



CAPITOL HALL — REPORT —



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Uniform Non-Discrimination Bill, Senate Bill 92

Article I of the Texas Constitution sets out the state's Bill of Rights, declaring the state to be a free and sovereign state and recognizing that "all free men, when they form a social compact, have equal rights" and "equality under the law shall not be denied or abridged because of sex, race, color, creed, or national origin."

Article II of the Constitution vests all legislative power of the state in the Texas Senate and House of Representatives. Through that power, the Legislature of the State of Texas is responsible for the creation of local governmental entities and the delegation of legislative authority to such entities as the Legislature sees fit. Local entities are delegated broad authority to pass local ordinances that do not otherwise conflict with state law.

While the Texas Legislature may delegate its legislative power, it should not abdicate its authority (or responsibility) to provide a statewide regulatory system that gives certainty to the requirements that businesses are required to meet across the state.

Currently, some counties and municipalities have created a patchwork of regulations creating classes of protected individuals not recognized at the state level. For example, in 2014 the City of Austin passed an ordinance attempting to protect holders of Housing Choice Vouchers from discrimination by landlords who were allegedly unwilling to accept voucher holders as tenants. Texas statutes provide no such protections. The City of Austin was dictating to property owners who they must rent to without regard to the property owner's wishes. While it may be crass to refuse to rent based on source of income, it should not be illegal. The legislature overrode the statute the next legislative session.

Other cities have ordinances prohibiting discrimination based on sexual orientation or gender bias. According to ABC News, there are at least 58 gender options currently in use. Could you say with certainty that you would know exactly what behavior you are required not to discriminate against? The list appears to be fluid and has the potential to increase as the definition expands. What may be considered legal today could become illegal through expansion of the list of options.

Senate Bill (SB) 92 would prohibit local Texas counties and municipalities from passing ordinances which mandate that businesses go beyond what Texas law currently requires in anti-discrimination laws. However, nothing in the legislation would prohibit a business from establishing any internal policy it so chooses. A company could choose to include the entire list of 58 gender options plus any that surface in the future, only a partial list, or remain neutral on the issue of gender bias. Currently, about two-thirds of Fortune 500 businesses already have anti-discrimination policies in place to protect their employees. There is no reason to believe they would remove these policies if local entities could not have the local mandates in place.

Likewise, local businesses can make policies to not discriminate against veterans, the homeless, felons seeking employment, or any other group they so choose. SB 92 will not prevent such action. It will merely prevent the local governments from requiring a one-size fits all policy for every business to have to follow.

By providing Texas business with a uniform and consistent system of regulations, more opportunities will be created for businesses to bid on local government contracts, and cities and counties will receive the benefit of the increased competition in the form of lower costs and higher quality goods and services. By promoting business growth instead of restricting business flexibility, new jobs will be created, the economy will continue to grow, and Texas' success story will keep climbing upward.

