

By: Rodriguez

H.B. No. 1526

A BILL TO BE ENTITLED

AN ACT

relating to the prohibition of employment discrimination by state agencies on the basis of sexual orientation or gender identity.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 2, Labor Code, is amended by adding Chapter 24 to read as follows:

CHAPTER 24. EMPLOYMENT DISCRIMINATION BY STATE AGENCIES  
BASED ON SEXUAL ORIENTATION OR GENDER IDENTITY PROHIBITED

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 24.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Workforce Commission.

(2) "Division" means the Texas Workforce Commission civil rights division.

(3) "Gender identity" means the actual or perceived gender of an individual.

(4) "Sexual orientation" means the actual or perceived status of an individual with respect to the individual's sexuality.

(5) "State agency" means:

(A) a board, commission, department, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including an institution of higher education as defined by Section 61.003, Education Code;

1           (B) the legislature or a legislative agency; or

2           (C) the supreme court, the court of criminal  
3 appeals, a court of appeals, or a state judicial agency.

4           Sec. 24.002. RULES. The commission may adopt rules as  
5 necessary to implement this chapter.

6           Sec. 24.003. NOTICES. Each state agency shall post, in the  
7 form and manner prescribed by commission rule, notices to inform  
8 employees, applicants for employment, and members of the governing  
9 body of the agency of the applicable provisions of this chapter.

10           Sec. 24.004. EFFECT ON OTHER LAW. This chapter does not  
11 limit or affect the rights, remedies, or procedures available to an  
12 individual who claims discrimination prohibited under federal law,  
13 another state law, or an order or ordinance of a political  
14 subdivision of this state.

15           Sec. 24.005. NO DISPARATE IMPACT. The fact that a  
16 particular employment practice has a disparate impact, as that term  
17 is used under Section 703(k), Civil Rights Act of 1964 (42 U.S.C.  
18 Section 2000e-2(k)), on the basis of sexual orientation or gender  
19 identity does not establish a prima facie violation of this  
20 chapter.

21           [Sections 24.006-24.020 reserved for expansion]

22           SUBCHAPTER B. UNLAWFUL EMPLOYMENT PRACTICES

23           Sec. 24.021. DISCRIMINATION PROHIBITED. A state agency may  
24 not:

25           (1) subject an employee or applicant for employment to  
26 different standards or treatment on the basis of sexual orientation  
27 or gender identity;

1           (2) discriminate against an employee or applicant for  
2 employment based on the sexual orientation or gender identity of  
3 persons with whom the employee or applicant for employment is  
4 believed to associate or to have associated; or

5           (3) otherwise discriminate against an employee or  
6 applicant for employment on the basis of sexual orientation or  
7 gender identity.

8           Sec. 24.022. RETALIATION AND COERCION PROHIBITED. (a) A  
9 state agency may not discriminate against an employee or applicant  
10 for employment because the individual:

11           (1) opposes any act or practice prohibited by this  
12 chapter;

13           (2) makes or files a charge; or

14           (3) assists, testifies, or participates in any manner  
15 in an investigation, proceeding, or hearing conducted under this  
16 chapter.

17           (b) A state agency may not coerce, intimidate, threaten, or  
18 interfere with an employee or applicant for employment in the  
19 exercise or enjoyment of, or because the employee or applicant for  
20 employment has exercised, enjoyed, assisted, or encouraged the  
21 exercise or enjoyment of, a right granted or protected by this  
22 chapter.

23           Sec. 24.023. PROHIBITION OF QUOTAS AND PREFERENTIAL  
24 TREATMENT. A state agency may not:

25           (1) adopt or implement a quota on the basis of sexual  
26 orientation or gender identity; or

27           (2) give preferential treatment to an employee or

1 applicant for employment on the basis of sexual orientation or  
2 gender identity.

3 [Sections 24.024-24.040 reserved for expansion]

4 SUBCHAPTER C. APPLICATION; EXCEPTIONS

5 Sec. 24.041. LIABILITY OF STATE. (a) The state is liable  
6 for a violation of this chapter.

7 (b) Sovereign immunity is waived and abolished to the extent  
8 of liability created by this chapter.

9 Sec. 24.042. APPLICATION TO CERTAIN BENEFITS. This chapter  
10 does not apply to the provision of employee benefits to an employee  
11 for the benefit of the employee's partner.

12 Sec. 24.043. VETERANS' PREFERENCE. This chapter does not  
13 repeal or modify a state law that creates a special right or  
14 preference in employment for a veteran of the armed forces of the  
15 United States.

16 [Sections 24.044-24.060 reserved for expansion]

17 SUBCHAPTER D. ENFORCEMENT

18 Sec. 24.061. DIVISION AUTHORITY; ENFORCEMENT; PROCEDURES.  
19 (a) The division has the same authority to administer and enforce  
20 this chapter as it exercises under Chapter 21.

21 (b) The procedures and remedies applicable to a claim for a  
22 violation of this chapter are the procedures and remedies  
23 applicable to a claim brought under Chapter 21.

24 Sec. 24.062. ATTORNEY'S FEES. A prevailing party to an  
25 action brought under this chapter is entitled to attorney's fees in  
26 the manner provided by Section 21.259.

27 SECTION 2. This Act applies to conduct of a state agency, as

1 that term is defined by Chapter 24, Labor Code, as added by this  
2 Act, occurring on or after the effective date of this Act. Conduct  
3 occurring before that date is governed by the law in effect on the  
4 date the claim was filed, and the former law is continued in effect  
5 for that purpose.

6 SECTION 3. This Act takes effect September 1, 2005.