

By: Lucio III

H.B. No. 3929

A BILL TO BE ENTITLED

AN ACT

relating to the employment of certain persons with disabilities.

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

SECTION 1. Subtitle A, Title 6, Government Code, is amended by adding Chapter 621 to read as follows:

CHAPTER 621. EMPLOYMENT PREFERENCE FOR CERTAIN INDIVIDUALS WITH
DISABILITIES

Sec. 621.0001. DEFINITIONS. In this chapter:

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

(2) "Disability" means a mental or physical impairment, including blindness, that impedes an individual who is seeking, entering, or maintaining gainful employment.

(3) "Medicaid" means the medical assistance program established under Chapter 32, Human Resources Code.

(4) "Political subdivision" means a county, municipality, or school district.

(5) "Section 1915(c) Medicaid waiver program" means a federally funded program of the state under Medicaid that is authorized under Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n(c)).

(6) "State agency" means a board, council, committee, department, office, agency, or other governmental entity in the executive, legislative, or judicial branch of state government,

1 including an institution of higher education as defined by Section
2 61.003, Education Code.

3 (7) "Supported employment" means assistance provided
4 to an individual who, because of a disability, requires intensive,
5 ongoing support to be self-employed, work from home, or perform in a
6 work setting at which individuals without disabilities are employed
7 in order for the individual with a disability to sustain paid
8 employment. Supported employment includes adaptations,
9 supervision, and training related to an individual's disability.

10 Sec. 621.0002. INDIVIDUALS WITH DISABILITIES QUALIFIED FOR
11 EMPLOYMENT PREFERENCE. An individual with a disability qualifies
12 for an employment preference under this chapter if the individual
13 is eligible to receive supported employment services from the
14 commission or through a Section 1915(c) Medicaid waiver program.

15 Sec. 621.0003. EMPLOYMENT PREFERENCE FOR CERTAIN
16 INDIVIDUALS WITH DISABILITIES. An individual with a disability who
17 qualifies for an employment preference under Section 621.0002 is
18 entitled to a preference in employment with a state agency or
19 political subdivision over other applicants for the same position
20 who do not have a greater qualification.

21 Sec. 621.0004. DESIGNATION OF OPEN POSITION FOR AND
22 IMMEDIATE HIRING OF INDIVIDUAL WITH A DISABILITY ENTITLED TO
23 EMPLOYMENT PREFERENCE. (a) A state agency or political
24 subdivision may designate an open position for employment as a
25 vocational rehabilitation services position and only accept
26 applications for that position from individuals who are entitled to
27 an employment preference under Section 621.0003.

1 (b) Notwithstanding any other law, a state agency or
2 political subdivision may hire for an open position within the
3 state agency or political subdivision an individual who is entitled
4 to an employment preference under Section 621.0003 without
5 announcing or advertising the position if:

6 (1) the position meets the requirements for
7 competitive integrated employment under 34 C.F.R. Section
8 361.5(c)(9);

9 (2) the state agency or political subdivision receives
10 written verification from the commission or the Health and Human
11 Services Commission that the individual is eligible to receive
12 supported employment services; and

13 (3) the state agency or political subdivision
14 determines the individual meets the qualifications for the
15 position.

16 (c) An individual who is entitled to an employment
17 preference under Section 621.0003 and is otherwise eligible for
18 employment is considered to meet the qualification of having a high
19 school diploma if the individual meets the criteria specified by
20 Section 39.053(g-2), Education Code, and the individual's school or
21 school district provides written verification that the individual
22 meets those criteria.

23 Sec. 621.0005. COMPLAINT REGARDING EMPLOYMENT DECISION OF
24 STATE AGENCY OR POLITICAL SUBDIVISION. (a) An individual entitled
25 to an employment preference under this chapter who is aggrieved by a
26 decision of a state agency or political subdivision relating to
27 hiring the individual, or relating to retaining the individual if

1 the state agency or political subdivision reduces its workforce,
2 may appeal the decision by filing a written complaint with the
3 administrative head of the state agency or the governing body of the
4 political subdivision.

5 (b) The administrative head of a state agency or the
6 governing body of a political subdivision that receives a written
7 complaint under Subsection (a) shall respond to the complaint not
8 later than the 15th business day after the date the administrative
9 head or governing body receives the complaint. The administrative
10 head or governing body may render a different hiring or retention
11 decision than the decision that is the subject of the complaint if
12 the administrative head or governing body determines that the
13 employment preference under this chapter was not applied.

14 SECTION 2. Chapter 621, Government Code, as added by this
15 Act, applies only to an open position with a state agency or
16 political subdivision for which the state agency or political
17 subdivision begins accepting applications on or after the effective
18 date of this Act. An open position with a state agency or political
19 subdivision for which the state agency or political subdivision
20 begins accepting applications before the effective date of this Act
21 is governed by the law in effect on the date the state agency or
22 political subdivision began accepting applications, and the former
23 law is continued in effect for that purpose.

24 SECTION 3. This Act takes effect September 1, 2017.