

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 13-0713.01 Christy Chase x2008

HOUSE BILL 13-1136

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House Committees

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A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF REMEDIES IN EMPLOYMENT**
102 **DISCRIMINATION CASES BROUGHT UNDER STATE LAW.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Current law does not permit an award of compensatory or punitive damages or attorney fees and costs to a plaintiff who prevails in a complaint before the Colorado civil rights commission (commission) or in a lawsuit alleging a discriminatory or unfair employment practice under state law, even in cases of intentional discrimination. While federal

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 3rd Reading
April 19, 2013

HOUSE
Amended 2nd Reading
April 17, 2013

employment antidiscrimination laws allow such damages in cases where intentional discrimination is found, and allows an award of reasonable attorney fees and costs, only employers who employ 15 or more employees are subject to federal law. Moreover, victims of employment discrimination on the basis of sexual orientation are not afforded protections under federal law. Thus, employees who work for employers with fewer than 15 employees or who claim employment discrimination on the basis of sexual orientation are not allowed compensatory or punitive damages and cannot recover reasonable attorney fees and costs when they prove a case of intentional employment discrimination.

Additionally, current law precludes a claim of age discrimination by persons 70 years of age or older.

Section 1 of the bill establishes the "Job Protection and Civil Rights Enforcement Act of 2013", which would allow the additional remedies of compensatory and punitive damages in employment discrimination cases brought under state law against employers where intentional discrimination is proven. These damages would be in addition to the remedies allowed under current law, namely, front pay, back pay, interest on back pay, reinstatement or hiring, and other equitable relief that may be awarded. Compensatory damages are to compensate a plaintiff for other pecuniary losses, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses. If the plaintiff shows by a preponderance of the evidence that the defendant engaged in a discriminatory or unfair employment practice with malice or reckless indifference to the rights of the plaintiff, the plaintiff may recover punitive damages.

The bill limits the amount of compensatory and punitive damages to the amounts specified in the federal "Civil Rights Act of 1991" and directs the commission or court to consider the size and assets of the defendant and the egregiousness of the intentional discriminatory or unfair employment practice when determining the amount of damages to award the victim.

When a plaintiff claims compensatory or punitive damages in a civil lawsuit, either party to the action is entitled to demand a jury trial. Additionally, the court may award the prevailing plaintiff reasonable attorney fees and costs and, if the court finds that the action was frivolous, groundless, or vexatious, the court may award attorney fees and costs to the defendant.

Section 2 of the bill removes the maximum age limit for purposes of age discrimination claims, thereby permitting persons 70 years of age or older to pursue a claim based on age discrimination.

Section 3 of the bill authorizes the commission to appoint a working group of employers and employees to assist in education and outreach efforts to foster compliance with laws prohibiting discriminatory or unfair employment practices.

The remedies available under the bill would apply to causes of action alleging discriminatory or unfair employment practices accruing on or after January 1, 2015.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **repeal and reenact, with amendments,** 24-34-405 as follows:

24-34-405. Relief authorized - short title. (1) THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE "JOB PROTECTION AND CIVIL RIGHTS ENFORCEMENT ACT OF 2013".

(2) (a) IN ADDITION TO THE RELIEF AUTHORIZED BY SECTION 24-34-306(9), THE COMMISSION OR THE COURT MAY ORDER AFFIRMATIVE RELIEF THAT THE COMMISSION OR COURT DETERMINES TO BE APPROPRIATE, INCLUDING THE FOLLOWING RELIEF, AGAINST A RESPONDENT WHO IS FOUND TO HAVE ENGAGED IN AN UNFAIR OR DISCRIMINATORY EMPLOYMENT PRACTICE:

(I) REINSTATEMENT OR HIRING OF EMPLOYEES, WITH OR WITHOUT BACK PAY. IF THE COMMISSION OR COURT ORDERS BACK PAY, THE EMPLOYER, EMPLOYMENT AGENCY, OR LABOR ORGANIZATION RESPONSIBLE FOR THE DISCRIMINATORY OR UNFAIR EMPLOYMENT PRACTICE SHALL PAY THE BACK PAY TO THE PERSON WHO WAS THE VICTIM OF THE PRACTICE.

(II) FRONT PAY; OR

(III) ANY OTHER EQUITABLE RELIEF THE COMMISSION OR COURT DEEMS APPROPRIATE.

(b) IF THE COMMISSION OR COURT ORDERS BACK PAY, THE LIABILITY FOR BACK PAY ACCRUES FROM A DATE NOT MORE THAN TWO YEARS PRIOR TO THE FILING OF A CHARGE WITH THE DIVISION. THE

1 COMMISSION OR COURT SHALL REDUCE AN AWARD OF BACK PAY BY ANY
2 AMOUNT OF ACTUAL EARNINGS OF, OR AMOUNTS THAT COULD HAVE BEEN
3 EARNED WITH REASONABLE DILIGENCE BY, THE PERSON WHO WAS THE
4 VICTIM OF THE DISCRIMINATORY OR UNFAIR EMPLOYMENT PRACTICE.

5 (3) (a) IN ADDITION TO THE RELIEF AVAILABLE PURSUANT TO
6 SUBSECTION (2) OF THIS SECTION, AND EXCEPT AS PROVIDED IN
7 PARAGRAPH (g) OF THIS SUBSECTION (3), IN A [REDACTED] CIVIL ACTION BROUGHT
8 BY A [REDACTED] PLAINTIFF UNDER THIS PART 4 AGAINST A [REDACTED] DEFENDANT WHO IS
9 FOUND TO HAVE ENGAGED IN AN INTENTIONAL DISCRIMINATORY OR
10 UNFAIR EMPLOYMENT PRACTICE, THE [REDACTED] PLAINTIFF MAY RECOVER
11 COMPENSATORY AND PUNITIVE DAMAGES AS SPECIFIED IN THIS
12 SUBSECTION (3). THE COURT SHALL NOT AWARD A PLAINTIFF [REDACTED]
13 COMPENSATORY OR PUNITIVE DAMAGES WHEN THE [REDACTED] DEFENDANT IS
14 FOUND TO HAVE ENGAGED IN AN EMPLOYMENT PRACTICE THAT IS
15 UNLAWFUL SOLELY BECAUSE OF ITS DISPARATE IMPACT.

16 (b) (I) EXCEPT AS LIMITED BY THE "COLORADO GOVERNMENTAL
17 IMMUNITY ACT", ARTICLE 10 OF THIS TITLE, AND EXCEPT AS PROVIDED IN
18 SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), A [REDACTED] PLAINTIFF MAY
19 RECOVER PUNITIVE DAMAGES AGAINST A [REDACTED] DEFENDANT, OTHER THAN THE
20 STATE OR ANY POLITICAL SUBDIVISION, COMMISSION, DEPARTMENT,
21 INSTITUTION, OR SCHOOL DISTRICT OF THE STATE, IF THE [REDACTED] PLAINTIFF
22 DEMONSTRATES BY CLEAR AND CONVINCING EVIDENCE THAT THE [REDACTED]
23 DEFENDANT ENGAGED IN A DISCRIMINATORY OR UNFAIR EMPLOYMENT
24 PRACTICE WITH MALICE OR RECKLESS INDIFFERENCE TO THE RIGHTS OF
25 THE PLAINTIFF. HOWEVER, IF THE DEFENDANT DEMONSTRATES
26 GOOD-FAITH EFFORTS TO COMPLY WITH THIS PART 4 AND TO PREVENT
27 DISCRIMINATORY AND UNFAIR EMPLOYMENT PRACTICES IN THE

1 WORKPLACE, THE COURT SHALL NOT AWARD PUNITIVE DAMAGES AGAINST
2 THE DEFENDANT.

3 (II) THE COURT SHALL NOT AWARD PUNITIVE DAMAGES IN A
4 CIVIL ACTION INVOLVING A CLAIM OF FAILURE TO MAKE A REASONABLE
5 ACCOMMODATION FOR A PERSON WITH A DISABILITY IF THE DEFENDANT
6 DEMONSTRATES GOOD-FAITH EFFORTS TO IDENTIFY AND MAKE A
7 REASONABLE ACCOMMODATION THAT WOULD PROVIDE THE PERSON WITH
8 A DISABILITY AN EQUALLY EFFECTIVE OPPORTUNITY AND WOULD NOT
9 CAUSE AN UNDUE HARDSHIP ON THE OPERATION OF THE DEFENDANT'S
10 BUSINESS.

11 (c) A PLAINTIFF MAY RECOVER COMPENSATORY DAMAGES
12 AGAINST A DEFENDANT FOR OTHER PECUNIARY LOSSES, EMOTIONAL
13 PAIN AND SUFFERING, INCONVENIENCE, MENTAL ANGUISH, LOSS OF
14 ENJOYMENT OF LIFE, AND OTHER NONPECUNIARY LOSSES.

15 (d) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
16 PARAGRAPH (d), THE TOTAL AMOUNT OF COMPENSATORY AND PUNITIVE
17 DAMAGES AWARDED PURSUANT TO THIS SUBSECTION (3) SHALL NOT
18 EXCEED THE AMOUNTS SPECIFIED IN 42 U.S.C. SEC. 1981a (b) (3).

19 (II) FOR EMPLOYERS WHO EMPLOY FEWER THAN FIFTEEN
20 EMPLOYEES, THE TOTAL AMOUNT OF COMPENSATORY AND PUNITIVE
21 DAMAGES AWARDED PURSUANT TO THIS SUBSECTION (3) SHALL NOT
22 EXCEED THE FOLLOWING AMOUNTS:

23 (A) IF THE DEFENDANT HAS ONE OR MORE EMPLOYEES BUT
24 FEWER THAN FIVE EMPLOYEES IN EACH OF TWENTY OR MORE CALENDAR
25 WEEKS IN EITHER THE CURRENT OR PRECEDING CALENDAR YEAR, TEN
26 THOUSAND DOLLARS; OR

27 (B) IF THE DEFENDANT HAS FIVE OR MORE EMPLOYEES BUT

1 FOURTEEN OR FEWER EMPLOYEES IN EACH OF TWENTY OR MORE
2 CALENDAR WEEKS IN EITHER THE CURRENT OR PRECEDING CALENDAR
3 YEAR, TWENTY-FIVE THOUSAND DOLLARS.

4 (III) IN DETERMINING THE APPROPRIATE LEVEL OF DAMAGES TO
5 AWARD A [REDACTED] PLAINTIFF WHO HAS BEEN THE VICTIM OF AN INTENTIONAL
6 DISCRIMINATORY OR UNFAIR EMPLOYMENT PRACTICE, THE [REDACTED] COURT
7 SHALL CONSIDER THE SIZE AND ASSETS OF THE [REDACTED] DEFENDANT AND THE
8 EGREGIOUSNESS OF THE INTENTIONAL DISCRIMINATORY OR UNFAIR
9 EMPLOYMENT PRACTICE.

10 (IV) IF A [REDACTED] PLAINTIFF ASSERTS CLAIMS OF INTENTIONAL
11 DISCRIMINATORY OR UNFAIR EMPLOYMENT PRACTICES UNDER THIS
12 ARTICLE AND UNDER APPLICABLE FEDERAL ANTI-DISCRIMINATION LAWS,
13 THE [REDACTED] PLAINTIFF MAY RECOVER RELIEF UNDER THIS SECTION ONLY ONCE
14 FOR THE SAME INJURIES, DAMAGES, OR LOSSES.

15 (e) COMPENSATORY OR PUNITIVE DAMAGES AWARDED PURSUANT
16 TO THIS SUBSECTION (3) ARE IN ADDITION TO, AND DO NOT INCLUDE,
17 FRONT PAY, BACK PAY, INTEREST ON BACK PAY, OR ANY OTHER TYPE OF
18 RELIEF AWARDED PURSUANT TO SUBSECTION (2) OF THIS SECTION.

19 (f) THE REMEDIES SPECIFIED IN THIS SUBSECTION (3) APPLY TO
20 CAUSES OF ACTION ALLEGING DISCRIMINATORY OR UNFAIR EMPLOYMENT
21 PRACTICES ACCRUING ON OR AFTER JANUARY 1, 2015.

22 (g) IN A CIVIL ACTION INVOLVING A CLAIM OF DISCRIMINATION
23 BASED ON AGE, THE PLAINTIFF IS ENTITLED ONLY TO THE RELIEF
24 AUTHORIZED IN SUBSECTION (2) OF THIS SECTION AND IN 29 U.S.C. SEC.
25 626 (b) AND 29 U.S.C. SEC. 216 (b) IF THE COURT FINDS THAT THE
26 DEFENDANT ENGAGED IN A DISCRIMINATORY OR UNFAIR EMPLOYMENT
27 PRACTICE BASED ON AGE. IF, IN ADDITION TO ALLEGING DISCRIMINATION

1 BASED ON AGE, THE PLAINTIFF ALLEGES DISCRIMINATION BASED ON ANY
2 OTHER FACTOR SPECIFIED IN SECTION 24-34-402 (1), THIS PARAGRAPH (g)
3 DOES NOT PRECLUDE A PLAINTIFF FROM RECOVERING THE RELIEF
4 AUTHORIZED BY THIS SECTION FOR THAT DISCRIMINATION CLAIM.

5 (4) IF A PLAINTIFF IN A CIVIL ACTION FILED UNDER THIS PART 4
6 SEEKS COMPENSATORY OR PUNITIVE DAMAGES PURSUANT TO SUBSECTION
7 (3) OF THIS SECTION, ANY PARTY TO THE CIVIL ACTION MAY DEMAND A
8 TRIAL BY JURY.

9 (5) IN ANY CIVIL ACTION UNDER THIS PART 4, THE COURT
10 MAY AWARD REASONABLE ATTORNEY FEES AND COSTS TO THE PREVAILING
11 PLAINTIFF. IF THE COURT FINDS THAT AN ACTION OR DEFENSE BROUGHT
12 PURSUANT TO THIS PART 4 WAS FRIVOLOUS, GROUNDLESS, OR VEXATIOUS
13 AS PROVIDED IN ARTICLE 17 OF TITLE 13, C.R.S., THE COURT MAY AWARD
14 COSTS AND ATTORNEY FEES TO THE DEFENDANT IN THE ACTION.

15 (6) EXCEPT WHEN FEDERAL LAW IS SILENT ON THE ISSUE, THIS
16 SECTION SHALL BE CONSTRUED, INTERPRETED, AND APPLIED IN A MANNER
17 THAT IS CONSISTENT WITH STANDARDS ESTABLISHED THROUGH JUDICIAL
18 INTERPRETATION OF TITLE VII OF THE FEDERAL "CIVIL RIGHTS ACT OF
19 1964", AS AMENDED, 42 U.S.C. SEC. 2000e ET SEQ.; THE FEDERAL "AGE
20 DISCRIMINATION IN EMPLOYMENT ACT OF 1967", AS AMENDED, 29 U.S.C.
21 SEC. 621 ET SEQ.; TITLES I AND V OF THE FEDERAL "AMERICANS WITH
22 DISABILITIES ACT OF 1990", AS AMENDED, 42 U.S.C. SEC. 12111 ET SEQ.;
23 AND THE FEDERAL "CIVIL RIGHTS ACT OF 1991", 42 U.S.C. SEC. 1981a.

24 (7) NOTHING IN THIS SECTION PRECLUDES A PARTY FROM
25 ASSERTING ANY OTHER AVAILABLE STATUTORY OR COMMON LAW CLAIMS.

26 (8) (a) AS USED IN THIS SUBSECTION (8), "AGGRIEVED PARTY"
27 MEANS A PERSON WHO HAS FILED A COMPLAINT ALLEGING AN

1 INTENTIONAL DISCRIMINATORY OR UNFAIR EMPLOYMENT PRACTICE,
2 INCLUDING AN APPLICANT FOR A POSITION IN THE STATE PERSONNEL
3 SYSTEM OR AN EMPLOYEE IN THE STATE PERSONNEL SYSTEM.

4 (b) THE COMMISSION, A COMMISSIONER, AN ADMINISTRATIVE LAW
5 JUDGE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF THIS TITLE, OR,
6 IN CASES INVOLVING APPLICANTS FOR POSITIONS IN OR EMPLOYEES IN THE
7 STATE PERSONNEL SYSTEM, THE STATE PERSONNEL BOARD ESTABLISHED
8 PURSUANT TO SECTION 14 OF ARTICLE XII OF THE STATE CONSTITUTION
9 SHALL NOT AWARD DAMAGES TO AN AGGRIEVED PARTY ALLEGING AN
10 INTENTIONAL DISCRIMINATORY OR UNFAIR EMPLOYMENT PRACTICE. AN
11 AGGRIEVED PARTY WHO IS SEEKING DAMAGES AS AUTHORIZED IN
12 SUBSECTION (3) OF THIS SECTION MUST FILE A CIVIL ACTION IN A COURT OF
13 COMPETENT JURISDICTION TO RECOVER THOSE DAMAGES; EXCEPT THAT
14 PUNITIVE DAMAGES ARE NOT RECOVERABLE AGAINST THE STATE OR ANY
15 POLITICAL SUBDIVISION, COMMISSION, DEPARTMENT, INSTITUTION, OR
16 SCHOOL DISTRICT OF THE STATE.

17 (c) (I) UPON ISSUANCE OF AN ORDER BY THE COMMISSION
18 PURSUANT TO SECTION 24-34-306 (9) AND SUBSECTION (2) OF THIS
19 SECTION OR OF A WRITTEN DECISION BY THE STATE PERSONNEL BOARD
20 PURSUANT TO SECTION 24-50-125.4 IN WHICH THE COMMISSION OR STATE
21 PERSONNEL BOARD MAKES A FINDING OF AN INTENTIONAL
22 DISCRIMINATORY OR UNFAIR EMPLOYMENT PRACTICE, AN AGGRIEVED
23 PARTY MAY FILE A CIVIL ACTION IN A DISTRICT COURT IN THIS STATE
24 SEEKING DAMAGES AS AUTHORIZED IN SUBSECTION (3) OF THIS SECTION.

25 (II) FOR COMPLAINTS FILED WITH THE COMMISSION, THE
26 AGGRIEVED PARTY MUST FILE THE ACTION FOR DAMAGES WITHIN THIRTY
27 DAYS AFTER THE DATE THE COMMISSION MAILES NOTICE OF THE ORDER

1 ISSUED PURSUANT TO SECTION 24-34-306 (9) AND SUBSECTION (2) OF THIS
2 SECTION. IF THE AGGRIEVED PARTY FAILS TO FILE AN ACTION FOR
3 DAMAGES WITHIN THIRTY DAYS AFTER THE DATE THE NOTICE OF THE
4 ORDER IS MAILED, THE ACTION IS BARRED, NO DISTRICT COURT HAS
5 JURISDICTION TO HEAR THE ACTION, AND THE COMMISSION'S ORDER
6 BECOMES FINAL AND IS SUBJECT TO JUDICIAL REVIEW PURSUANT TO
7 SECTION 24-34-307.

8 (III) (A) FOR COMPLAINTS FILED WITH THE STATE PERSONNEL
9 BOARD, IF AN ADMINISTRATIVE LAW JUDGE ISSUES THE INITIAL WRITTEN
10 DECISION ON BEHALF OF THE STATE PERSONNEL BOARD, THE AGGRIEVED
11 PARTY MAY NOT FILE A CIVIL ACTION UNTIL AFTER THE EXPIRATION OF THE
12 THIRTY-DAY PERIOD SPECIFIED IN SECTION 24-50-125.4 (4) FOR FILING AN
13 APPEAL. IF A PARTY DOES NOT FILE AN APPEAL OF THE ADMINISTRATIVE
14 LAW JUDGE'S INITIAL DECISION WITH THE STATE PERSONNEL BOARD IN
15 ACCORDANCE WITH SECTION 24-50-125.4 (4), THE AGGRIEVED PARTY
16 MUST FILE THE CIVIL ACTION FOR COMPENSATORY DAMAGES WITHIN
17 THIRTY DAYS AFTER THE EXPIRATION OF THE APPEAL PERIOD SPECIFIED IN
18 SECTION 24-50-125.4 (4). IF A PARTY FILES AN APPEAL WITH THE STATE
19 PERSONNEL BOARD IN ACCORDANCE WITH SECTION 24-50-125.4 (4), THE
20 AGGRIEVED PARTY MUST FILE THE CIVIL ACTION FOR COMPENSATORY
21 DAMAGES WITHIN THIRTY DAYS AFTER THE DATE THE STATE PERSONNEL
22 BOARD TRANSMITS THE NOTICE OF ITS DECISION ON THE APPEAL IN
23 ACCORDANCE WITH SECTION 24-50-125.4 (6).

24 (B) IF THE AGGRIEVED PARTY FAILS TO FILE AN ACTION FOR
25 COMPENSATORY DAMAGES WITHIN THIRTY DAYS AFTER THE APPEAL
26 PERIOD EXPIRES OR THE DATE THE STATE PERSONNEL BOARD'S NOTICE OF
27 DECISION IS TRANSMITTED, WHICHEVER IS APPLICABLE PURSUANT TO

1 SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III), THE ACTION FOR
2 COMPENSATORY DAMAGES IS BARRED, NO DISTRICT COURT HAS
3 JURISDICTION TO HEAR THE ACTION, AND THE STATE PERSONNEL BOARD'S
4 DECISION BECOMES FINAL AND IS SUBJECT TO JUDICIAL REVIEW PURSUANT
5 TO SECTIONS 24-50-125.4 (3) AND 24-4-106 (11).

6 (d) (I) IF THE AGGRIEVED PARTY INITIALLY FILED A COMPLAINT
7 WITH THE COMMISSION, THE AGGRIEVED PARTY AND THE DISTRICT COURT
8 SHALL SERVE A COPY OF THE CIVIL ACTION COMPLAINT ON THE
9 COMMISSION, AND UPON RECEIPT OF THE CIVIL ACTION COMPLAINT, THE
10 COMMISSION'S ORDER IS AUTOMATICALLY STAYED PENDING THE OUTCOME
11 OF THE CIVIL ACTION, IN WHICH CASE THE COMMISSION'S DECISION IS NOT
12 A FINAL ORDER SUBJECT TO JUDICIAL REVIEW PURSUANT TO SECTION
13 24-34-307 UNTIL THE DISTRICT COURT ISSUES A FINAL JUDGMENT IN THE
14 CIVIL ACTION FOR DAMAGES.

15 (II) IF THE AGGRIEVED PARTY IS AN APPLICANT FOR A POSITION IN
16 OR AN EMPLOYEE IN THE STATE PERSONNEL SYSTEM, THE AGGRIEVED
17 PARTY AND THE DISTRICT COURT SHALL SERVE A COPY OF THE CIVIL
18 ACTION COMPLAINT ON THE STATE PERSONNEL BOARD, AND UPON RECEIPT
19 OF THE COMPLAINT, THE STATE PERSONNEL BOARD'S DECISION IS
20 AUTOMATICALLY STAYED PENDING THE OUTCOME OF THE CIVIL ACTION,
21 IN WHICH CASE THE STATE PERSONNEL BOARD'S DECISION IS NOT A FINAL
22 ORDER SUBJECT TO JUDICIAL REVIEW PURSUANT TO SECTIONS 24-50-125.4
23 (3) AND 24-4-106 (11) UNTIL THE DISTRICT COURT ISSUES A FINAL
24 JUDGMENT IN THE CIVIL ACTION FOR COMPENSATORY DAMAGES.

25 (e) (I) IN A CIVIL ACTION BROUGHT PURSUANT TO THIS SUBSECTION
26 (8) FOR DAMAGES AFTER THE COMMISSION OR STATE PERSONNEL BOARD
27 MAKES A FINDING OF AN INTENTIONAL DISCRIMINATORY OR UNFAIR

1 EMPLOYMENT PRACTICE, THE DISTRICT COURT SHALL CONSIDER THE ISSUE
2 OF WHETHER THE AGGRIEVED PARTY IS ENTITLED TO DAMAGES AND THE
3 AMOUNT OF DAMAGES, IF AWARDED.

4 (II) THE DISTRICT COURT MAY AWARD ATTORNEY FEES AND COSTS
5 IN CONNECTION WITH THE ACTION FOR DAMAGES CONSISTENT WITH
6 SUBSECTION (5) OF THIS SECTION.

7 (III) THE DISTRICT COURT SHALL EXPEDITE THE ACTION FOR
8 DAMAGES AND SET THE MATTER FOR TRIAL AT THE EARLIEST PRACTICAL
9 TIME.

10 (f) UPON ENTERING A FINAL JUDGMENT IN A CIVIL ACTION
11 BROUGHT PURSUANT TO THIS SUBSECTION (8), THE DISTRICT COURT SHALL
12 SERVE NOTICE OF THE JUDGMENT ON THE PARTIES AND THE COMMISSION
13 OR STATE PERSONNEL BOARD, AS APPROPRIATE. ONCE THE COMMISSION OR
14 STATE PERSONNEL BOARD RECEIVES A FINAL JUDGMENT FROM THE
15 DISTRICT COURT, THE COMMISSION OR STATE PERSONNEL BOARD SHALL
16 INCORPORATE THE DISTRICT COURT JUDGMENT IN ITS ORDER OR DECISION,
17 WHICH BECOMES A FINAL ORDER SUBJECT TO JUDICIAL REVIEW IN
18 ACCORDANCE WITH SECTION 24-34-307 OR SECTIONS 24-50-125.4 (3) AND
19 24-4-106 (11), AS APPLICABLE.

20 (g) A CLAIM FILED PURSUANT TO THIS SUBSECTION (8) BY AN
21 AGGRIEVED PARTY AGAINST THE STATE FOR COMPENSATORY DAMAGES
22 FOR AN INTENTIONAL UNFAIR OR DISCRIMINATORY EMPLOYMENT PRACTICE
23 IS NOT SUBJECT TO THE "COLORADO GOVERNMENTAL IMMUNITY ACT",
24 ARTICLE 10 OF THIS TITLE.

25 **SECTION 2.** In Colorado Revised Statutes, 24-30-1510, **amend**
26 (3) (a) as follows:

27 **24-30-1510. Risk management fund - creation - authorized**

1 **and unauthorized payments.** (3) Expenditures shall be made out of the
2 risk management fund in accordance with subsection (1) of this section
3 only for the following purposes:

4 (a) To pay liability claims and expenses related thereto, brought
5 against the state, its officials, or its employees pursuant to the "Colorado
6 Governmental Immunity Act", article 10 of this title; ~~and~~ claims against
7 the state, its officials, or its employees arising under federal law, which
8 the state is legally obligated to pay and which are compromised or settled
9 pursuant to section 24-30-1515 or in which a final money judgment
10 against the state has been entered; OR CLAIMS FOR COMPENSATORY
11 DAMAGES AGAINST THE STATE, ITS OFFICIALS, OR ITS EMPLOYEES
12 PURSUANT TO SECTION 24-34-405;

13 **SECTION 3.** In Colorado Revised Statutes, 24-34-301, **amend**
14 (1) as follows:

15 **24-34-301. Definitions.** As used in parts 3 to 7 of this article,
16 unless the context otherwise requires:

17 (1) "Age" means a chronological age of at least forty years. ~~but~~
18 ~~less than seventy years.~~

19 **SECTION 4.** In Colorado Revised Statutes, 24-34-305, **amend**
20 (1) (c) as follows:

21 **24-34-305. Powers and duties of commission.** (1) The
22 commission has the following powers and duties:

23 (c) (I) To investigate and study the existence, character, causes,
24 and extent of unfair or discriminatory practices as defined in parts 4 to 7
25 of this article and to formulate plans for the elimination ~~thereof~~ OF THOSE
26 PRACTICES by educational or other means.

27 (II) (A) IN FURTHERANCE OF ITS EDUCATIONAL EFFORTS TO

1 REDUCE INSTANCES OF DISCRIMINATORY OR UNFAIR EMPLOYMENT
2 PRACTICES, THE COMMISSION SHALL CREATE A VOLUNTEER WORKING
3 GROUP REPRESENTING BOTH EMPLOYER AND EMPLOYEE INTERESTS,
4 INCLUDING HUMAN RESOURCE PROFESSIONALS, TO ASSIST IN EDUCATION
5 AND OUTREACH EFFORTS TO FOSTER UNDERSTANDING OF AND
6 COMPLIANCE WITH PART 4 OF THIS ARTICLE. THE COMMISSION MAY
7 ACCEPT AND EXPEND GIFTS, GRANTS, AND DONATIONS TO ASSIST IN ITS
8 DUTIES PURSUANT TO THIS SUBPARAGRAPH (II).

9 (B) THE COMMISSION SHALL CREATE THE VOLUNTEER WORKING
10 GROUP BY SEPTEMBER 1, 2013. THE WORKING GROUP SHALL DEVELOP AND
11 SUBMIT TO THE COMMISSION, BY JANUARY 1, 2014, AN EDUCATION AND
12 OUTREACH PLAN FOR THE COMMISSION TO IMPLEMENT FOR PURPOSES OF
13 EDUCATING EMPLOYERS AND PROVIDING OUTREACH REGARDING PART 4
14 OF THE ARTICLE.

15 (C) IN ADDITION TO THE OUTREACH PLAN REQUIRED BY
16 SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II), THE WORKING
17 GROUP SHALL COMPILE AND PROVIDE TO THE COMMISSION INFORMATION
18 ON EDUCATIONAL RESOURCES AVAILABLE TO EMPLOYERS REGARDING THE
19 REQUIREMENTS OF AND COMPLIANCE WITH PART 4 OF THIS ARTICLE,
20 INCLUDING RESOURCES FOR EMPLOYERS ON PREVENTION OF
21 DISCRIMINATORY EMPLOYMENT PRACTICES. THE COMMISSION SHALL POST
22 THE INFORMATION ON ITS WEB SITE AND SHALL MAKE THE INFORMATION
23 AVAILABLE IN AN ELECTRONIC FORMAT TO ALL STATE DEPARTMENTS AND
24 AGENCIES THAT INTERACT WITH PRIVATE BUSINESSES IN THE STATE,
25 INCLUDING THE DEPARTMENTS OF LABOR AND EMPLOYMENT,
26 REGULATORY AGENCIES, REVENUE, AND STATE AND THE GOVERNOR'S
27 OFFICE OF ECONOMIC DEVELOPMENT. THOSE DEPARTMENTS AND

1 AGENCIES, WITHIN EXISTING RESOURCES, SHALL POST THE INFORMATION
2 PROVIDED BY THE COMMISSION, OR LINKS TO THAT INFORMATION, ON
3 THEIR WEB SITES.

4 **SECTION 5. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
6 the expiration of the ninety-day period after final adjournment of the
7 general assembly; except that, if a referendum petition is filed pursuant
8 to section 1 (3) of article V of the state constitution against this act or an
9 item, section, or part of this act within such period, then the act, item,
10 section, or part will not take effect unless approved by the people at the
11 general election to be held in November 2014 and, in such case, will take
12 effect on the date of the official declaration of the vote thereon by the
13 governor.

14 (2) This act applies to causes of action alleging discriminatory or
15 unfair employment practices accruing on or after January 1, 2015.