SENATE BILL NO. 2515

AN ACT TO ENACT THE FAIR PAY ACT OF 2002; TO ENACT A SHORT TITLE; TO MAKE LEGISLATIVE FINDINGS; TO REQUIRE EMPLOYERS TO PAY EQUIVALENT PAY FOR EQUIVALENT JOBS; TO PROHIBIT CERTAIN ACTIONS BY EMPLOYERS; TO MANDATE THE KEEPING OF RECORDS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act may be cited as the "Fair Pay Act of 2002."

SECTION 2. The Legislature finds the following:

(a) Wage rate differentials exist between equivalent jobs segregated by sex, race and national origin in government employment and in industries engaged in commerce or in the production of goods for commerce.

(b) The existence of such wage rate differentials:

   (i) Depresses wages and living standards for employees necessary for their health and efficiency;

   (ii) Prevents the maximum utilization of the available labor resources;

   (iii) Tends to cause labor disputes, thereby burdening, affecting and obstructing commerce;

   (iv) Burdens commerce and the free flow of goods in commerce; and

   (v) Constitutes an unfair method of competition.

(c) Discrimination in hiring and promotion has played a role in maintaining a segregated work force.

(d) Many women and people of color work in occupations dominated by individuals of their same sex, race and national origin.
Title VII of the Civil Rights Act of 1964 prohibits discrimination in compensation because of race, color, religion, national origin and sex.

Artificial barriers to the elimination of discrimination in compensation based upon sex, race and national origin continue to exist more than thirty (30) years after the passage of the Civil Rights Act of 1964. Elimination of such barriers would have positive effects, including:

(i) Providing a solution to problems in the economy created by discrimination through wage rate differentials;
(ii) Substantially reducing the number of working women and people of color earning low wages, thereby reducing the dependence on public assistance; and
(iii) Promoting stable families by enabling working family members to earn a fair rate of pay.

SECTION 3. (1) Except as provided in subsection (2), no employer shall discriminate between employees on the basis of sex, race or national origin by paying wages to employees in a job that is dominated by employees of a particular sex, race or national origin at a rate less than the rate at which the employer pays wages to employees in such establishment in another job that is dominated by employees of the opposite sex or of a different race or national origin, respectively, for work on equivalent jobs.

(2) Nothing in subsection (1) of this section shall prohibit the payment of different wage rates to employees where such payment is made pursuant to:

(a) A seniority system;
(b) A merit system; or
(c) A system that measures earnings by quantity or quality of production.

(3) An employer who is paying a wage rate differential in violation of subsection (1) of this section shall not, in order to
comply with the provisions of subsection (1), reduce the wage rate
of any employee.

(4) No labor organization or its agents representing
employees of an employer having employees subject to any provision
of this section shall cause or attempt to cause such an employer
to discriminate against an employee in violation of subsection (1)
of this section.

(5) As used in this section:

(a) "Labor organization" means any organization of any
kind, or any agency or employee representation committee or plan,
in which employees participate and which exists for the purpose,
in whole or in part, of dealing with employers concerning
grievances, labor disputes, wages, rates of pay, hours of
employment or conditions of work.

(b) "Equivalent jobs" means jobs that may be
dissimilar, but whose requirements are equivalent, when viewed as
a composite of skills, effort, responsibility and working
conditions.

SECTION 4. It is unlawful to discriminate against any
individual because such individual has opposed any act or practice
made unlawful by this act or because such individual made a
charge, testified, assisted, or participated in any manner in an
investigation, proceeding or hearing to enforce the provisions of
this act or to discharge or in any other manner discriminate
against, coerce, intimidate, threaten, or interfere with any
employee or any other person because the employee inquired about,
disclosed, compared, or otherwise discussed the employee's wages
or the wages of any other employee, or because the employee
exercised, enjoyed, aided or encouraged any other person to
exercise or enjoy any right granted or protected by this act.

SECTION 5. In any action brought for violation of this act,
the court shall, in addition to any other remedies awarded to the
prevailing plaintiff or plaintiffs, allow expert fees as part of
the costs.

SECTION 6. Every employer shall preserve records that
document and support the method, system, calculations and other
bases used by the employer in establishing, adjusting and
determining the wage rates paid to the employees of the employer.
Every employer shall preserve such records for not less than seven
(7) years.

SECTION 7. This act shall take effect and be in force from
and after July 1, 2002.