OLR Bill Analysis
sHB 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 attorney’s fees.

It also expands the list of sexual harassment training topics that CHRO can require certain employers to provide.

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 only to employers with 50 or more employees.

EFFECTIVE DATE: October 1, 2019

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

By law if, after a hearing on the complaint, a CHRO 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 attorney’s fees and costs. The bill specifies that the amount of attorney’s 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 supervisory 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 — REQUIRING COMPLAINANT’S AGREEMENT ON COMPLAINT RESOLUTION

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 changes to an employee’s terms and conditions of employment.

BACKGROUND

Legislative History

The bill (File 339) was referred to the Judiciary Committee, which reported out new substitute language that deleted the provision prohibiting an employer from using certain grounds (e.g., that the complaint was properly investigated and immediate corrective action was taken) as part of its defense against a sexual harassment complaint.

Related Bill

HB 5271 (File 390), favorably reported 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)

Judiciary Committee

Joint Favorable Substitute

Yea  25   Nay  9   (04/22/2019)