87R1037 JSC-D

By:  Sherman, Sr. H.B. No. 419

A BILL TO BE ENTITLED

AN ACT

relating to certain unlawful employment practices regarding compensation.

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. UNLAWFUL EMPLOYMENT PRACTICES REGARDING COMPENSATION

Sec. 24.001.  DEFINITIONS. In this chapter:

(1)  "Applicant" means a person who has made an oral or written application with an employer, or has sent a resume or other correspondence to an employer, indicating an interest in employment.

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

(3)  "Employee" and "employer" have the meanings assigned by Section 21.002.

(4)  "Wage history information" means information on wages paid by previous employers.

(5)  "Wages" has the meaning assigned by Section 61.001.

Sec. 24.002.  EMPLOYER INQUIRY INTO AND CONSIDERATION OF WAGE HISTORY INFORMATION. (a) An employer commits an unlawful employment practice in violation of this chapter if the employer:

(1)  relies on an applicant's or employee's wage history information in determining:

(A)  whether to hire the applicant;

(B)  the wages to be paid to the applicant or employee;

(C)  whether to continue to employ the employee; or

(D)  whether to promote the employee;

(2)  seeks, requests, or requires an applicant's or employee's wage history information as a condition of:

(A)  an applicant being interviewed or receiving an offer of employment; or

(B)  a current employee's continued employment or promotion;

(3)  seeks, requests, or requires an applicant's or employee's wage history information from a previous employer of the applicant or employee or other source, unless the wages in that previous employment position are subject to disclosure under Chapter 552, Government Code;

(4)  refuses to interview, hire, promote, or otherwise employ, or retaliates against, an applicant or employee based on wage history information; or

(5)  refuses to interview, hire, promote, or otherwise employ, or retaliates against, an applicant or employee who did not provide wage history information.

(b)  Notwithstanding Subsection (a)(1)(B), if an applicant or employee voluntarily discloses the applicant's or employee's wage history information to an employer, the employer may consider that information in determining the applicant's or employee's wages.

(c)  An employer may confirm wage history information if at the time an offer of employment with compensation is made, the applicant or employee responds to the offer by providing wage history information to support a wage higher than that offered by the employer.

Sec. 24.003.  RETALIATION PROHIBITED. An employer commits an unlawful employment practice in violation of this chapter if the employer takes an adverse action or otherwise discriminates against a person because the person has:

(1)  filed a complaint with the commission alleging the employer's violation of this chapter;

(2)  opposed an act or practice made unlawful by this chapter;

(3)  sought to enforce rights protected under this chapter; or

(4)  testified, assisted, or participated in any manner in an investigation, hearing, or other proceeding to enforce this chapter.

Sec. 24.004.  LIMITATIONS OF CHAPTER. (a) This chapter does not diminish the rights, privileges, or remedies of an applicant or current or former employee under:

(1)  any other law or rule; or

(2)  a collective bargaining agreement or employment contract.

(b)  This chapter does not affect any federal, state, or local law that requires the disclosure or verification of wage history information.

Sec. 24.005.  COMPLAINT; ENFORCEMENT. (a) A person aggrieved by an unlawful employment practice under this chapter may file a complaint with the commission in the manner provided under Chapter 21. A complaint filed under this section is subject to Subchapters E and F, Chapter 21.

(b)  The commission shall enforce this chapter in accordance with Chapter 21.

Sec. 24.006.  CIVIL ACTION BY APPLICANT OR EMPLOYEE. (a) An applicant or employee aggrieved by a violation of this chapter may bring a civil action to enforce rights protected by this chapter, including an action for appropriate injunctive relief, in the district court in the county in which the alleged violation occurred or in which the alleged violator's residence or principal place of business is located.

(b)  The prospective employer of an applicant or the employer of an employee who prevails in a civil action under this section is liable to the affected applicant or employee for damages sustained as a result of the violation.

(c)  In addition to any judgment awarded to a plaintiff who prevails in a civil action brought under this section, the court may award injunctive relief or require the employer to pay reasonable attorney's fees and other costs.

Sec. 24.007.  INFORMATION FROM AND OUTREACH BY COMMISSION. (a) The commission shall make available to the public on the commission's Internet website information regarding the requirements of and the rights and remedies under this chapter.

(b)  The commission may conduct additional outreach efforts to inform employers about this chapter.

SECTION 2.  The changes in law made by this Act apply only to an unlawful employment practice that occurs on or after January 1, 2022.

SECTION 3.  This Act takes effect January 1, 2022.