

HCS HB 2460 -- MISSOURI HUMAN RIGHTS ACT

SPONSOR: Hobbs (Emery)

COMMITTEE ACTION: Voted "do pass" by the Committee on Conservation and Natural Resources by a vote of 7 to 4.

This substitute changes the laws regarding the Missouri Human Rights Act. In its main provisions, the substitute:

- (1) Revises the definition of "discrimination" to an adverse action in the case of employment, or unjust treatment in the case of housing, that is based on race, color, religion, national origin, ancestry, sex, age as it relates to employment, disability, or familial status as it relates to housing;
- (2) Removes any person directly acting in the interest of an employer from the definition of "employer";
- (3) Specifies that it is an unlawful employment practice when race, color, religion, national origin, ancestry, sex, age, or disability of any individual is a factor motivating the employer's decision to fail or refuse to hire or otherwise limit the individual's employment and for an employer, in an employment context, or for a person, in a housing or real estate context, to engage in an adverse action motivated by race, color, religion, national origin, ancestry, sex, or age;
- (4) Allows the Commission on Human Rights to assess a civil penalty of up to \$3,000, increased from \$2,000, if the respondent has not been convicted of a violation in the preceding five years; a civil penalty of up to \$7,000, increased from \$5,000, if the respondent has been convicted of a violation in the preceding five years; and a civil penalty of up to \$15,000, increased from \$10,000, if the respondent has been convicted of two or more violations in the preceding seven years;
- (5) Prohibits courts from awarding punitive damages to the plaintiff if the defendant is a state governmental agency or corporation, including public school districts and political subdivisions; and
- (6) Rejects and abrogates the holdings in *Daugherty v. City of Maryland Heights*, 231 S.W.3d 814 (Mo. 2007), *Cooper v. Albacore Holdings, Inc.*, 204 S.W.3d 238 (Mo.App. E.D. 2006), and *McBryde v. Ritenour School District*, 207 S.W.3d 162 (Mo.App. E.D. 2006), and all cases citing, interpreting, applying, or following these cases as they pertain to the discrimination standard, unlawful employment practices, and unlawful discriminatory practices in Section 213.070, RSMo.

FISCAL NOTE: No impact on state funds in FY 2009, FY 2010, and FY 2011.

PROPOSERS: Supporters say that the bill will make state law consistent with federal law regarding agent liability for human rights issues. Currently, Missouri is the only state that allows a defendant to collect punitive damages in discrimination cases. The bill will eliminate this provision in state law and will address concerns from the business community and the state's universities and educational institutions.

Testifying for the bill were Representatives Emery and Jones (89); Tom Mickus, Mickus, Goldman, O'Toole Law Firm; Missouri United School Insurance Council; and Penney Rector, School Administrators Coalition.

OPPOSERS: Those who oppose the bill say that they are concerned that the bill requires a higher standard than Title VII. Eliminating punitive damages as a remedy for discrimination cases leaves public agencies and employers unaccountable for their employees' bad behavior.

Testifying against the bill was Missouri Commission on Human Rights.