

HB1256_L.005

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

HB18-1256 be amended as follows:

1 Amend reengrossed bill, page 2, after line 21 insert:

2 "SECTION 3. In Colorado Revised Statutes, 24-34-306, amend
3 (4), (11), (14), and (15) as follows:

4 **24-34-306. Charge - complaint - hearing - procedure -**
5 **exhaustion of administrative remedies - option to choose**
6 **administrative or district court proceeding.** (4) (a) (I) When the
7 director is satisfied that further efforts to settle the matter by conference,
8 conciliation, and persuasion will be futile, ~~he~~ THE DIRECTOR shall so
9 report THAT AND REFER THE MATTER to the commission. UPON RECEIPT
10 OF THE MATTER, THE COMMISSION SHALL NOTIFY BOTH PARTIES OF THEIR
11 RIGHT TO CHOOSE TO CONTINUE WITH AN ADMINISTRATIVE PROCEEDING
12 BEFORE THE COMMISSION OR ADMINISTRATIVE LAW JUDGE OR TO PURSUE
13 THE MATTER IN THE APPROPRIATE DISTRICT COURT. THE NOTICE MUST
14 SPECIFY THAT:

15 (A) IF THE MATTER REMAINS IN THE COMMISSION'S JURISDICTION,
16 NEITHER PARTY MAY FILE A CLAIM IN DISTRICT COURT AND THE
17 COMMISSION RETAINS JURISDICTION OF THE MATTER UNTIL FINAL
18 RESOLUTION OF THE MATTER; AND

19 (B) IF EITHER PARTY OPTS TO PURSUE THE MATTER IN DISTRICT
20 COURT, THE COMMISSION'S JURISDICTION OVER THE MATTER CEASES, AND
21 ALL REMEDIES THAT MAY BE GRANTED BY THE COMMISSION ARE
22 AVAILABLE IN THE DISTRICT COURT PROCEEDING TO EITHER PARTY.

23 (II) THE PARTIES SHALL NOTIFY THE COMMISSION OF THEIR
24 SELECTION WITHIN TWENTY-ONE DAYS AFTER RECEIVING THE NOTICE
25 FROM THE COMMISSION. IF BOTH PARTIES CHOOSE TO CONTINUE WITH AN
26 ADMINISTRATIVE PROCEEDING, OR IF THE PARTIES DO NOT TIMELY
27 RESPOND, THE MATTER SHALL REMAIN IN THE COMMISSION'S JURISDICTION,
28 AND NEITHER PARTY MAY FILE THE MATTER IN DISTRICT COURT. IF EITHER
29 PARTY NOTIFIES THE COMMISSION THAT THE PARTY OPTS TO PURSUE THE
30 MATTER IN DISTRICT COURT, THE COMMISSION SHALL STAY THE MATTER
31 AND FILE THE MATTER IN THE APPROPRIATE DISTRICT COURT WITHIN
32 THIRTY DAYS AFTER RECEIPT OF THE NOTICE FROM EITHER PARTY.

33 (b) If the commission RETAINS JURISDICTION OF THE MATTER AND
34 determines that the circumstances warrant, ~~it~~ THE COMMISSION shall issue
35 and cause to be served, in the manner provided by section 24-4-105 (2),
36 a written notice and complaint requiring the respondent to answer the
37 charges at a formal hearing before the commission, a commissioner, or an
38 administrative law judge. ~~Such~~ THE hearing shall be commenced within
39 one hundred twenty days after the service of ~~such~~ THE written notice and
40 complaint. ~~Such~~ THE notice and complaint shall state the time, place, and

1 nature of the hearing, the legal authority and jurisdiction under which it
2 is to be held, and the matters of fact and law asserted.

3 (11) IF THE MATTER REMAINS IN THE JURISDICTION OF THE
4 COMMISSION PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, AND if
5 written notice that a formal hearing will be held is not served within two
6 hundred seventy days after the filing of the charge, ~~if the complainant has~~
7 ~~requested and received a notice of right to sue pursuant to subsection (15)~~
8 ~~of this section~~; or if the hearing is not commenced within the
9 one-hundred-twenty-day period prescribed by subsection ~~(4)~~ (4)(b) of this
10 section, the jurisdiction of the commission over the complaint shall cease
11 CEASES, and the complainant may seek the relief authorized under this
12 part 3 and parts 4 to 7 of this article 34 against the respondent by filing a
13 civil action in the district court for the district in which the alleged
14 discriminatory or unfair practice occurred. ~~Such~~ THE COMPLAINANT MUST
15 FILE THE action ~~must be filed~~ within ninety days ~~of~~ AFTER the date upon
16 which the jurisdiction of the commission ceased, and if ~~not so filed~~, it
17 ~~shall be~~ THE COMPLAINANT FAILS TO TIMELY FILE THE ACTION IN THE
18 APPROPRIATE DISTRICT COURT, THE COMPLAINANT IS barred FROM FILING
19 THE ACTION IN THE COURT, and the district court shall DOES NOT have no
20 jurisdiction to hear ~~such~~ THE action. If any party requests the extension of
21 any time period prescribed by this subsection (11), ~~such~~ THE COMMISSION,
22 A COMMISSIONER, OR THE ADMINISTRATIVE LAW JUDGE, AS THE CASE MAY
23 BE, MAY GRANT THE extension ~~may be granted~~ for good cause, ~~by the~~
24 ~~commission, a commissioner, or the administrative law judge, as the case~~
25 ~~may be~~; but the total period of all such extensions to either the respondent
26 or the complainant shall MUST not exceed ninety days each, and, in the
27 case of multiple parties, the total period of all extensions shall MUST not
28 exceed one hundred eighty days.

29 (14) ~~No~~ A person may NOT file a civil action in a district court in
30 this state based on an alleged discriminatory or unfair practice prohibited
31 by parts 4 to 7 of this article 34 without first exhausting the proceedings
32 and remedies available to him OR HER under this part 3 unless:

33 (a) ~~he~~ THE PERSON shows, in an action filed in the appropriate
34 district court, by clear and convincing evidence, THAT his OR HER ill
35 health ~~which~~ is of such a nature that pursuing administrative remedies
36 would not provide timely and reasonable relief and would cause
37 irreparable harm; OR

38 (b) THE PERSON HAS OPTED TO PURSUE THE MATTER IN DISTRICT
39 COURT IN ACCORDANCE WITH SUBSECTION (4)(a) OF THIS SECTION.

40 (15) The charging party in any action may request the division to
41 issue a written notice of right to sue at any time DURING THE
42 INVESTIGATION AND prior to REFERRAL OF THE MATTER BY THE DIVISION
43 TO THE COMMISSIONER PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION

1 OR TO service of a notice and complaint pursuant to subsection ~~(4)~~ (4)(b)
2 of this section. The charging party shall make the request for notice of
3 right to sue in writing. The division shall promptly grant a claimant's
4 request for notice of right to sue made after the expiration of one hundred
5 eighty days following the filing of the charge IF THE MATTER HAS NOT
6 BEEN REFERRED TO THE COMMISSION PURSUANT TO SUBSECTION (4)(a) OF
7 THIS SECTION. If a claimant makes a request for a notice of right to sue
8 prior to the expiration of one hundred eighty days following the filing of
9 the charge, the division shall grant the request upon a determination that
10 the investigation of the charge will not be completed within one hundred
11 eighty days following the filing of the charge. A notice of right to sue
12 shall constitute final agency action and exhaustion of administrative
13 remedies and proceedings pursuant to this part 3.

14 SECTION 4. In Colorado Revised Statutes, 24-34-602, amend
15 (1)(a) as follows:

16 24-34-602. **Penalty and civil liability.** (1) (a) (I) Any person who
17 violates section 24-34-601 shall be fined: ~~not less than fifty dollars nor~~
18 ~~more than five hundred dollars for each violation~~

19 (A) UP TO FIVE THOUSAND DOLLARS FOR THE FIRST VIOLATION;

20 (B) UP TO TEN THOUSAND DOLLARS FOR THE SECOND VIOLATION;

21 AND

22 (C) UP TO TWENTY-FIVE THOUSAND DOLLARS FOR THE THIRD OR
23 ANY SUBSEQUENT VIOLATION.

24 (II) A person aggrieved by the violation of section 24-34-601 shall
25 bring an action in any court of competent jurisdiction in the county where
26 the violation occurred. Upon finding a violation, the court shall order the
27 defendant to pay the fine to the aggrieved party."

28 Renumber succeeding sections accordingly.

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