

2019 -- H 5342

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - FAIR EMPLOYMENT PRACTICES

Introduced By: Representatives Shanley, Tanzi, Cortvriend, Shekarchi, and Lyle

Date Introduced: February 07, 2019

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 28-5 of the General Laws entitled "Fair Employment Practices" is
2 hereby amended by adding thereto the following section:

3 **28-5-44. Reporting required.**

4 Any unlawful employment practice established pursuant to this chapter shall be recorded
5 by the director who shall annually on or before September 1 of each year report the violations of
6 chapter 5 of this title including the department or agency and the violation so recorded to the
7 governor, the speaker of the house and the president of the senate.

8 SECTION 2. Section 28-5.1-3 of the General Laws in Chapter 28-5.1 entitled "Equal
9 Opportunity and Affirmative Action" is hereby amended to read as follows:

10 **28-5.1-3. Affirmative action.**

11 (a) The state equal opportunity office shall assign an equal opportunity officer as a liaison
12 to agencies of state government.

13 (b) Each state department or agency, excluding the legislative branch of state
14 government, shall annually prepare an affirmative action plan. These plans shall be prepared in
15 accordance with the criteria and deadlines set forth by the state equal opportunity office. These
16 deadlines shall provide, without limitation, that affirmative action plans for each fiscal year be
17 submitted to the state equal opportunity office and the house fiscal advisor no later than March
18 31. These plans shall be submitted to and shall be subject to review and approval by the state
19 equal opportunity office.

1 (c) Any affirmative action plan required under this section deemed unsatisfactory by the
2 state equal opportunity office shall be withdrawn and amended according to equal opportunity
3 office criteria, in order to attain positive measures for compliance. The state equal opportunity
4 office shall make every effort by informal conference, conciliation and persuasion to achieve
5 compliance with affirmative action requirements.

6 (d) The state equal opportunity office shall effect and promote the efficient transaction of
7 its business and the timely handling of complaints and other matters before it, and shall make
8 recommendations to appropriate state officials for affirmative action steps towards the
9 achievement of equal opportunity.

10 (e) The state equal opportunity administrator shall serve as the chief executive officer of
11 the state equal opportunity office, and shall be responsible for monitoring and enforcing all equal
12 opportunity laws, programs, and policies within state government.

13 (f) No later than July 1 each state department or agency, excluding the legislative branch
14 of state government, shall submit to the state equal opportunity office and the house fiscal advisor
15 sufficient data to enable the state equal opportunity office and the house fiscal advisor to
16 determine whether the agency achieved the hiring goals contained in its affirmative action plan
17 for the previous year. If the hiring goals contained in the previous year's plan were not met, the
18 agency shall also submit with the data a detailed explanation as to why the goals were not
19 achieved.

20 (g) Standards for review of affirmative action plans shall be established by the state equal
21 opportunity office, except where superseded by federal law.

22 (h) For purposes of this section, "agency" includes, without limitation, all departments,
23 public and quasi-public agencies, authorities, boards, and commissions of the state, ~~excluding the~~
24 ~~legislative branch of state government.~~

25 (i) The state equal opportunity office shall continually review all policies, procedures,
26 and practices for tendencies to discriminate and for institutional or systemic barriers for equal
27 opportunity, and it shall make recommendations with reference to any tendencies or barriers in its
28 annual reports to the governor and the general assembly.

29 (j) Relevant provisions of this section also apply to expanding the pool of applicants for
30 all positions where no list exists. The equal opportunity administrator is authorized to develop
31 and implement recruitment plans to assure that adequate consideration is given to qualified
32 minority applicants in those job categories where a manifest imbalance exists, excluding those job
33 categories in the legislative branch of state government.

34 SECTION 3. Chapter 28-5.1 of the General Laws entitled "Equal Opportunity and

1 Affirmative Action" is hereby amended by adding thereto the following section:

2 **28-5.1-18. Reporting required.**

3 Each state department or agency shall annually on or before September 1 of each year
4 report alleged violations of chapters 5 and/or 5.1 of this title, and any alleged employment
5 discrimination or alleged violation of any affirmative action plan required pursuant to § 28-5.1-3,
6 by any state employee, agent or contractor. An alleged violation shall include, but not be limited
7 to, the filing of a lawsuit or grievance, a complaint or report to any administrative agency or a
8 complaint or notice provided to a supervisor or management personnel. The report shall be
9 provided to the office of diversity, equality and opportunity. The office of diversity, equality and
10 opportunity shall summarize and provide the reported information to the governor, speaker of the
11 house and president of the senate.

12 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS - FAIR EMPLOYMENT PRACTICES

1 This act would create a reporting requirement for state agencies and departments for
2 violations of the fair employment practices chapter and the equal opportunity and affirmative
3 action chapter. The act would also remove the legislative branch exclusion from the "agency"
4 definition.

5 This act would take effect upon passage.

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