

**Adopted
SUBSTITUTE NO 1 FOR AMENDMENT NO 1 PROPOSED TO**

House Bill No. 1241

BY: Representative Baker

1 **AMEND** after line 130 by inserting the following new section
2 and renumbering the succeeding section.

3 **SECTION 3.** (1) (a) No employer having employees subject to
4 any provisions of the Equal Pay Act of 1963, 29 USC Section
5 206(d), except as to those exemptions set forth in 29 USC Section
6 213 shall discriminate, within any establishment in which such
7 employees are employed, between employees on the basis of sex by
8 paying wages to employees in such establishment at a rate less
9 than the rate at which he pays wages to employees of the opposite
10 sex in such establishment for equal work on jobs the performance
11 of which requires equal skill, effort, and responsibility, and
12 which are performed under similar working conditions, except where
13 such payment is made pursuant to (i) a seniority system; (ii) a



14 merit system; (iii) a system which measures earnings by quantity
15 or quality of production; or (iv) a differential based on any
16 other factor other than sex: Provided, that an employer who is
17 paying a wage rate differential in violation of this subsection
18 shall not, in order to comply with the provisions of this
19 subsection, reduce the wage rate of any employee.

20 (b) No labor organization, or its agents, representing
21 employees of an employer having employees subject to any
22 provisions of this section shall cause or attempt to cause such an
23 employer to discriminate against an employee in violation of
24 paragraph (a) of this subsection.

25 (c) For purposes of administration and enforcement, any
26 amounts owing to any employee which have been withheld in
27 violation of this subsection shall be deemed to be unpaid minimum
28 wages or unpaid overtime compensation.

29 (d) As used in this subsection (1), the term "labor
30 organization" means any organization of any kind, or any agency or
31 employee representation committee or plan, in which employees
32 participate and which exists for the purpose, in whole or in part,
33 of dealing with employers concerning grievances, labor disputes,
34 wages, rates of pay, hours of employment, or conditions of work.

35 (2) Subsection (1) of this section creates an actionable
36 right in Mississippi for any person who is an employee and who
37 believes that such person's employer has violated the provisions
38 of subsection (1) of this section. Any employee who is aggrieved



39 under subsection (1) of this section may file a complaint in the
40 circuit court in Mississippi having jurisdiction in accordance
41 with Sections 11-11-1 et seq.

42 Subject to the provisions herein, if an employer is found to
43 have violated the provisions of subsection (1) of this section,
44 the employee shall be entitled to seek remedies, damages,
45 attorney's fees and costs, as provided by federal law for such
46 violations, including but not limited to the Equal Pay Act of
47 1963, Title VII of the Civil Rights Act of 1964, the Age
48 Discrimination in Employment Act of 1967, 42 USC Section 1981, 42
49 USC Section 1983, the Americans with Disabilities Act of 1990, and
50 the Lilly Ledbetter Fair Pay Act of 2009, as applicable.

51 (3) Claims asserted against a governmental entity by a
52 public employee under subsection (1) of this section, shall be
53 subject to the provisions of the Mississippi Tort Claims Act as
54 provided in Sections 11-46-1 et seq.

