

By: Rodriguez

H.B. No. 2782

A BILL TO BE ENTITLED

AN ACT

relating to requirements regarding termination of employment.

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

SECTION 1. Title 3, Labor Code, is amended by adding Chapter 104 to read as follows:

CHAPTER 104. TERMINATION OF EMPLOYMENT

Sec. 104.001. DEFINITIONS. In this chapter:

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

(2) "Employee" means an individual, other than an independent contractor, who is employed for compensation.

(3) "Employer" means a person who employs one or more employees.

Sec. 104.002. APPLICABILITY OF CHAPTER. (a) This chapter applies to all employers, including this state and a political subdivision of this state.

(b) This chapter does not apply to an individual employed:

(1) under a written contract for a specific term; or

(2) in a position of employment subject to a collective bargaining agreement.

Sec. 104.003. EMPLOYMENT POLICY REQUIRED. (a) Each employer subject to this chapter shall adopt a written employment policy consistent with this section for the employer's employees.

(b) The employment policy must:

1 (1) provide for a probationary period of employment
2 for new employees not to exceed one year from the date of hire;

3 (2) provide for a written evaluation, not less than
4 annually, of the performance of each employee;

5 (3) specify the grounds on which the employment of a
6 nonprobationary employee may be terminated; and

7 (4) specify the required procedure for termination of
8 the employment of a nonprobationary employee.

9 (c) This chapter does not limit any right otherwise granted
10 to an employee under a policy adopted by the employee's employer.

11 Sec. 104.004. TERMINATION REQUIREMENTS. (a) An employer
12 who proposes to terminate the employment of a nonprobationary
13 employee must present the employee with written notice that
14 includes a statement of the grounds for the proposed termination
15 and any other material facts related to the proposed termination.

16 (b) The employer must review the grounds for the proposed
17 termination and any other material facts related to the proposed
18 termination with the affected employee and, on timely written
19 request of the employee, must conduct a termination review
20 proceeding that allows the employee to respond to the proposed
21 termination orally and in writing.

22 Sec. 104.005. NOTICE. (a) Each employer shall notify its
23 employees of the their rights under this chapter by posting an
24 appropriately worded sign in a prominent place in the employer's
25 workplace.

26 (b) The commission shall prescribe the design and content of
27 the sign required under Subsection (a).

1 Sec. 104.006. RULES. The commission may adopt rules as
2 necessary to implement this chapter.

3 Sec. 104.007. REMEDIES. An employee whose employment is
4 terminated in violation of this chapter may bring a cause of action
5 against the employer for:

6 (1) reinstatement in the same position of employment
7 or to an equivalent position of employment with commensurate pay;

8 (2) actual damages, including compensation for lost
9 wages and employer-provided benefits;

10 (3) court costs; and

11 (4) reasonable attorney's fees.

12 SECTION 2. The change in law made by this Act applies only
13 to a cause of action that accrues on or after the effective date of
14 this Act. A cause of action that accrues before that date is
15 governed by the law as it existed immediately before the effective
16 date of this Act, and that law is continued in effect for that
17 purpose.

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