

By: Lucio

S.B. No. 472

A BILL TO BE ENTITLED

AN ACT

relating to the prohibition of employment discrimination regarding military service members and military veterans.

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

SECTION 1. Section 21.002, Labor Code, is amended by adding Subdivisions (11-b) and (11-c) to read as follows:

(11-b) "Military service member" means a person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(11-c) "Military veteran" means a person who:

(A) has served in:

(i) the armed forces of the United States or the United States Public Health Service under 42 U.S.C. Section 201 et seq.;

(ii) the state military forces, as defined by Section 431.001, Government Code; or

(iii) an auxiliary service of a branch of the armed forces described by Subparagraph (i) or (ii); and

(B) has been honorably discharged from the branch of the service in which the person served.

SECTION 2. Section 21.005, Labor Code, is amended by adding Subsection (d) to read as follows:

1 (d) A provision in this chapter prohibiting discrimination
2 on the basis of an individual's status as a military service member
3 or military veteran does not affect the operation or enforcement of
4 a program under the laws of this state or the United States that is
5 designed to give a preference to a military service member or
6 military veteran in recognition of the service member's or
7 veteran's service to this state or the United States, including a
8 preference authorized under Section 302.154 or under Chapter 657,
9 Government Code.

10 SECTION 3. Section 21.051, Labor Code, is amended to read as
11 follows:

12 Sec. 21.051. DISCRIMINATION BY EMPLOYER. An employer
13 commits an unlawful employment practice if because of race, color,
14 disability, religion, sex, national origin, or age, or because of
15 the individual's status as a military service member or military
16 veteran, the employer:

17 (1) fails or refuses to hire an individual, discharges
18 an individual, or discriminates in any other manner against an
19 individual in connection with compensation or the terms,
20 conditions, or privileges of employment; or

21 (2) limits, segregates, or classifies an employee or
22 applicant for employment in a manner that would deprive or tend to
23 deprive an individual of any employment opportunity or adversely
24 affect in any other manner the status of an employee.

25 SECTION 4. Section 21.052, Labor Code, is amended to read as
26 follows:

27 Sec. 21.052. DISCRIMINATION BY EMPLOYMENT AGENCY. An

employment agency commits an unlawful employment practice if the employment agency:

(1) fails or refuses to refer for employment or discriminates in any other manner against an individual because of race, color, disability, religion, sex, national origin, or age, or because of the individual's status as a military service member or military veteran; or

(2) classifies or refers an individual for employment on the basis of race, color, disability, religion, sex, national origin, or age, or because of the individual's status as a military service member or military veteran.

SECTION 5. Section 21.053, Labor Code, is amended to read as follows:

Sec. 21.053. DISCRIMINATION BY LABOR ORGANIZATION. A labor organization commits an unlawful employment practice if because of race, color, disability, religion, sex, national origin, or age, or because of the individual's status as a military service member or military veteran, the labor organization:

(1) excludes or expels from membership or discriminates in any other manner against an individual; or

(2) limits, segregates, or classifies a member or an applicant for membership or classifies or fails or refuses to refer for employment an individual in a manner that would:

(A) deprive or tend to deprive an individual of any employment opportunity;

(B) limit an employment opportunity or adversely affect in any other manner the status of an employee or of an

1 applicant for employment; or

2 (C) cause or attempt to cause an employer to
3 violate this subchapter.

4 SECTION 6. Section 21.054(a), Labor Code, is amended to
5 read as follows:

6 (a) Unless a training or retraining opportunity or program
7 is provided under an affirmative action plan approved under a
8 federal law, rule, or order, an employer, labor organization, or
9 joint labor-management committee controlling an apprenticeship,
10 on-the-job training, or other training or retraining program
11 commits an unlawful employment practice if the employer, labor
12 organization, or committee discriminates against an individual
13 because of race, color, disability, religion, sex, national origin,
14 or age, or because of the individual's status as a military service
15 member or military veteran, in admission to or participation in the
16 program.

17 SECTION 7. Section 21.059(a), Labor Code, is amended to
18 read as follows:

19 (a) An employer, labor organization, employment agency, or
20 joint labor-management committee controlling an apprenticeship,
21 on-the-job training, or other training or retraining program
22 commits an unlawful employment practice if the employer, labor
23 organization, employment agency, or committee prints or publishes
24 or causes to be printed or published a notice or advertisement
25 relating to employment that:

26 (1) indicates a preference, limitation,
27 specification, or discrimination based on race, color, disability,

1 religion, sex, national origin, or age, or based on an individual's
2 status as a military service member or military veteran; and

3 (2) concerns an employee's status, employment, or
4 admission to or membership or participation in a labor union or
5 training or retraining program.

6 SECTION 8. Section 21.102(c), Labor Code, is amended to
7 read as follows:

8 (c) This section does not apply to standards of compensation
9 or terms, conditions, or privileges of employment that are
10 discriminatory on the basis of race, color, disability, religion,
11 sex, national origin, or age, or on the basis of an individual's
12 status as a military service member or military veteran.

13 SECTION 9. Section 21.112, Labor Code, is amended to read as
14 follows:

15 Sec. 21.112. EMPLOYEES AT DIFFERENT LOCATIONS. An employer
16 does not commit an unlawful employment practice by applying to
17 employees who work in different locations different standards of
18 compensation or different terms, conditions, or privileges of
19 employment that are not discriminatory on the basis of race, color,
20 disability, religion, sex, national origin, or age, or on the basis
21 of an individual's status as a military service member or military
22 veteran.

23 SECTION 10. Section 21.113, Labor Code, is amended to read
24 as follows:

25 Sec. 21.113. IMBALANCE PLAN NOT REQUIRED. This chapter
26 does not require a person subject to this chapter to grant
27 preferential treatment to an individual or a group on the basis of

1 race, color, disability, religion, sex, national origin, or age, or
2 on the basis of an individual's status as a military service member
3 or military veteran, because of an imbalance between:

4 (1) the total number or percentage of persons of that
5 individual's or group's race, color, disability, religion, sex,
6 national origin, or age, or the total number or percentage of
7 individuals who are military service members or military veterans:

8 (A) employed by an employer;

9 (B) referred or classified for employment by an
10 employment agency or labor organization;

11 (C) admitted to membership or classified by a
12 labor organization; or

13 (D) admitted to or employed in an apprenticeship,
14 on-the-job training, or other training or retraining program; and

15 (2) the total number or percentage of persons of that
16 race, color, disability, religion, sex, national origin, or age, or
17 the total number or percentage of individuals who are military
18 service members or military veterans, in:

19 (A) a community, this state, a region, or other
20 area; or

21 (B) the available work force in a community, this
22 state, a region, or other area.

23 SECTION 11. Section 21.120(b), Labor Code, is amended to
24 read as follows:

25 (b) Subsection (a) does not apply to a policy adopted or
26 applied with the intent to discriminate because of race, color,
27 sex, national origin, religion, age, or disability, or because of

1 an individual's status as a military service member or military
2 veteran.

3 SECTION 12. Section 21.122(a), Labor Code, is amended to
4 read as follows:

5 (a) An unlawful employment practice based on disparate
6 impact is established under this chapter only if:

7 (1) a complainant demonstrates that a respondent uses
8 a particular employment practice that causes a disparate impact on
9 the basis of race, color, sex, national origin, religion, or
10 disability, or on the basis of an individual's status as a military
11 service member or military veteran, and the respondent fails to
12 demonstrate that the challenged practice is job-related for the
13 position in question and consistent with business necessity; or

14 (2) the complainant makes the demonstration in
15 accordance with federal law as that law existed June 4, 1989, with
16 respect to the concept of alternative employment practices, and the
17 respondent refuses to adopt such an alternative employment
18 practice.

19 SECTION 13. Section 21.124, Labor Code, is amended to read
20 as follows:

21 Sec. 21.124. PROHIBITION AGAINST DISCRIMINATORY USE OF TEST
22 SCORES. (a) Except as provided by Subsection (b), it [It] is an
23 unlawful employment practice for a respondent, in connection with
24 the selection or referral of applicants for employment or
25 promotion, to adjust the scores of, use different cutoff scores
26 for, or otherwise alter the results of employment-related tests on
27 the basis of race, color, sex, national origin, religion, age, or

1 disability, or on the basis of an individual's status as a military
2 service member or military veteran.

3 (b) Subsection (a) does not apply to an act described by
4 that subsection that is made in conjunction with a preference
5 program for military service members or military veterans
6 authorized under a law of this state or the United States.

7 SECTION 14. The heading to Section 21.125, Labor Code, is
8 amended to read as follows:

9 Sec. 21.125. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE
10 CONSIDERATION OF RACE, COLOR, SEX, NATIONAL ORIGIN, RELIGION, AGE,
11 OR DISABILITY, OR STATUS AS MILITARY SERVICE MEMBER OR MILITARY
12 VETERAN, IN EMPLOYMENT PRACTICES.

13 SECTION 15. Section 21.125(a), Labor Code, is amended to
14 read as follows:

15 (a) Except as otherwise provided by this chapter, an
16 unlawful employment practice is established when the complainant
17 demonstrates that race, color, sex, national origin, religion, age,
18 or disability, or status as a military service member or military
19 veteran, was a motivating factor for an employment practice, even
20 if other factors also motivated the practice, unless race, color,
21 sex, national origin, religion, age, or disability, or status as a
22 military service member or military veteran, is combined with
23 objective job-related factors to attain diversity in the employer's
24 work force.

25 SECTION 16. Section 21.126, Labor Code, is amended to read
26 as follows:

27 Sec. 21.126. COVERAGE OF PREVIOUSLY EXEMPT EMPLOYEES OF THE

STATE OR POLITICAL SUBDIVISION OF THE STATE. It is an unlawful employment practice for a person elected to public office in this state or a political subdivision of this state to discriminate because of race, color, sex, national origin, religion, age, or disability, or because of the individual's status as a military service member or military veteran, against an individual who is an employee or applicant for employment to:

- (1) serve on the elected official's personal staff;
- (2) serve the elected official on a policy-making level; or
- (3) serve the elected official as an immediate advisor with respect to the exercise of the constitutional or legal powers of the office.

SECTION 17. Section 21.152(a), Labor Code, is amended to read as follows:

(a) A political subdivision or two or more political subdivisions acting jointly may create a local commission to:

- (1) promote the purposes of this chapter; and
- (2) secure for all individuals in the jurisdiction of each political subdivision freedom from discrimination because of race, color, disability, religion, sex, national origin, or age, or on the basis of an individual's status as a military service member or military veteran.

SECTION 18. Section 21.155(a), Labor Code, is amended to read as follows:

(a) The commission [~~Commission on Human Rights~~] shall refer a complaint concerning discrimination in employment because of

1 race, color, disability, religion, sex, national origin, or age, or
2 because of status as a military service member or military veteran,
3 that is filed with that commission to a local commission with the
4 necessary investigatory and conciliatory powers if:

5 (1) the complaint has been referred to the commission
6 [~~Commission on Human Rights~~] by the federal government; or

7 (2) jurisdiction over the subject matter of the
8 complaint has been deferred to the commission [~~Commission on Human~~
9 ~~Rights~~] by the federal government.

10 SECTION 19. This Act applies to conduct occurring on or
11 after the effective date of this Act. Conduct occurring before that
12 date is governed by the law in effect on the date the conduct
13 occurred, and the former law is continued in effect for that
14 purpose.

15 SECTION 20. This Act takes effect September 1, 2017.