

By: Gerdes, Tepper, Metcalf, Hull,
Schatzline

H.B. No. 4552

Substitute the following for H.B. No. 4552:

By: Raymond

C.S.H.B. No. 4552

A BILL TO BE ENTITLED

AN ACT

relating to a prohibition on certain discriminatory activities by governmental entities and vendors of governmental entities; providing for declaratory and injunctive relief and the withholding of certain funds from political subdivisions.

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

SECTION 1. This Act may be cited as the Texas Antidiscrimination Act.

SECTION 2. (a) The Legislature finds that:

(1) Section 3, Article I, Texas Constitution, provides that "[a]ll freemen, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services";

(2) Section 3a, Article I, Texas Constitution, provides that "[e]quality under the law shall not be denied or abridged because of sex, race, color, creed, or national origin";

(3) Section 3a, Article I, Texas Constitution, was designed expressly to provide protection which supplements the federal guarantees of equal treatment;

(4) Section 3a, Article I, Texas Constitution, is more extensive and provides more specific protection than other equal protection and due process guarantees included in either the United States Constitution or the Texas Constitution;

(5) the discriminatory activities described by Section 621.051, Government Code, as added by this Act, are antithetical to Sections 3 and 3a, Article I, Texas Constitution, and lack a rational relationship to a legitimate governmental purpose such that the activities violate those sections; and

(6) Texans deserve a government committed to serving every person with equal dignity and respect and to expending precious taxpayer resources only for the purpose of making Texas great for all Texans.

(b) The purpose of this Act is to prevent unlawful discrimination that is antithetical to Sections 3 and 3a, Article I, Texas Constitution. Nothing in this Act may be construed to create a right or benefit, substantive or procedural, enforceable at law or in equity by any party against a governmental entity, as the term is defined by Section 621.001, Government Code, as added by this Act, except those specifically provided by Subchapter C, Chapter 621, Government Code, as added by this Act.

SECTION 3. Subtitle A, Title 6, Government Code, is amended by adding Chapter 621 to read as follows:

CHAPTER 621. PROHIBITION ON DISCRIMINATION BY GOVERNMENTAL ENTITY

ON THE BASIS OF IMMUTABLE CHARACTERISTIC

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 621.001. DEFINITIONS. In this chapter:

(1) "Discriminatory activity" means:

(A) influencing hiring or employment practices with respect to race, sex, color, or ethnicity, other than through the use of a color-blind and sex-neutral hiring process in

1 accordance with any applicable state and federal
2 antidiscrimination laws;

3 (B) promoting differential treatment of or
4 providing special benefits to individuals on the basis of race,
5 sex, color, or ethnicity;

6 (C) promoting policies or procedures designed or
7 implemented in reference to race, sex, color, or ethnicity, other
8 than a policy or procedure:

9 (i) approved in writing by:

10 (a) the general counsel of the
11 governmental entity promoting the policy or procedure; or

12 (b) if the governmental entity
13 promoting the policy or procedure does not employ a general
14 counsel, an attorney contracted by the entity to provide general
15 legal services or the attorney general; and

16 (ii) implemented for the sole purpose of
17 ensuring compliance with any applicable court order or state or
18 federal law;

19 (D) conducting trainings, programs, or
20 activities designed or implemented in reference to race, sex,
21 color, or ethnicity, other than trainings, programs, or activities:

22 (i) developed by an attorney;

23 (ii) approved in writing by:

24 (a) the general counsel of the
25 governmental entity conducting the training, program, or activity;
26 or

27 (b) if the governmental entity

1 conducting the training, program, or activity does not employ a
2 general counsel, an attorney contracted by the entity to provide
3 general legal services or the attorney general; and

4 (iii) implemented for the sole purpose of
5 ensuring compliance with any applicable court order or state or
6 federal law; and

7 (E) promoting, as an official position of a
8 governmental entity, a particular opinion referencing unconscious
9 or implicit bias, cultural appropriation, allyship, transgender
10 ideology, microaggressions, group marginalization, anti-racism,
11 systemic oppression, intersectionality, neo-pronouns,
12 heteronormativity, disparate impact, gender theory, racial or
13 sexual privilege, or any related formulation of those concepts.

14 (2) "Discriminatory office" means an office,
15 division, or other unit of a governmental entity established for
16 the purpose of engaging in a discriminatory activity.

17 (3) "Governmental entity" means a state agency or
18 political subdivision.

19 (4) "Political subdivision" means a county,
20 municipality, special purpose district, or any other political
21 subdivision of this state, including a political subdivision
22 described by Section [2254.021](#). The term includes an open-enrollment
23 charter school established under Subchapter [D](#), Chapter [12](#),
24 Education Code.

25 (5) "State agency" means:

26 (A) a department, commission, board, office, or
27 other agency in the executive branch of state government that was

created by the constitution or a statute, other than an institution of higher education as defined by Section 61.003, Education Code;
(B) the legislature or a legislative agency; or
(C) the supreme court, the court of criminal appeals, a court of appeals, a district court, or the Texas Judicial Council or another agency in the judicial branch of state government.

SUBCHAPTER B. DISCRIMINATION PROHIBITED

Sec. 621.051. DISCRIMINATION BY GOVERNMENTAL ENTITY PROHIBITED. (a) Notwithstanding any other law and except as provided by this section and Section 621.052, a governmental entity may not:

(1) engage in a discriminatory activity;
(2) establish or maintain a discriminatory office;
(3) hire or assign an employee of the entity or contract with a third party to perform the duties of a discriminatory office;

(4) compel, require, induce, or solicit any person to provide a discriminatory statement, or give preference to an employee, applicant for employment, or other participant in any function of the entity on the basis of the provision of a discriminatory statement;

(5) give preference to an employee, applicant for employment, or other participant in any function of the entity on the basis of race, sex, color, ethnicity, or national origin;

(6) promote or adopt any theory justifying differential treatment of individuals on the basis of race, sex,

1 color, ethnicity, or national origin;

2 (7) consider the race, sex, color, ethnicity, or
3 national origin of an individual in an employment, contracting,
4 funding, or policy determination;

5 (8) require an employee to participate in a
6 discriminatory activity or a discriminatory training, including a
7 training, program, or other activity designed or implemented in
8 reference to race, sex, color, ethnicity, or national origin;

9 (9) spend money on a discriminatory activity,
10 including acquiring services, supplies, information technology, or
11 other goods for the purpose of carrying out a discriminatory
12 activity;

13 (10) award a contract or provide preferential or
14 discriminatory treatment to a person submitting a bid for a
15 contract on the basis of race, sex, color, ethnicity, or national
16 origin; or

17 (11) enter into or renew a contract with a vendor in
18 violation of Chapter 2278.

19 (b) This section does not apply to a training, program, or
20 activity relating to sexual harassment or developed for the purpose
21 of ensuring compliance with applicable federal law.

22 (c) Each governmental entity shall adopt policies and
23 procedures for appropriately disciplining, including by
24 termination, an employee of the entity who engages in conduct
25 prohibited by Subsection (a) or Chapter 2278.

26 Sec. 621.052. LIMITATION OF PROHIBITION ON CERTAIN
27 GOVERNMENTAL ACTIVITIES RELATING TO PUBLIC EDUCATION. (a) This

section applies only to:

- (1) a school district;
- (2) an open-enrollment charter school;
- (3) the State Board of Education; and
- (4) the Texas Education Agency.

(b) Section 621.051:

(1) may not be construed to:

(A) limit or prohibit a school district or open-enrollment charter school from, in accordance with the essential knowledge and skills adopted under Subchapter A, Chapter 28, Education Code, acknowledging or teaching the significance of a state or federal holiday or a commemorative month and the manner in which the holiday or commemorative month fits into the themes of the history of this state or the United States;

(B) affect a student's rights under the First Amendment to the United States Constitution or Section 8, Article 1, Texas Constitution; or

(C) limit or prohibit a school district or open-enrollment charter school from analyzing a school-based cause of, and taking steps to eliminate an unlawful discriminatory practice necessary to address, achievement gaps and differentials described by Section 39.053, Education Code; and

(2) does not apply to:

(A) classroom instruction that is consistent with the essential knowledge and skills adopted under Subchapter A, Chapter 28, Education Code;

(B) the collection, monitoring, or reporting of

1 data; or

2 (C) a policy, practice, procedure, program, or
3 activity intended to enhance student academic achievement or
4 postgraduate outcomes that is designed and implemented without
5 regard to race, sex, color, or ethnicity.

6 SUBCHAPTER C. ENFORCEMENT WITH RESPECT TO POLITICAL SUBDIVISION

7 Sec. 621.101. COMPLAINT; DESIGNATION AS NONCOMPLIANT
8 POLITICAL SUBDIVISION. (a) A person who resides in an area served
9 by a political subdivision and who has a reasonable belief that the
10 political subdivision is violating this chapter, including by not
11 complying with the provisions of a corrective action plan included
12 in a response submitted to the attorney general under Subsection
13 (c), may file a complaint with the attorney general.

14 (b) If the attorney general determines that the political
15 subdivision named in a complaint received under Subsection (a) is
16 violating this chapter, the attorney general shall designate the
17 political subdivision as a noncompliant political subdivision and
18 provide written notice of the designation to the political
19 subdivision and the comptroller. The notice provided to the
20 political subdivision must explain the attorney general's
21 reasoning for the determination relating to the designation and
22 provide that the attorney general shall terminate the designation
23 in accordance with Subsection (c) if the political subdivision
24 submits a response in the manner provided by that subsection.

25 (c) Not later than the 14th day after receiving a notice
26 described by Subsection (b), a political subdivision may submit a
27 response to the attorney general. The attorney general shall

1 terminate the designation of the political subdivision as a
2 noncompliant political subdivision and provide notice of the
3 termination of the designation to the political subdivision and the
4 comptroller if the attorney general determines that the response:

5 (1) demonstrates that the political subdivision is not
6 violating this chapter; or

7 (2) includes a corrective action plan appropriate to
8 cure the violation identified in the notice provided to the
9 political subdivision under Subsection (b).

10 Sec. 621.102. WITHHOLDING OF CERTAIN FUNDS OTHERWISE DUE TO
11 NONCOMPLIANT POLITICAL SUBDIVISION. (a) With respect to a
12 municipality that is designated as a noncompliant political
13 subdivision by the attorney general under Section 621.101, on
14 receipt of a notice under Section 621.101(b), the comptroller shall
15 withhold payment of any money owed to the municipality under
16 Section [183.051\(b\)](#) or [321.502](#), Tax Code.

17 (b) With respect to a county that is designated as a
18 noncompliant political subdivision by the attorney general under
19 Section 621.101, on receipt of a notice under Section 621.101(b),
20 the comptroller shall withhold payment of any money owed to the
21 county under Section [183.051\(b\)](#) or [323.502](#), Tax Code.

22 (c) The comptroller shall place an amount withheld under
23 Subsection (a) or (b) that is not otherwise placed in a suspense
24 account in a trust fund outside the state treasury and that money
25 may not be used for any purpose other than a purpose authorized by
26 law for that money.

27 (d) On receipt of a notice under Section 621.101(c) that the

1 attorney general has terminated the designation of a municipality
2 or county as a noncompliant political subdivision, the comptroller
3 shall:

4 (1) immediately send to the municipality or county the
5 balance of or amount of, as applicable, the money withheld from the
6 municipality or county under Subsection (a) or (b), as applicable;
7 and

8 (2) resume distribution of the money described by
9 Subsections (a) and (b) to the municipality or county, as
10 applicable, in the ordinary course of business.

11 Sec. 621.103. CIVIL ACTION. (a) The attorney general may
12 seek declaratory and injunctive relief, including by filing a
13 petition for a writ of mandamus, to compel a political subdivision
14 to comply with this chapter if the political subdivision:

15 (1) is designated by the attorney general as a
16 noncompliant political subdivision under Section 621.101; or

17 (2) has not satisfied the terms of a corrective action
18 plan included in a response submitted to the attorney general under
19 Section 621.101(c).

20 (b) An action brought under this section must be filed in
21 the county in which the political subdivision is located.

22 (c) The court of appeals for the Fifteenth Court of Appeals
23 District has exclusive intermediate appellate jurisdiction over an
24 action brought under this section.

25 SUBCHAPTER D. COMPLIANCE BY STATE AGENCY; REPORTS

26 Sec. 621.151. REPORTING BY STATE AGENCY. (a) Each state
27 agency shall annually report on the agency's compliance with this

1 chapter in the manner provided by this section.

2 (b) A state agency to which Chapter 2102 applies shall
3 include in the annual report required under Section 2102.009 an
4 assessment of the agency's compliance with this chapter.

5 (c) A state agency not described by Subsection (b) shall:

6 (1) not later than November 1 of each year, submit to
7 the legislature a report containing an assessment of the agency's
8 compliance with this chapter during the preceding state fiscal
9 year; and

10 (2) appoint an internal auditor for the specific
11 purpose of conducting the assessment included in the report
12 described by Subdivision (1).

13 (d) A report under this section of a state agency's failure
14 to comply with this chapter must include a summary of instances of
15 noncompliance and actions taken or planned to be taken to remedy the
16 noncompliance.

17 SECTION 4. Subtitle F, Title 10, Government Code, is
18 amended by adding Chapter 2278 to read as follows:

19 CHAPTER 2278. PROHIBITION ON CONTRACTS WITH COMPANIES THAT ENGAGE
20 IN DISCRIMINATORY ACTIVITY

21 Sec. 2278.001. DEFINITION. In this chapter, "governmental
22 entity" has the meaning assigned by Section 621.001.

23 Sec. 2278.002. PROVISION REQUIRED IN CONTRACT. A
24 governmental entity may not enter into a contract with a vendor for
25 goods and services unless the contract:

26 (1) contains a written verification from the vendor
27 that the vendor does not, and will not during the term of the

1 contract, engage in activity that, were the vendor a governmental
2 entity, would violate Section 621.051; and

3 (2) provides that the governmental entity may
4 terminate the contract without penalty or further obligation to the
5 vendor on a showing by the entity that the vendor violated the
6 verification provided under Subdivision (1).

7 Sec. 2278.003. PROHIBITION ON ADDITIONAL CONTRACTS. (a)
8 Except as provided by Subsection (b), a governmental entity may not
9 enter into another contract with a vendor after terminating a
10 contract with that vendor under Section 2278.002(2).

11 (b) A governmental entity may enter into a contract with a
12 vendor described by Subsection (a) only after:

13 (1) submitting information to the attorney general
14 showing that the vendor has cured the violation that was the subject
15 of the termination described by Section 2278.002(2); and

16 (2) receiving authorization from the attorney general
17 to enter into a subsequent contract.

18 SECTION 5. (a) Not later than January 1, 2026, each state
19 agency to which Section 621.151(c), Government Code, as added by
20 this Act, applies shall appoint an internal auditor as required by
21 that subsection.

22 (b) Notwithstanding Section 621.151, Government Code, as
23 added by this Act, each state agency shall conduct the initial
24 assessment and report on the agency's compliance with Chapter 621,
25 Government Code, as added by this Act, in accordance with Section
26 621.151(b) or (c), Government Code, as added by this Act, as
27 applicable, not later than November 1, 2026.

1 SECTION 6. Chapter 2278, Government Code, as added by this
2 Act, applies only to a contract for which the request for bids or
3 proposals or other applicable expression of interest is made public
4 on or after the effective date of this Act. A contract for which the
5 request for bids or proposals or other applicable expression of
6 interest is made public before that date is governed by the law in
7 effect on the date the request or other expression of interest is
8 made public, and the former law is continued in effect for that
9 purpose.

10 SECTION 7. Section 621.102, Government Code, as added by
11 this Act, does not affect the validity of a bond, other obligation,
12 or contractual obligation for which revenue was pledged or
13 committed before the effective date of this Act. Bonds, other
14 obligations, or contractual obligations for which revenue was
15 pledged or committed before the effective date of this Act are
16 governed by the law in effect when the revenue was pledged or
17 committed, and that law is continued in effect for the purposes of
18 the validity of those bonds, obligations, and contractual
19 obligations.

20 SECTION 8. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2025.