

BILL ANALYSIS

Senate Research Center

H.B. 1082
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Business & Commerce
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Engrossed

DIGEST AND PURPOSE

The Federal Equal Pay Act of 1963 prohibits sex-based wage discrimination between men and women in the same establishment who are performing under similar working conditions. H.B. 1082 provides that it is an unlawful employment practice for an employer of 50 or more employees to discriminate against employees on certain non bona fide factors, or to retaliate against an employee in certain circumstances, and sets forth requirements for wage disclosure, record keeping, and reporting.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Commission on Human Rights in SECTION 1 (Sections 24.002 and 24.004, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 2A, Labor Code, by adding Chapter 24, as follows:

CHAPTER 24. EMPLOYMENT DISCRIMINATION REGARDING COMPENSATION

Sec. 24.001. DEFINITIONS. Defines “employ,” “employee,” “employer,” “labor organization,” “market rate,” and “wages.”

Sec. 24.002. PROHIBITION AGAINST DISCRIMINATION IN WAGES. (a) Provides that it is an unlawful employment practice in violation of this chapter and Chapter 21 for an employer to discriminate among employees on the basis of race, color, disability, religion, sex, national origin, or age by paying wages to an employee at a rate less than the rate paid to an employee who is not a member of a protected class described by this subsection for work in an equivalent job.

(b) Provides that notwithstanding Subsection (a), it is not an unlawful employment practice for an employer to pay different wage rates to employees if the difference is based on certain criteria.

(c) Provides that for purposes of Subsection (b)(3), a wage differential based on varying market rates for equivalent jobs or the differing economic benefits to the employer of equivalent jobs is considered a differential based on a bona fide factor other than race, color, disability, religion, sex, national origin, or age.

(d) Prohibits an employer who is paying wages in violation of this section from, in order to comply with this section, reducing the wage of an employee.

(e) Prohibits a labor organization or its agents representing employees of an employer who has employees subject to this chapter from causing or attempting to cause the employer to discriminate against an employee in violation of Subsection (a).

(f) Requires the Commission on Human Rights by rule to adopt guidelines specifying the criteria for determining whether a job is dominated by employees of a particular race, color, disability, religion, sex, national origin, or age. Requires the criteria to include certain information.

(g) Authorizes the guidelines adopted under Subsection (f) to include a list of jobs.

Sec. 24.003. OTHER PROHIBITED ACTS. Provides that it is an unlawful employment practice in violation of this chapter and Chapter 21 for an employer to perform certain acts.

Sec. 24.004. WAGE DISCLOSURE, RECORDKEEPING, AND REPORTING REQUIREMENTS. (a) Requires each employer subject to this chapter, on the request of an employee, and not more than once annually thereafter, to provide to each employee a written statement sufficient to inform the employee of the employee's job title and wage rate. Requires the employer, on the employee's request, to supplement the notice when the employee is promoted, receives a raise, or is reassigned to a different position with the employer. Provides that the employer is not required to issue supplemental notices for a temporary reassignment for a term that does not exceed three months. Provides that for purposes of this subsection, an employee's pay stub constitutes a sufficient written statement if the pay stub includes the employee's job title and wage rate.

(b) Requires the Texas Workforce Commission to submit the information contained in quarterly unemployment insurance records on an annual basis to the Commission on Human Rights. Requires the Commission on Human Rights to maintain the records on file for a period not to exceed five years. Requires the Commission on Human Rights to adopt rules that protect the confidentiality of employees and to expressly require that the reports not include names or other identifying information from which a person could discern the identity of an employee. Authorizes the rules to also specify circumstances that warrant a prohibition on disclosure under Chapter 552, Government Code, of the report or of information identifying the employer.

(c) Authorizes the Commission on Human Rights to use the information collected under Subsection (b) for statistical and research purposes and to compile and publish studies, analyses, reports, and surveys based on that information as considered appropriate by that commission.

(d) Requires the Commission on Human Rights to issue a report to the legislature before the start of each regular legislative session on the extent and nature of wage discrimination from information gathered under this section and from complaints received by the commission.

Sec. 24.005. COMPLAINT; ENFORCEMENT. (a) Authorizes a person aggrieved by an unlawful employment practice under this chapter to file a complaint with the Commission on Human Rights. Provides that a complaint filed under this section is subject to Subchapters E and F, Chapter 21.

(b) Requires the Commission on Human Rights to enforce this chapter in accordance with Chapter 21.

(c) Authorizes the Commission on Human Rights to request any employer subject to a complaint under this chapter to compile records that contain certain information.

SECTION 2. (a) Provides that except as provided by Subsection (b) of this section, this Act takes effect September 1, 2001.

(b) Provides that Section 24.005, Labor Code, as added by this Act, takes effect January 1, 2003.