

- SUBJECT:** Prohibiting employers from accessing online accounts of employees
- COMMITTEE:** Business and Industry — committee substitute recommended
- VOTE:** 6 ayes — Oliveira, Simmons, Collier, Fletcher, Romero, Villalba  
1 nay — Rinaldi
- WITNESSES:** For — (*Registered, but did not testify*: Rick Levy, Texas AFL-CIO; Matt Long; Sam McMurry)  
  
Against — (*Registered, but did not testify*: Michael Weaver, Church Group; Angela Smith, Fredericksburg Tea Party)  
  
On — (*Registered, but did not testify*: Melodie Durst, Credit Union Coalition of Texas; Karen Neeley, Independent Bankers Association of Texas; John Fleming, Texas Mortgage Bankers Association; Lowell Keig, Texas Workforce Commission; Sandy Ward)
- DIGEST:** CSHB 1777 would make certain employer conduct related to an employee’s or applicant’s personal email or social media accounts unlawful and would provide certain exceptions.
- Under the bill, “personal online account” would mean an account, service, or profile on an Internet website that an individual used for personal communication, including a personal email account, a profile on a social networking site, a blog, or an account containing personal financial or medical information. The term would not include an account or profile that an individual created or accessed for business communication or a business purpose of the employer.
- An employer would commit an unlawful employment practice if the employer required or requested that an employee or applicant for employment disclose a user name, password, or other means for accessing a personal online account, or if an employer otherwise used that information to access the personal online account.

The bill would not prohibit an employer from:

- maintaining policies governing employee usage of employer-provided computers or other electronic communication devices, including an employee accessing a personal online account on such a computer or device;
- maintaining policies governing employee usage of personal electronic communication devices during working or billable hours;
- monitoring, restricting, or prohibiting employee usage of employer-provided electronic communication devices or email accounts;
- obtaining information about an employee or applicant that was in the public domain or that was obtained lawfully; or
- requesting that an employee or applicant provide a personal email address for the purpose of communicating with them.

The bill would specify that an employer would not commit an unlawful employment practice if, through monitoring employee usage of employer-provided electronic communication devices or email accounts, the employer inadvertently obtained a user name or password to access an employee's personal online account but the employer did not use that information to access the account.

The bill would not apply to:

- an employer engaged in financial services, including a bank, a securities firm, or an insurance company;
- a personal social media account or an electronic communication device of a financial services employee who used the account or device to conduct business of the employer that was regulated by federal securities laws and regulations; and
- state or local law enforcement operations responsible for investigating, prosecuting, or enforcing criminal laws.

The bill would allow an employee or applicant to consent in writing to

disclose information that would give access to a personal online account to the employer. The bill would prohibit an employer from making such an agreement a condition of employment or of any term of employment.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS  
SAY:**

CSHB 1777 would protect an individual's right to privacy. Cases where employers inappropriately require access to employees' personal online accounts have been increasing in frequency as the popularity of personal online accounts has grown. Many other states already have passed laws either limiting or prohibiting an employer's access to such accounts.

When employers or potential employers are allowed to access these personal online accounts, there is a possibility that an employee or applicant may face employment discrimination based on information learned from the personal account. Access to personal information should not be a prerequisite for employment.

The bill would be limited in scope and would be fair to employers because they still could monitor activity conducted on employer-provided devices and accounts. There would be exceptions for employers that needed to monitor their employee's personal online accounts for legal and compliance purposes.

**OPPONENTS  
SAY:**

CSHB 1777 would come between a private business and its employees and potential employees. The bill would place a mandate on private businesses by prohibiting certain provisions in employee contracts. It would decide for the business what could and could not be placed in a contract. This would be an unreasonable intrusion into a business's control over its relationship with employees.