

BILL ANALYSIS

H.B. 2463
By: Reynolds
Economic & Small Business Development
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties note that the Texas Workforce Commission (TWC) may adopt rules regarding the confidentiality of the TWC civil rights division files and that the contract between the TWC and the U.S. Equal Employment Opportunity Commission (EEOC) also includes confidentiality requirements. However, observers point out that the attorney general has issued opinions requiring the TWC to release certain information, such as social security numbers, home addresses, and personal financial information and, the observers note, removing the protection of confidentiality at the state level for records associated with an investigation of an alleged violation and making such records subject to disclosure. The interested parties contend that legislation is needed to ensure the TWC's alignment with federal contract requirements regarding the protection and confidentiality of records that are applicable to EEOC adjudications and to protect workers' rights in that regard by exempting from public disclosure records collected, developed, or maintained by the commission when the commission is acting in accordance with the EEOC's contract as a fair employment practices agency. H.B. 2463 seeks to address that issue by changing statutes relating to access to certain records regarding an employment discrimination claim.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 2 of this bill.

ANALYSIS

H.B. 2463 amends the Labor Code, in a provision requiring the Texas Workforce Commission (TWC) to adopt rules allowing a party to a complaint alleging an unlawful employment practice reasonable access to the TWC records relating to that complaint, to specify that the requirement applies to the adoption of such rules to the extent that the access complies with federal law and the United States Equal Employment Opportunity Commission's regulations, policies, and work-sharing agreement with the TWC regarding access to confidential records and complaint and investigation files. The bill authorizes the TWC to provide access to records and reports relating to unlawful employment practices only if the access is permitted under the federal Privacy Act of 1974 and the United States Equal Employment Opportunity Commission's regulations, policies, and procedures. The bill specifies that all records and information collected, received, maintained, or otherwise developed by the TWC in investigating or resolving a complaint filed with or transferred to the TWC are not public information under state open records law.

EFFECTIVE DATE

September 1, 2011.