

● **FAIR PAY FOR WOMEN ACT**

*STATUTORY CITATION:* N.M. Stat. §§ 28-23-1 – 28-23-6

*GENERAL SUMMARY:* Virtually all New Mexico employers who have 4 or more employees are prohibited from discriminating between employees on the basis of sex, by paying wages to employees at a rate less than the rate the employer pays to employees of the opposite sex in the same establishment for equal work, on jobs requiring equal skill, effort and responsibility and that are performed under similar working conditions. The only exceptions are where payment is made pursuant to a seniority system, a merit system, or a system that measures earnings by quantity or quality of production.

*PROVISIONS APPLICABLE TO AGRICULTURE:* The Fair Pay for Women Act applies to agricultural employers, and protects agricultural workers, to the same extent as their non-agricultural counterparts.

*SPECIAL NOTES OR ADVISORIES*

**CORRECTIVE ACTION** — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

**RETALIATION** — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

*ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** — A worker aggrieved by an alleged violation of this law may take action against the employer involved in civil court, using a private attorney or public legal service provider. A complaint in civil court must be brought no later than 2 years from the last date of the worker's employment. An employer found to have violated the Act is liable for actual and punitive damages up to *three times* the amount of unpaid wages involved, plus court costs and attorney's fees; recovery of unpaid wages is limited to 6 years prior to the date of the last violation of the Act. In addition, the court may also order that the complainant be hired, reinstated or promoted, depending on the circumstances of the case.

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** — In lieu of filing suit in court, an aggrieved employee may file a discrimination claim with the state agency responsible for enforcing the Human Rights Act (*see previous entry*).

**PRIVATE CIVIL ACTION** — As noted above, the Fair Pay for Women Act may be enforced through the state court system.