST WAGE DISCRIMINATION AMONG**
102 **PERSONS EMPLOYED IN EQUIVALENT EMPLOYMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Finds that women and members of racial or ethnic minorities are not paid the same wages as other individuals for equivalent work and, as a result, the individual and his or her family have suffered and commerce has been burdened. Determines and declares that equity in wages will benefit all Coloradans.

Requires employers to pay similar wages to similarly situated employees. Prohibits discrimination among employees on the basis of gender, race, or national origin. Defines terms. Defines in what

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
April 17, 2001

SENATE
Amended 2nd Reading
April 12, 2001

circumstances different pay scales are lawful. Grants legal immunity to employers that develop a plan to correct any discrimination and implement such plan by August 15, 2004.

Allows an employee who suffers discrimination related to wages or job opportunity to pursue civil remedies after administrative remedies are exhausted. Allows the Colorado civil rights commission to pursue a claim for wage or job discrimination on behalf of an employee.

Requires the Colorado civil rights commission to promulgate rules related to wage and job discrimination by December 31, 2001.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Part 4 of article 34 of title 24, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
4 SECTIONS to read:

5 **24-34-407. Legislative declaration.** (1) THE GENERAL ASSEMBLY
6 HEREBY FINDS THAT:

7 (a) DESPITE FEDERAL AND STATE LAWS BANNING DISCRIMINATION
8 IN EMPLOYMENT AND PAY IN BOTH THE PRIVATE AND PUBLIC SECTORS,
9 WAGE DIFFERENTIALS PERSIST BETWEEN WOMEN AND MEN AND BETWEEN
10 MINORITIES AND NONMINORITIES IN THE SAME JOBS AND IN JOBS THAT ARE
11 DISSIMILAR BUT THAT REQUIRE EQUIVALENT COMPOSITES OF SKILL, EFFORT,
12 RESPONSIBILITY, AND WORKING CONDITIONS.

13 (b) THE EXISTENCE OF WAGE DIFFERENTIALS:

14 (I) DEPRESSES WAGES AND LIVING STANDARDS FOR EMPLOYEES
15 THAT ARE NECESSARY FOR THE EMPLOYEES' HEALTH AND EFFICIENCY;

16 (II) REDUCES A FAMILY'S INCOME AND CONTRIBUTES TO HIGHER
17 POVERTY RATES AMONG MINORITY HOUSEHOLDS AND THOSE IN WHICH THE
18 HEAD OF THE HOUSEHOLD IS A WOMAN;

19 (III) TENDS TO ENCOURAGE LABOR DISPUTES, THEREBY
20 BURDENING, AFFECTING, AND OBSTRUCTING COMMERCE;

1 (IV) CONSTITUTES AN UNFAIR METHOD OF COMPETITION; AND
2 (V) VIOLATES THE STATE'S PUBLIC POLICY AGAINST
3 DISCRIMINATION.

4 (2) THEREFORE, THE GENERAL ASSEMBLY HEREBY DETERMINES
5 AND DECLARES THAT ENSURING EQUITY IN WAGES FOR ALL COLORADANS

6 _____
7 _____
8 IS THE GOAL OF THE GENERAL ASSEMBLY AND THAT THE GATHERING OF
9 INFORMATION CONCERNING THE EXISTENCE OF WAGE DISCRIMINATION AND
10 SOLUTIONS TO ADDRESSING THIS DISCRIMINATION IS IN THE BEST INTERESTS
11 OF THE STATE.

12 **24-34-408. Women's commission - creation - powers - duties -**
13 **repeal.** (1) (a) THERE IS HEREBY CREATED THE WOMEN'S COMMISSION,
14 HEREAFTER REFERRED TO AS THE "COMMISSION", CONSISTING OF SEVEN
15 MEMBERS. THREE MEMBERS SHALL BE APPOINTED BY THE GOVERNOR.
16 TWO MEMBERS SHALL BE APPOINTED BY THE HOUSE OF REPRESENTATIVES,
17 ONE OF WHOM SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF
18 REPRESENTATIVES AND THE OTHER APPOINTED BY THE MINORITY LEADER
19 OF THE HOUSE OF REPRESENTATIVES. TWO MEMBERS SHALL BE APPOINTED
20 BY THE SENATE, ONE OF WHOM SHALL BE APPOINTED BY THE PRESIDENT OF
21 THE SENATE AND THE OTHER MEMBER SHALL BE APPOINTED BY THE
22 MINORITY LEADER OF THE SENATE. NO MORE THAN FOUR MEMBERS SHALL
23 BE FROM THE SAME POLITICAL PARTY. THE EXECUTIVE DIRECTOR OF THE
24 CIVIL RIGHTS COMMISSION OR THE EXECUTIVE DIRECTOR'S DESIGNEE
25 MAY PARTICIPATE IN ACTIVITIES OF THE COMMISSION AND SHALL BE
26 AVAILABLE TO ANSWER QUESTIONS OF THE COMMISSION.

27 (b) THE TERMS OF THE MEMBERS OF THE COMMISSION SHALL BE

1 TERMS OF THREE YEARS EACH; EXCEPT THAT, OF THE MEMBERS APPOINTED
2 TO TAKE OFFICE INITIALLY, THREE SHALL BE APPOINTED FOR ONE-YEAR
3 TERMS, THREE SHALL BE APPOINTED FOR TWO-YEAR TERMS, AND ONE
4 SHALL BE APPOINTED FOR A THREE-YEAR TERM. ALL INITIAL
5 APPOINTMENTS SHALL BE MADE NO LATER THAN AUGUST 1, 2001.

6 (c) APPOINTMENTS TO THE COMMISSION SHALL BE MADE SO THAT
7 ALL PERSONS SHALL HAVE APPROPRIATE EXPERTISE IN THE DEMOGRAPHIC,
8 LEGAL, SOCIOECONOMIC, AND BUSINESS ISSUES RELATED TO WAGE
9 DISCRIMINATION AND ISSUES AFFECTING WOMEN. MEMBERS OF THE
10 COMMISSION SHALL INCLUDE REPRESENTATIVES FROM BUSINESS,
11 NONPROFIT ENTITIES, AND ORGANIZED LABOR.

12 (d) WHENEVER A VACANCY EXISTS ON THE COMMISSION, THE
13 GOVERNOR SHALL APPOINT A MEMBER FOR THE REMAINING PORTION OF THE
14 UNEXPIRED TERM CREATED BY THE VACANCY, SUBJECT TO CONFIRMATION
15 BY THE SENATE.

16 (e) MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT
17 COMPENSATION.

18 (f) EACH APPOINTED MEMBER OF THE COMMISSION SHALL HAVE A
19 VOTE. TWO-THIRDS OF THE MEMBERS OF THE COMMISSION SHALL
20 CONSTITUTE A QUORUM AND THE CONCURRENCE OF A MAJORITY OF THE
21 MEMBERS PRESENT AT ANY MEETING AT WHICH A QUORUM IS PRESENT ON
22 ANY MATTER WITHIN ITS POWERS AND DUTIES SHALL BE REQUIRED FOR ANY
23 DETERMINATION MADE BY THE COMMISSION.

24 (2) THE COMMISSION SHALL CONDUCT A STUDY TO EVALUATE THE
25 NATURE AND EXTENT OF WAGE DISCRIMINATION IN COLORADO. THE STUDY
26 MAY INCLUDE THE CREATION OF A PILOT PROJECT. THE STUDY SHALL
27 INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

1 (a) IF THE STUDY INCLUDES A PILOT PROGRAM, THE COMMISSION
2 SHALL DEVELOP CRITERIA FOR THE FOLLOWING:

3 (I) THE NUMBER OF EMPLOYERS TO PARTICIPATE IN ANY PILOT
4 PROGRAM, BUT THE COMMISSION SHALL NOT AUTHORIZE MORE THAN
5 TWENTY-FIVE EMPLOYERS TO PARTICIPATE IN THE PILOT PROGRAM. THE
6 COMMISSION SHALL ENCOURAGE EMPLOYERS WITH LARGE, MEDIUM, AND
7 SMALL NUMBERS OF EMPLOYEES TO PARTICIPATE IN THE PILOT PROGRAM.

8 (II) AN APPLICATION FORM TO BE COMPLETED BY ANY INTERESTED
9 EMPLOYERS AND PROCEDURES AND POLICIES FOR ACCEPTANCE OF
10 EMPLOYERS IN THE PILOT PROGRAM;

11 (III) A TIME FRAME FOR THE COMPLETION OF ANY PILOT PROGRAM,
12 BUT IN NO EVENT SHALL ANY PILOT PROGRAM CONTINUE PAST JULY 1,
13 2004;

14 (b) THE CRITERIA TO BE USED TO DETERMINE THE EXISTENCE OF
15 WAGE DISCRIMINATION, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

16 (I) WHETHER THE JOB HAS EVER BEEN FORMALLY CLASSIFIED BY
17 THE STATE DEPARTMENT OF LABOR AND EMPLOYMENT OR THE FEDERAL
18 DEPARTMENT OF LABOR AS OR HAS TRADITIONALLY BEEN CONSIDERED TO
19 BE A "MALE", "FEMALE", "WHITE", OR "MINORITY" JOB;

20 (II) WHETHER THERE IS A HISTORY OF DISCRIMINATION AGAINST
21 WOMEN OR MINORITIES WITH REGARD TO WAGES, ASSIGNMENT OR ACCESS
22 TO JOBS, OR OTHER TERMS AND CONDITIONS OF EMPLOYMENT; OR

23 (III) THE DEMOGRAPHIC COMPOSITION OF THE WORK FORCE IN
24 EQUIVALENT JOBS.

25 (IV) WHAT METHOD OF WAGE DISCLOSURE AND RECORD-KEEPING
26 SHOULD BE IMPLEMENTED, IF ANY, BY EMPLOYERS PARTICIPATING IN THE
27 PROGRAM TO CAPTURE NECESSARY DATA REGARDING WAGES.

1 (c) RECOMMENDATIONS FOR EMPLOYERS TO REDUCE AND
2 ELIMINATE WAGE DISCRIMINATION.

3 (3) THE COMMISSION SHALL CREATE A REPORT ON ITS FINDINGS
4 FROM THE STUDY CONDUCTED PURSUANT TO SUBSECTION (2) OF THIS
5 SECTION. COPIES OF THE REPORT SHALL BE GIVEN TO THE CIVIL RIGHTS
6 COMMISSION; THE CHAIR OF THE BUSINESS AFFAIRS AND LABOR COMMITTEE
7 IN THE HOUSE OF REPRESENTATIVES; AND THE CHAIR OF THE BUSINESS,
8 LABOR, AND FINANCE COMMITTEE IN THE SENATE. SUCH REPORT SHALL BE
9 COMPLETED BY OCTOBER 1, 2004.

10 **SECTION 2.** 24-34-402 (1), Colorado Revised Statutes, is
11 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12 **24-34-402. Discriminatory or unfair employment practices.**

13 (1) It shall be a discriminatory or unfair employment practice:

14 (i) TO DISCHARGE OR IN ANY OTHER MANNER DISCRIMINATE
15 AGAINST, COERCE, INTIMIDATE, THREATEN, OR INTERFERE WITH ANY
16 EMPLOYEE OR OTHER PERSON BECAUSE THE EMPLOYEE INQUIRED ABOUT,
17 DISCLOSED, COMPARED, OR OTHERWISE DISCUSSED THE EMPLOYEE'S WAGES
18 OR THE WAGES OF ANY OTHER EMPLOYEE.

19 **SECTION 3. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.