OLR Bill Analysis
HB 7044

AN ACT CONCERNING SEXUAL HARASSMENT IN THE WORKPLACE.

SUMMARY

Under existing law, a Commission on Human Rights and Opportunities (CHRO) hearing officer can order the hiring or reinstatement of a complainant, with or without back pay, in a discriminatory employment practice case. This bill expands the possible remedies that can be ordered in these cases to include promotion and actual incurred costs, such as attorneys’ fees.

It expands the list of topics for the sexual harassment training that CHRO can require of certain employers. It bars employers from raising certain defenses to sexual harassment complaints, except as to damages.

Finally, the bill prohibits an employer from resolving a sexual harassment case by changing the terms and conditions of the complainant’s employment (such as moving the complainant to a different shift) without his or her written permission.

The bill applies to employers with three or more employees, except the training provisions apply to employers with 50 or more employees.

EFFECTIVE DATE: October 1, 2019

§ 3 — AWARDSING PROMOTION AND ACTUAL COSTS IN DISCRIMINATORY EMPLOYMENT COMPLAINTS

By law if, after a hearing on the complaint, a hearing officer finds a respondent has engaged in a discriminatory practice, the officer must order the respondent to cease and desist from the discriminatory practice and to take any necessary affirmative action.
In cases of discriminatory employment practices, the officer can also order the complainant to be hired or reinstated, with or without back pay. Under the bill, the officer is required to determine the amount of damages the complainant has suffered. The bill broadens the range of remedies to include actual incurred costs, such as reasonable attorneys’ fees and costs. The bill specifies that the amount of attorneys’ fees is not tied to either the damages requested or awarded to the complainant.

It also allows an order for the complainant to be promoted, in addition to the options of hiring or reinstatement.

§ 1 — SEXUAL HARASSMENT TRAINING

Under existing law, CHRO can order an employer with 50 or more employees to provide two hours of training for supervising employees on state and federal law addressing sexual harassment and the remedies available to victims. The bill expands the training to include (1) the employer’s sexual harassment policy and (2) examples of what conduct constitutes harassment that cover the spectrum from verbal harassment to sexual assault. The bill specifies the training may include other topics.

By law, sexual harassment is any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (1) submission to the conduct is either explicitly or implicitly a condition of employment, (2) submission to or rejection of the conduct is used as the basis for employment decisions affecting the individual, or (3) the conduct substantially interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

§ 2 — LIMITING SEXUAL HARASSMENT DEFENSE AND REQUIRING COMPLAINANT’S AGREEMENT ON COMPLAINT RESOLUTION

The bill bars an employer from using the following as part of its defense against a sexual harassment complaint:

1. the complaint was properly investigated, immediate corrective
action was taken, and no act of sexual harassment subsequently occurred;

2. the complaint was not reported to the respondent before the complaint was filed with CHRO; or

3. the respondent has a policy prohibiting sexual harassment or recently provided training on the meaning and effect of sexual harassment.

The bill permits the employer to introduce evidence mentioned above solely on the issue of damages.

The bill prohibits an employer from taking immediate corrective action that modifies the complainant’s terms and conditions of employment without the complainant’s express written agreement. Under the bill, corrective action, at a minimum, includes (1) employee relocation or reassignment, (2) change of work schedule, or (3) other substantive change to an employee’s terms and conditions of employment.

BACKGROUND

Related Bill

HB 5271, favorably voted out by the Labor Committee, also makes changes to sexual harassment training that CHRO can require employers to provide.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable
Yea 9  Nay 5  (03/14/2019)