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HB 577

Legislation to Pre-empt so-called "Fair Chance Hiring" and "Ban the Box" Ordinances

I would appreciate your support

BACKGROUND

Local governments have passed so-called "fair chance hiring" or "ban the box" ordinance or policy mandates upon private sector employers. Their purported intent is to assist helping people with criminal records find jobs.

This recent national push for local governments to interfere with tenets of economic freedom by imposing so-called "Fair Chance" and "Ban the Box" regulations on private employers is not the role of government. "Why is the state getting involved in a local issue?" The answer is simple: local control is meant to protect individual liberties, not to dismantle them like the impact of so-called "fair chance hiring" or "ban the box" ordinances.

Additionally, per the University of Michigan Law School, exacerbating racial discrimination in hiring is a result of so-called "fair chance hiring" or "ban the box" ordinances. The 2016 University of Michigan Law School study, on page 33, reads as follows: "BTB ["ban the box"] appears to substantially increase racial discrimination against black men—indeed, by more than a factor of six in our main specifications."

PROPOSED SOLUTION

HB 577 prohibits political subdivision from adopting or enforcing so-called "Fair Chance Hiring" and "Ban the Box" mandates upon private employers.

- Protects the rights, liberties, and safety of the citizens of Texas
- Promotes "Liberty of Contract", the free market principle allowing one person to contract with another person for the exchange of lawful goods and services without undue government influence. This concept is the single most important factor in the wealth of the United States and has been at the forefront of Texas' booming economic success
- Private employers cannot be subjected to a local government's mandate as to how they can and cannot handle a job applicant or employee's criminal history information
- The State of Texas created local government. The state is compelled to act when local governments create regulations that (1) restrict the rights and liberties of its citizens, (2) affect people who are not citizens of that local government, (3) negatively impact the Texas economy, and (4) create a variation of ordinances across the state. So-called "Ban the Box" and "Fair Chance" ordinances meet all four criteria.

- Fair Chance ordinances, most importantly, restrict the rights and liberties of Texas citizens. The Texas Legislature should not stand for municipal intrusions into individual liberty and the economic success of our state
- Promoting sound re-entry policies to reduce recidivism rates in our state is needed. But, experts in this field and studies show so-called "Fair Chance Hiring" and "Ban the Box" ordinances can harm the people these ordinances are purported to help¹.
- Private sector job creators must be allowed to conduct their business without undue government interference and the City of Austin so-called "Fair Chance Hiring" mandate upon private employers is an unjustifiable excessive burden
- Allows local bodies to enact an ordinance when the company is entering into, or doing business with the local body, such as a public sector position or a contract between a private and public entity.

¹ University of Michigan School of Law study; white applicants received 23% more callbacks than otherwise identical black applicants

LEGISLATION

By: Workman

H.B. No. 577

A BILL TO BE ENTITLED AN ACT relating to the authority of a political subdivision to adopt or enforce certain regulations regarding whether a private employer may obtain or consider an employment applicant's or employee's criminal history record information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 3, Labor Code, is amended by adding Chapter 106 to read as follows:

CHAPTER 106. CRIMINAL HISTORY RECORD INFORMATION OF EMPLOYMENT APPLICANT OR EMPLOYEE

Sec. 106.001. DEFINITIONS. In this chapter:

(1) "Applicant" means a person who has made an oral or written application with a private employer, or has sent a resume or other correspondence to a private employer, indicating an interest in employment.

(2) "Criminal history record information" has the meaning assigned by Section 411.082, Government Code.

Sec. 106.002. CERTAIN LOCAL REGULATION OF PRIVATE EMPLOYERS PROHIBITED. A political subdivision of this state may not adopt or enforce any ordinance or other local regulation that prohibits, limits, or otherwise regulates a private employer's ability to request, consider, or take employment action based on the criminal history record information of an applicant or employee.

Sec. 106.003. NONAPPLICABILITY. This chapter does not prevent a political subdivision of this state from adopting or enforcing an ordinance or other local regulation relating to the access to or consideration of the criminal history record information of an individual:

(1) entering into a contract or other agreement with the political subdivision;

(2) receiving a grant from the political subdivision;

(3) seeking a license, permit, or other authorization to conduct business from the political subdivision; or

(4) conducting business with or under the regulatory authority of the political subdivision.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.