

1 AN ACT concerning employment.

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

4 Section 1. Short title. This Act may be cited as the
5 Fair Pay Act of 2001.

6 Section 5. Findings. The General Assembly finds the
7 following:

8 (a) Despite federal and state laws banning
9 discrimination in employment and pay, in both the private and
10 public sector, wage differentials persist between women and
11 men and between minorities and non-minorities in the same
12 jobs and in jobs that are dissimilar but that require
13 equivalent composites of skill, effort, responsibility, and
14 working conditions.

15 (b) The existence of wage differentials:

16 (1) depresses wages and living standards for
17 employees necessary for their health and efficiency;

18 (2) reduces family incomes and contributes to the
19 higher poverty rates among female-headed and minority
20 households;

21 (3) prevents the maximum utilization of the
22 available labor resources;

23 (4) tends to cause labor disputes, thereby
24 burdening, affecting, and obstructing commerce;

25 (5) constitutes an unfair method of competition;
26 and

27 (6) violates the State's public policy against
28 discrimination.

29 (c) Discrimination in wage-setting practices has played
30 a role in depressing wages for women and minorities
31 generally.

1 (d) Many individuals work in occupations that are
2 dominated by individuals of their same sex, race, or national
3 origin, and discrimination in hiring, job assignment, and
4 promotion has played a role in establishing and maintaining
5 segregated work forces.

6 (e) Eliminating discrimination in compensation based on
7 sex, race, and national origin would have positive effects,
8 including:

9 (1) providing a solution to problems in the economy
10 created by discriminatory wage differentials;

11 (2) reducing the number of working women and people
12 of color earning low wages, thereby lowering their
13 incidence of poverty during normal working years and in
14 retirement; and

15 (3) promoting stable families by raising family
16 incomes.

17 Section 10. Purpose. It is the purpose of this Act to
18 correct and as rapidly as practicable to eliminate
19 discriminatory wage practices based on sex, race, or national
20 origin.

21 Section 15. Definitions. As used in this Act:

22 "Department" means the Department of Labor.

23 "Employ" means to suffer or permit to work.

24 "Employee" means any person employed by an employer and
25 includes all of an employer's permanent employees, whether
26 working full-time or part-time, and any temporary employee
27 employed by an employer for a period of at least 3 months.

28 "Employee" does not include any individual employed by his or
29 her parents, spouse or child.

30 "Employer" means any person who employs 3 or more persons
31 and includes the State and all political subdivisions of the
32 State.

1 "Equivalent jobs" means jobs or occupations that are
2 equal within the meaning of the federal Equal Pay Act of 1963
3 or jobs or occupations that are dissimilar but whose
4 requirements are equivalent, when viewed as a composite of
5 skills, effort, responsibility, and working conditions.

6 "Person" means one or more individuals, partnerships,
7 associations, corporations, limited liability companies,
8 legal representatives, trustees, trustees in bankruptcy, and
9 receivers and the State and all political subdivisions and
10 agencies of the State.

11 "Labor organization" means any organization that exists
12 for the purpose, in whole or in part, of collective
13 bargaining or of dealing with employers concerning
14 grievances, terms of conditions of employment, or of other
15 mutual aid or protection in connection with employment.

16 "Market rates" means the rates that employers within a
17 prescribed geographic area actually pay or are reported to
18 pay for specific jobs, as determined by formal or informal
19 surveys, wage studies, or other means.

20 "Wages" and "wage rates" include all compensation in any
21 form that an employer provides to employees in payment for
22 work done or services rendered, including but not limited to
23 base pay, bonuses, commissions, awards, tips, or various
24 forms of non-monetary compensation if provided in lieu of or
25 in addition to monetary compensation and that have economic
26 value to an employee.

27 Section 20. Prohibition against discrimination in wages.

28 (a) It is an unlawful employment practice in violation
29 of this Act for an employer to discriminate between employees
30 on the basis of sex, race, or national origin by:

31 (1) paying wages to employees at a rate less than
32 the rate paid to employees of the opposite sex or of a
33 different race or national origin for work in equivalent

1 jobs; or

2 (2) paying wages to employees in a job that is
3 dominated by employees of a particular sex, race, or
4 national origin at a rate less than the rate at which the
5 employer pays employees in another job that is dominated
6 by employees of the opposite sex or of a different race
7 or national origin for work on equivalent jobs.

8 (b) Notwithstanding subsection (a) of this Section, it
9 is not an unlawful employment practice for an employer to pay
10 different wage rates to employees, where the payments are
11 made pursuant to:

12 (1) a bonafide seniority or merit system;

13 (2) a system that measures earnings by quantity or
14 quality of production; or

15 (3) any bonafide factor other than sex, race, or
16 national origin, provided that wage differentials based
17 on varying market rates for equivalent jobs or the
18 differing economic benefits to the employer of equivalent
19 jobs shall not be considered differentials based on
20 bonafide factors other than sex, race, or national
21 origin.

22 (c) Any employer who is paying wages in violation of
23 this Section may not, in order to comply with this Section,
24 reduce the wage of any employee.

25 (d) No labor organization or its agents representing
26 employees of an employer having employees subject to any
27 provision of this Act may cause or attempt to cause an
28 employer to discriminate against an employee in violation of
29 subsection (a) of this Section.

30 (e) The Department shall adopt rules specifying the
31 criteria for determining whether a job is dominated by
32 employees of a particular sex, race, or national origin.
33 Criteria shall include, but not be limited to, factors such
34 as (i) whether the job has ever been formally classified as

1 or traditionally considered to be a "male" or "female" or
2 "white" or "minority" job; (ii) whether there is a history
3 of discrimination against women or people of color with
4 regard to wages, assignment or access to jobs, or other terms
5 and conditions of employment; and (iii) the demographic
6 composition of the work force in equivalent jobs. The rules
7 may not include a list of jobs.

8 Section 25. Other prohibited acts.

9 (a) It is an unlawful employment practice in violation
10 of this Act for an employer:

11 (1) to take adverse actions or otherwise
12 discriminate against any individual because the
13 individual has opposed any act or practice made unlawful
14 by this Act, has sought to enforce rights protected under
15 this Act, or has testified, assisted, or participated in
16 any manner in an investigation, hearing, or other
17 proceeding to enforce this Act; or

18 (2) to discharge or in any other manner
19 discriminate against, coerce, intimidate, threaten, or
20 interfere with any employee or any other person because
21 the employee inquired about, disclosed, compared, or
22 otherwise discussed the employee's wages or the wages of
23 any other employee, or because the employee exercised,
24 enjoyed, aided, or encouraged any other person to
25 exercise or enjoy any right granted or protected by this
26 Act.

27 Section 30. Wage disclosure, record keeping, and
28 reporting requirements.

29 (a) Upon commencement of an individual's employment and
30 at least annually thereafter, every employer subject to this
31 Act shall provide to each employee a written statement
32 sufficient to inform the employee of his or her job title and

1 wage rate and how the wage is calculated. This notice shall
2 be supplemented whenever an employee is promoted or
3 reassigned to a different position with the employer;
4 however, the employer is not required to issue supplemental
5 notifications for temporary reassignments that are no longer
6 than 3 months in duration.

7 (b) Every employer subject to this Act shall make and
8 preserve records that document the wages paid to employees
9 and that document and support the method, system,
10 calculations, and other bases used to establish, adjust, and
11 determine the wage rates paid to the employer's employees.
12 Every employer subject to this Act shall preserve any records
13 for any periods of time and shall make any reports from the
14 records as shall be prescribed by rule or order by the
15 Department.

16 (c) The rules adopted under this Act relating to the
17 form of reports required by subsection (b) shall provide for
18 protection of the confidentiality of employees and shall
19 expressly require that reports shall not include the names or
20 other identifying information from which readers could
21 discern the identities of employees. The rules may also
22 identify circumstances that warrant a prohibition on
23 disclosure of reports or information identifying the
24 employer.

25 (d) The Department may use the information and data it
26 collects under subsection (b) for statistical and research
27 purposes, and may compile and publish studies, analyses,
28 reports, and surveys based on the information and data, as it
29 may consider appropriate.

30 Section 35. Remedies and enforcement.

31 (a) In any action in which a court or jury finds that an
32 employer has engaged in acts that violate Section 20, 25, or
33 30 of this Act, the court or jury shall award to any affected

1 employee or employees monetary relief, including back pay in
2 an amount equal to the difference between the employees'
3 actual earnings and what the employee would have earned but
4 for the employer's unlawful practices; and an additional
5 amount in compensatory and punitive damages, as appropriate.

6 (b) In any action in which a court or jury finds that an
7 employer has engaged in acts that violate Section 20, 25, or
8 30 of this Act, the court shall enjoin the employer from
9 continuing to discriminate against affected employees and
10 shall direct the employer to comply with this Act and may
11 order the employer to take any additional affirmative steps
12 as are necessary, including reinstatement or reclassification
13 of affected workers, to ensure an end to unlawful
14 discrimination.

15 (c) In any action in which an affected employee or
16 employees prevail in their claims against an employer, the
17 court shall, in addition to any judgment awarded to the
18 plaintiffs, allow a reasonable attorney's fee, reasonable
19 expert witness fees, and other costs of the action to be paid
20 by the employer.

21 (d) An action to recover the damages or equitable relief
22 prescribed in subsection (a), (b), or (c) of this Section may
23 be maintained against any employer in the circuit court by
24 any one or more employees or their representative for or on
25 behalf of the employees or the employees and other employees
26 similarly situated.

27 (e) The Department shall receive, investigate, and
28 attempt to resolve complaints of violations of Sections 20,
29 25, and 30.

30 (f) If the Department is unable to reach a voluntary
31 resolution of a complaint filed under subsection (e), the
32 Department may bring an action in the circuit court to
33 recover the equitable and monetary relief described in
34 subsection (a), (b), or (c).

1 (g) Any sums recovered by the Department under
2 subsection (f) shall be paid directly to each employee
3 affected by the employer's unlawful acts.

4 (h) An action may be brought under this Section not
5 later than 2 years after the date of the last event
6 constituting the alleged violation for which the action is
7 brought.

8 Section 40. Rules. The Department shall adopt any rules
9 that are necessary to carry out this Act not later than 120
10 days after this Act takes effect.

11 Section 95. Severability. The provisions of this Act
12 are severable under Section 1.31 of the Statute on Statutes.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.