

By: Menéndez

S.B. No. 108

A BILL TO BE ENTITLED

AN ACT

relating to unlawful employment practices with respect to compensation and wage history.

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

SECTION 1. Section 21.202, Labor Code, is amended by adding Subsection (a-2) to read as follows:

(a-2) With respect to an allegation of discrimination in payment of compensation in violation of this chapter, an unlawful employment practice occurs each time:

(1) a discriminatory compensation decision or other discriminatory practice affecting compensation is adopted;

(2) an individual becomes subject to a discriminatory compensation decision or other discriminatory practice affecting compensation; or

(3) an individual is adversely affected by application of a discriminatory compensation decision or other discriminatory practice affecting compensation, including each time wages affected wholly or partly by the decision or other practice are paid.

SECTION 2. Section 21.258, Labor Code, is amended by adding Subsection (d) to read as follows:

(d) Liability may accrue, and an aggrieved individual may obtain relief as provided by this subchapter, including recovery of back pay for the period allowed under this section, if the unlawful

1 employment practices that occurred during the period for filing a
2 complaint are similar or related to unlawful employment practices
3 with regard to discrimination in payment of compensation that
4 occurred outside the period for filing a complaint.

5 SECTION 3. Subtitle A, Title 2, Labor Code, is amended by
6 adding Chapter 24 to read as follows:

7 CHAPTER 24. EMPLOYMENT DISCRIMINATION REGARDING COMPENSATION

8 Sec. 24.001. DEFINITIONS. In this chapter:

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

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

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

17 (4) "Wages" has the meaning assigned by Section
18 61.001.

19 Sec. 24.002. EMPLOYER INQUIRIES INTO AND CONSIDERATION OF
20 WAGE HISTORY INFORMATION. An employer commits an unlawful
21 employment practice in violation of this chapter and Chapter 21 if
22 the employer:

23 (1) verbally or in writing inquires into an
24 applicant's wage history information from the applicant or from a
25 previous employer of the applicant; or

26 (2) requires disclosure of an applicant's wage history
27 information as a condition of employment.

1 Sec. 24.003. EMPLOYER ACTIONS REGARDING WAGE DISCLOSURE BY
2 EMPLOYEE OR APPLICANT. (a) An employer commits an unlawful
3 employment practice in violation of this chapter and Chapter 21 if
4 the employer discharges or in any other manner discriminates
5 against, coerces, intimidates, threatens, or interferes with an
6 employee, applicant, or other individual because the individual
7 inquired about, disclosed, compared, or otherwise discussed an
8 employee's wages or an applicant's prospective wages.

9 (b) This section does not require an employee to disclose
10 the employee's wages or an applicant to disclose the applicant's
11 prospective wages.

12 Sec. 24.004. COMPLAINT; ENFORCEMENT. (a) An individual
13 aggrieved by an unlawful employment practice under this chapter may
14 file a complaint with the commission. A complaint filed under this
15 section is subject to Subchapters E and F, Chapter 21.

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

18 SECTION 4. (a) Sections 21.202 and 21.258, Labor Code, as
19 amended by this Act, apply only to a discriminatory compensation
20 decision or other discriminatory practice affecting compensation
21 that occurs on or after the effective date of this Act.

22 (b) Chapter 24, Labor Code, as added by this Act, applies
23 only to an unlawful employment practice that occurs on or after
24 January 1, 2024.

25 SECTION 5. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2023.