

BILL ANALYSIS

H.B. 2122
By: Naishtat
Economic Development
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Title VII of the Civil Rights Act of 1964 outlaws discrimination in employment on the basis of race, national origin, sex, or religion. The Texas Commission on Human Rights Act (TCHRA), TEXAS LABOR CODE §21.001, is intended to execute the policies of the federal statute.

However, the TCHRA anti-retaliation provision is drafted in such a way that there is no protection for an employee engaged in protected activity related to a co-worker's complaint of discrimination or retaliation unless the employee's participation is in an investigation, proceeding or hearing. This would mean that an employee who, for example, accompanies a co-worker to complain about sexual harassment or another discriminatory act could be terminated without recourse since the participation would be prior to the investigation, proceeding, or hearing. This bill is intended to ensure that the TCHRA mirrors federal law.

Additionally, the TCHRA was drafted to mirror the federal statute, Title VII. As such, the anti-retaliation provision should be construed in the same manner as Title VII. Currently, one of the TCHRA's provisions grammatically contains the same meaning as Title VII, but uses different wording.

The proposed change will make the anti-retaliation provision of the TCHRA nearly identical to the relevant language in Title VII and therefore affirms the conformity of the TCHRA anti-retaliation provision with Title VII's anti-retaliation provision.

RULEMAKING AUTHORITY

It is the author's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 21.055, Labor Code, to read as follows:

Section 21.055. RETALIATION. Makes a non-substantive change by substituting in the language "because that person" to affirm the past and current uniformity with Title VII.

21.055(4) Extends protection to those who participate in any manner in opposing a discriminatory practice.

SECTION 2. Provides that the change in law applies only to claims filed after the effective date of the act.

SECTION 3. Provides the effective date of this Act.

EFFECTIVE DATE

This Act takes effect immediately, if this Act does not receive the necessary vote, this Act takes effect on September 1, 2005.

