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SENATE BILL 6494

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State of Washington

53rd Legislature

1994 Regular Session

By Senators Haugen and Winsley

Read first time 01/25/94. Referred to Committee on Transportation.

1 AN ACT Relating to practices of discrimination in the department of  
2 transportation; adding a new chapter to Title 47 RCW; and creating a  
3 new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

6 Practices of discrimination against the employees, contractors,  
7 vendors, and customers of the Washington state department of  
8 transportation because of race, creed, color, national origin,  
9 religion, age, gender, marital status, sexual orientation, or  
10 disability are a matter of state concern that demand the department  
11 adopt an internal discrimination complaint procedure that protects the  
12 rights and privileges of both complainants and respondents;

13 Undefined time limits for investigating and resolving civil rights  
14 complaints against the department can result in undue economic and  
15 social hardship on complainants and respondents;

16 Continuing conflicts debilitate the morale and productivity of the  
17 department. The informal settlement of discrimination complaints,  
18 where appropriate, that may make unnecessary more elaborate proceedings  
19 is strongly encouraged;

1 The potential disparity between the working conditions for  
2 Washington state ferry workers established under labor union collective  
3 bargaining agreements and the reasonable accommodations requirements of  
4 the Americans with Disabilities Act of 1990 (P.L. 101-336; 29 C.F.R.  
5 Part 1630), as well as the enormous fiscal impact on the department  
6 resulting from implementation of the act's requirements, warrant the  
7 development of a state-wide strategy for treatment of this issue.

8 NEW SECTION. **Sec. 2.** The department, by rule, shall establish  
9 discrimination complaint procedures that address, at a minimum, the  
10 following:

11 (1) Policies and procedures for filing and investigating a civil  
12 rights complaint against the department;

13 (2) The early resolution of complaints or grievances by the office  
14 of equal opportunity and by the secretary or their designees;

15 (3) Reasonable time limits for filing a complaint, complaint  
16 investigation and the issuance of findings by the office of equal  
17 opportunity, and development of a disciplinary action plan by the  
18 appointing authority, if required. The time limits established must  
19 provide a maximum time limit for the completion of all stages of an  
20 investigation, including final disposition by the department. The  
21 rules must provide for adequate notice of the pertinent time limits to  
22 all persons affected and address emergency variations in timelines for  
23 specific cases or circumstances;

24 (4) Delays in the investigative process caused by either claimant  
25 or respondent;

26 (5) Criteria for placing respondents on administrative leave while  
27 a complaint is being investigated; and

28 (6) The circumstances under which progressive discipline is  
29 imposed, and any exceptions.

30 The department shall adopt rules implementing the requirements of  
31 this section by September 1, 1994.

32 NEW SECTION. **Sec. 3.** All reports and correspondence generated by  
33 the grievance procedure established under rules adopted to implement  
34 this chapter, that by law can be disclosed, must be disseminated  
35 simultaneously to all affected parties and their representatives and to  
36 any requesting party.

1        NEW SECTION.    **Sec. 4.**    The department's failure to comply with the  
2 grievance procedure defined in the collective bargaining agreements  
3 negotiated under chapter 47.64 RCW renders final the finding and  
4 adjudication of the collective bargaining unit.

5        NEW SECTION.    **Sec. 5.**    A respondent who prevails in an arbitration  
6 proceeding or civil suit based on a complaint under this chapter is  
7 entitled to recover all costs associated with defending the complaint,  
8 including reasonable attorneys' fees.

9        NEW SECTION.    **Sec. 6.**    The department shall identify multiple  
10 complaints by a singular complainant to ascertain the possibility of a  
11 pattern of malicious or nuisance complaints.

12        NEW SECTION.    **Sec. 7.**    The department shall report, each biennium,  
13 to the legislative transportation committee on the activities of the  
14 office of equal opportunity, describing the office's proceedings,  
15 investigations conducted and their outcome, and other work performed;  
16 and shall make recommendations regarding legislation needed to assist  
17 the office in the execution of its duties.

18        NEW SECTION.    **Sec. 8.**    The office of financial management, in  
19 conjunction with the governor's committee on disability issues and  
20 employment shall examine the correlations and disparities between the  
21 collective bargaining agreements negotiated under chapter 47.64 RCW and  
22 the reasonable accommodation provisions of the Americans with  
23 Disabilities Act (P.L. 101-336; 29 C.F.R. Part 1630). The examination  
24 shall result in the development of recommendations on a state-wide  
25 uniform strategy for use by the department and the legislature.  
26 Recommendations shall be submitted to the legislative transportation  
27 committee by September 1, 1994.

28        NEW SECTION.    **Sec. 9.**    Sections 1 through 7 of this act constitute  
29 a new chapter in Title 47 RCW.

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