

SUBJECT: Preempting local regulation of certain employment policies

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 8 ayes — Paddie, Harless, Hunter, P. King, Metcalf, Shaheen, Slawson, Smithee

2 nays — Hernandez, Deshotel

2 absent — Lucio, Raymond

1 present not voting — Howard

SENATE VOTE: On final passage, April 13 — 19-12 (Alvarado, Blanco, Eckhardt, Gutierrez, Hinojosa, Johnson, Menéndez, Miles, Powell, West, Whitmire, Zaffirini)

WITNESSES: *May 6 public hearing:*
For — Don Miller, County Line BBQ; Annie Spilman, NFIB; Martin Gutierrez, San Antonio Hispanic Chamber of Commerce; Scott Norman, Texas Association of Builders; Shelby Sterling, Texas Public Policy Foundation; Kelsey Erikson Streufert, Texas Restaurant Association; Lisa Fullerton; (*Registered, but did not testify:* Wade Long, AGC - Building Branch; Carrie Simmons, Associated Builders and Contractors of Texas and Texas Hotel and Lodging Association; Steven Albright, Associated General Contractors of Texas - Highway Heavy Utility and Industrial Branch; LaTonya Whittington, Cannabis Reform of Houston; Wendy Lambert, Central Texas Subcontractors Association; Ellis Winstanley, El Arroyo; Rose Butigian, Island Thyme Grill LLC; Chris Lambert, L&O Electric; Duane Moeller, Mission Restaurant Supply; John McCord, NFIB; Tara Snowden, North San Antonio Chamber of Commerce and Zachry Corporation; Alina Carnahan, Real Estate Council of Austin; Martha Mangum, Real Estate Council of San Antonio; Geoffrey Tahuahua, Real Estate Councils of Texas; Leticia Van de Putte, San Antonio Chamber of Commerce; Martin Gutierrez, San Antonio Hispanic Chamber of Commerce; Galt Graydon, Southwest Airlines Co.; Kyle

Jackson, Texas Apartment Association; J.D. Hale and Ned Muñoz, Texas Association of Builders; Megan Herring, Texas Association of Business; Cathy DeWitt, Texas Association of Staffing and Jobs for Texas; Robert Braziel, Texas Automobile Dealers Association; Michael Geary, Texas Conservative Coalition; Jocelyn Dabeau and Jennifer Fagan, Texas Construction Association; Matt Burgin, Texas Food and Fuel Association; Rob Hughes, Texas Forestry Association; Ryan Skrobarczyk, Texas Nursery and Landscape Association; Lance Lively, Texas Package Stores Association; Dallas Miller, Texas Restaurant Association; George Kelemen, Texas Retailers Association; Ron Hinkle and Logan Spence, Texas Travel Alliance; Jack Baxley, TEXO The Construction Company; Dana Harris, The Greater Austin Chamber of Commerce; Austin Holder, Theatre Owners of Mid-America; Auburne Gallagher, TTP; Justin Keener, U.S. Hispanic Contractors Association; Jay Brown, Valero Energy Corporation; Tom Spilman, Wholesale Beer Distributors of Texas; and 14 individuals)

Against — Joe Hamill, AFSCME San Antonio Local 2021, Harris County Local 1550, HOPE Local 123, Austin/Travis County Local 1624, and El Paso Local 59; Robert Livar, CDI Technology Services; Carol Johnson, City of Austin; Omar Narvaez, City of Dallas; KB Brookins, Embrace Austin; Caitlin Boehne, Equal Justice Center; Jonathan Lewis, Every Texan; Neal Sarkar, Harris County Attorney's Office; Maggie Luna, Statewide Leadership Council; Rene Lara, Texas AFL-CIO; Hannah Alexander and Stephanie Gharakhanian, Workers Defense Action Fund; (*Registered, but did not testify*: Lauren Johnson, ACLU of Texas; Kevin Stewart, American Association of University Women of Texas; Ben Miller, Battleground Texas; Gary Warren, Central South Carpenters Regional Council; TJ Patterson, City of Fort Worth; Charles Reed, Dallas County Commissioners Court; Tammy Narvaez, Harris County Commissioners Court; Kara Sheehan, Local Progress; Fatima Menendez, Mexican American Legal Defense and Educational Fund; Matthew Lovitt, National Alliance on Mental Illness Texas; Louis Appel, People's Community Clinic; Rick Levy, Texas AFL-CIO; Marti Bier, Carisa Lopez, and Ivy Major-McDowall, Texas Freedom Network; Joshua Houston, Texas Impact; Lonzo Kerr, Texas NAACP; Julie Wheeler,

Travis County Commissioners Court; Charon Medina and Oscar Torres, Workers Defense Action Fund; and 22 individuals)

On — (*Registered, but did not testify*: Angela Hale, Texas Competes)

May 7 public hearing:

For — (*Registered, but did not testify*: Carrie Simmons, Associated Builders and Contractors of Texas and Texas Hotel and Lodging Association; Eric Woomer, Precast Concrete Manufacturers of Texas and Texas Crane Owners Association; Alan Burrows, Texas Construction Association; Linda Durnin)

Against — Jorge Renaud, Latinojustice; (*Registered, but did not testify*: Cyrus Reed, Lone Star Chapter Sierra Club)

DIGEST:

SB 14 would prohibit a municipality or county from adopting or enforcing an ordinance, order, rule, regulation, or policy requiring any terms of employment that exceeded or conflicted with federal or state law relating to any form of employment leave, hiring practices, employment benefits, scheduling practices, or other terms of employment.

Under the bill, an "employer" would include a person who employed one or more employees. An "employee" would be an individual employed by an employer for compensation. An "employment benefit" would mean anything of value that an employee received from an employer beyond regular salary or wages.

Any provision of an ordinance, order, rule, regulation, or policy that violated this bill would be void and unenforceable.

The bill would not affect:

- the Texas Minimum Wage Act;
- the authority of a political subdivision to negotiate the terms of employment with its employees;
- a policy relating to terms of employment in contracts or agreements

entered into between a private entity, including an organization representing city or county employees, and a governmental entity, regardless of when the policy was adopted; or

- a contract or agreement relating to terms of employment voluntarily entered into between a private employer or entity and a governmental entity.

The bill would take effect September 1, 2021, and would apply to an ordinance, order, rule, regulation, or policy adopted before, on, or after that date.

**SUPPORTERS
SAY:**

SB 14 would provide more certainty and consistency for Texas businesses, including those still recovering from the COVID-19 pandemic, by preempting certain burdensome local regulations on private employers.

Local governments should not dictate how businesses provide employment leave, establish hiring or scheduling practices, or offer employment benefits. Such regulations interfere with the freedom of private businesses to establish their own practices and benefits, and they amount to government overreach. Some ordinances may even affect a business's ability to retain staff or make benefit agreements and can lead to reductions in employee hours, ultimately harming employees.

Employers want their businesses to remain operational and competitive, so attracting and retaining the best employees is in their best interest.

Local government regulations are unnecessary and may even harm an employer's ability to provide benefits to employees.

Cities and counties have imposed several ordinances on private employers in recent years to mandate certain terms of employment, creating a patchwork of regulations across the state. This has created burdensome compliance costs for businesses that operate across city or county lines. For example, a business operating in a single county may have dozens of differing city regulations for which to account. SB 14 would provide statewide consistency and fairness by removing the patchwork regulations on how businesses may operate with respect to employee benefits,

scheduling requests, and leave policies. As businesses struggle to recover following the COVID-19 pandemic, it is increasingly important to provide certainty in the state's business environment to ensure Texas remains competitive and rebuild a thriving economy.

Concerns that the bill would negatively impact certain workers are misguided. Protections already exist in state and federal laws, rules, and regulations for the health and safety of workers, nondiscrimination, and other worker rights. Additionally, issues regarding paid sick leave or LGBTQ+ rights already have been addressed by the courts. SB 14 would not affect employment contracts entered into with a governmental entity or collective bargaining agreements. The bill is specific that only a provision in an ordinance that violated the bill would be made void, leaving the rest of the ordinance intact and preventing any unintended consequences.

CRITICS
SAY:

SB 14 would roll back important workplace protections by preempting local ordinances on employment leave, hiring and scheduling practices, benefits, and other worker protections.

The bill would make it more difficult for employees to receive basic working rights, including mandated water breaks for construction workers in the summer heat, paid sick leave, ordinances protecting LGBTQ+ individuals and other vulnerable groups from discrimination, and policies eliminating biases from the hiring process. Current state and federal laws and regulations do not go far enough, and local communities should be able to adopt policies to fill the gaps. With the impacts of the COVID-19 pandemic on employees, especially low-wage employees, it is especially important to ensure proper worker protections are in place.

The bill also would remove local control from cities and counties, contrary to the idea that the government closest to the people best serves the people. Local government officials were elected to represent the community's best interests, including worker protections, and policies are crafted with input from local businesses. SB 14 also could increase costs for local governments, which could have to increase expenditures to

ensure a policy was not construed as exceeding or conflicting with a federal or state law. Local governments could be left open to costly litigation if a person felt that a policy violated the bill.

OTHER
CRITICS
SAY:

The language of SB 14 should be clarified to prevent any unintended consequences, such as removing nondiscrimination ordinances or impacting local governments' ability to set rules, rather than contracts, regarding terms of employment. The bill should specifically exempt such provisions or ordinances from the prohibition.