

By: Senator(s) Walls

To: Labor

SENATE BILL NO. 2399

1 AN ACT TO ENACT THE FAIR PAY ACT OF 2005; TO ENACT A SHORT
2 TITLE; TO MAKE LEGISLATIVE FINDINGS; TO REQUIRE EMPLOYERS TO PAY
3 EQUIVALENT PAY FOR EQUIVALENT JOBS; TO PROHIBIT CERTAIN ACTIONS BY
4 EMPLOYERS; TO MANDATE THE KEEPING OF RECORDS; AND FOR RELATED
5 PURPOSES.

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

7 SECTION 1. This act may be cited as the "Fair Pay Act of
8 2005."

9 SECTION 2. The Legislature finds the following:

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

14 (b) The existence of such wage rate differentials:

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

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

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

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

23 (v) Constitutes an unfair method of competition.

24 (c) Discrimination in hiring and promotion has played a
25 role in maintaining a segregated workforce.

26 (d) Many women and people of color work in occupations
27 dominated by individuals of their same sex, race and national
28 origin.

29 (e) Title VII of the Civil Rights Act of 1964 prohibits
30 discrimination in compensation because of race, color, religion,
31 national origin and sex.

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

37 (i) Providing a solution to problems in the
38 economy created by discrimination through wage rate differentials;

39 (ii) Substantially reducing the number of working
40 women and people of color earning low wages, thereby reducing the
41 dependence on public assistance; and

42 (iii) Promoting stable families by enabling
43 working family members to earn a fair rate of pay.

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

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

55 (a) A seniority system;

56 (b) A merit system; or

57 (c) A system that measures earnings by quantity or
58 quality of production.

59 (3) An employer who is paying a wage rate differential in
60 violation of subsection (1) of this section shall not, in order to

61 comply with the provisions of subsection (1), reduce the wage rate
62 of any employee.

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

68 (5) As used in this section:

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

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

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

91 **SECTION 5.** In any action brought for violation of this act,
92 the court shall, in addition to any other remedies awarded to the

93 prevailing plaintiff or plaintiffs, allow expert fees as part of
94 the costs.

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

101 **SECTION 7.** This act shall take effect and be in force from
102 and after July 1, 2005.