



GROUP VICE PRESIDENT-LEGISLATIVE AFFAIRS

May 31, 2013

The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711

Cohen, Richard A (060413)  
201306040663

Re: Veto Request – HB 950

Dear Governor Perry:

I am the Group Vice President of Legislative Affairs for Macy's. We operate 55 stores in Texas and employ over 9000 people. I am writing to urge your veto of HB 950.

HB 950 would extend the expansive provisions of the federal Lilly Ledbetter Act into Texas law, creating an unnecessary additional means to sue employers for alleged employment discrimination. Both Texas and federal law already provide adequate remedies to address perceived problems. In addition, HB 950 would extend an employer's exposure to litigation for up to as long as an individual receives retirement benefits from the employer.

Under existing law, employees can bring suit against employers pursuant to Title VII of the Civil Rights Act, the Equal Pay Act and Chapter 21 of the Texas Labor Code. Importantly, each of these statutes provides for a time certain in which complaints must be filed. HB 950 would, on the other hand, impose upon Texas employers the Lilly Ledbetter standard which provides that a discriminatory act occurs each time an affected individual receives wages or other compensation, including pension or other retirement benefits.

The federal requirements under Lilly Ledbetter are unnecessary and would be harmful to Texas employers. We urge you to veto this legislation. Thank you for your consideration of our views.

Sincerely,

Richard A. Cohen

cc: Ronnie Volkening

KROGER FOOD STORES  
SOUTHWEST DIVISION  
1331 E. AIRPORT FRWY  
IRVING, TX 75062-4818



May 31, 2013

The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711

Huddleston, Gary (060413)  
201306040680

Dear Governor Perry:

On behalf of Kroger, I write to request your veto of HB 950.

Simply stated, HB 950:

- 1) seeks to extend the expansive provisions of the recently enacted federal Lily Ledbetter Act into Texas law;
- 2) creates an unnecessary and additional method to sue employers for alleged employment discrimination when adequate remedies currently exist in both state and federal law; and
- 3) extends an employer's liability and exposure to litigation for as long as an individual works for or receives retirement benefits from the employer.

Currently, employees have protections against employment discrimination in both state and federal law. Employees can bring suit against employers pursuant to Title VII of the Civil Rights Act, the Equal Pay Act and Chapter 21 of the Texas Labor Code. Each of these statutes provide for a variety of remedies for employees who have been adversely impacted by discriminatory practices. Each of these statutes also provides for a time certain in which complaints must be filed. HB 950 seeks to remove that certainty by adopting the Lily Ledbetter standard that states that an act of discrimination occurs each time an affected individual receives wages or other compensation. In other words, the statute of limitations for bringing a lawsuit begins anew each time the individual receives a paycheck or other compensation, including wages, pension or 401k payments.

In our view, an essential element necessary for fair resolution involves requiring the complaint to be raised in a timely manner, while facts are fresh and prompt and appropriate remedial action remains an option. Current Texas law seeks to facilitate that opportunity for prompt and fair resolution by establishing a time certain in which complaints must be brought forward. The impact of HB 950 would be to unnecessarily and significantly undermine that opportunity for fair and timely resolution of complaints in exchange for forever exposing employers to unforeseen and costly litigation based on actions of the distant past. We, therefore, respectfully request your veto of HB 950.

Thank you for your careful consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Huddleston", written in a cursive style.

Gary Huddleston  
Director, Consumer Affairs



The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711

Cooper, D. Jason (060413)  
201306040661

Dear Governor Perry:

On behalf of Brookshire Grocery Company, I am writing to request your veto of HB 950.

Simply stated, HB 950:

- 1) seeks to extend the expansive provisions of the recently enacted federal Lily Ledbetter Act into Texas law;
- 2) creates an unnecessary and additional method to sue employers for alleged employment discrimination when adequate remedies currently exist in both state and federal law; and
- 3) extends an employer's liability and exposure to litigation for as long as an individual works for or receives retirement benefits from the employer.

Currently, employees have protections against employment discrimination in both state and federal law. Employees can bring suit against employers pursuant to Title VII of the Civil Rights Act, the Equal Pay Act and Chapter 21 of the Texas Labor Code. Each of these statutes provide for a variety of remedies for employees who have been adversely impacted by discriminatory practices. Each of these statutes also provides for a time certain in which complaints must be filed. HB 950 seeks to remove that certainty by adopting the Lily Ledbetter standard that states that an act of discrimination occurs each time an affected individual receives wages or other compensation. In other words, the statute of limitations for bringing a lawsuit begins anew each time the individual receives a paycheck or other compensation, including wages, pension or 401k payments.

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Sincerely,

D. Jason Cooper  
Director – Government Relations  
Brookshire Grocery Company  
P.O. BOX 1411  
Tyler, TX 75710-1411  
(903) 534-2161  
[jasoncooper@brookshires.com](mailto:jasoncooper@brookshires.com)

Alepa, Kim (060613)

201306062925



SUPERMARKETS OF  
HOUSTON INC.



SUPERMARKETS OF  
SAN ANTONIO INC.

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GENERAL OFFICES • 10810 S. POST OAK • HOUSTON, TX 77035 • 713 723-8948 • FAX 713 723-5702

June 3, 2013

The Honorable Rick Perry  
Governor of Texas  
PO Box 12428  
Austin, TX. 78711

Dear Governor Perry,

On behalf of Cox's Foodarama, I am writing to you to request your veto of HB 950.

Simply stated, HB 950:

1. Seeks to extend the expansive provisions of the recently enacted federal Lily Ledbetter Act into Texas Law.
2. Creates an unnecessary and additional method to sue employers for alleged employment discrimination when adequate remedies currently exist in both state and federal law.
3. Extends an employer's liability and exposure to litigation for as long as an individual works for or receives retirement benefits from the employer.

Currently, employees have protection against employment discrimination in both state and federal law. Employees can bring suit against employers pursuant to Title VII of the Civil Rights Act, the Equal Pay Act and Chapter 21 of the Texas Labor Code. Each of these statutes provide for a variety of remedies for employees who have been adversely impacted by discriminatory practices. Each of these statutes also provides for a time certain in which complaints must be filed. HB 950 seeks to remove that certainty by adopting the Lily Ledbetter standard that states that an act of discrimination occurs each time an affected individual receives wages or other compensation. In other words, the statute of limitations for bringing a lawsuit begins anew each time the individual receives a paycheck or other compensation, including wages, pension or 401K payments.

In our view, an essential element necessary for fair resolution involves requiring the complaint to be raised in a timely manner, while facts are fresh and prompt and appropriate remedial action remains an option. Current Texas law seeks to facilitate that opportunity for prompt and fair resolution by establishing a time certain in which complaints must be brought forward. The impact of HB 950 would be to unnecessarily and significantly undermine that opportunity for fair and timely resolution of complaints in exchange for forever exposing employers to unforeseen and costly litigation based on actions of the distant past. We, therefore, respectfully request your veto of HB 950.

Thank you for your careful consideration.

Sincerely,

A handwritten signature in cursive script that reads "Kim Alepa".

Kim Alepa  
CFO



# Texas Retailers Association

Volkening, Ronnie (060613)  
201306061281

The Voice of Texas Retail  
400 West 15th Street, Suite 1405, Austin, Texas 78701  
Phone (512) 472-8261 • Fax (512) 474-5011 • [www.txretailers.org](http://www.txretailers.org)

June 4, 2013

The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711

Dear Governor Perry:

The members of the Texas Retailers Association respectfully request your veto of HB 950.

In delivering the attached letters from just a few TRA members setting forth their opposition to HB 950, I will add a few additional thoughts.

To summarize, we believe HB 950 is:

- a) unnecessary, in that existing law provides adequate remedies against employment discrimination; and
- b) harmful, in that it undermines opportunities for timely resolution of employment disputes in favor of fomenting expensive and divisive litigation.

Current Texas law seeks to promote a productive workplace by providing an environment in which complaints can be fairly and expeditiously resolved. The website of the Texas Workforce Commission provides clear and thorough instructions for filing a discrimination complaint. Texas law also sets a time certain in which a complaint needs to be raised, believing that opportunities for fair resolution are greatest while facts are fresh and prompt and appropriate remedial action remains an option.

HB 950 would remove any incentive for prompt action by providing that the statute of limitations for filing a lawsuit begins anew whenever the individual receives a paycheck or other compensation, including retirement benefits. The impact of HB 950 would be to unnecessarily and significantly undermine that opportunity for fair and timely resolution of complaints in exchange for exposing employers to unforeseen and costly litigation based on actions of the distant past. We, therefore, respectfully request your veto of HB 950.

Thank you very much for your consideration,

Sincerely,

A handwritten signature in black ink that reads "Ronnie Volkening".

Ronnie Volkening  
President & CEO  
Texas Retailers Association



**T E X A S**  
ASSOCIATION OF  
**BUSINESS**

May 28, 2013

Governor Rick Perry  
P. O. Box 12428  
Austin, TX 78711

**RE: Please veto HB 950**

Dear Governor Perry,

On behalf 3,000-plus business members and employers from across the State and over 200 chambers of commerce, the Texas Association of Business (TAB) is asking you to **veto HB 950**.

HB 950, in effect, jettisons the defining element of a disparate treatment claim under Chapter 21 – intent to discriminate. The law under Chapter 21 is clear – the time period under Chapter 21 for filing a discrimination charge is within 180 days of the alleged discriminatory act. This statutory time period is significant for a number of reasons. It promotes the prompt processing, and resolution, of employment discrimination claims through the administrative process set out in Chapter 21. It provides a timely notification requirement for claims and thus protects employers from the burden of defending claims arising from employment decisions that are long past. And it ensures that proof of discrimination or lack thereof, through witness testimony or documentary evidence, does not become stale and that the fact finder can reconstruct what actually happened without the natural diminishment to memories and even documents caused by the passage of time.

Thus, if an employee claims that she was denied a promotion for an unlawful reason, was discharged for an unlawful reason, was disciplined differently, for example, than a male employee who committed the same infraction, the law of the State of Texas has been and continues to be that the complaining employee must file a discrimination charge within 180 days of that alleged discriminatory act. With that, the Texas Workforce Commission—Civil Rights Division can timely process and investigate a claim, and the parties can proceed in a timely manner in the pursuit of, or defense of the claim.

HB 950 changes that law, without legitimate reason, to exempt pay discrimination decisions from the 180 day requirement. Under HB 950, pay discrimination claims – which still must be based on discriminatory intent -- are deemed to occur, not just when the

alleged discriminatory decision was made (as is the requirement for every other type of disparate treatment claim), but each time a paycheck is issued to the affected employee. Thus, if an alleged discriminatory pay decision was made 10 years ago in connection with a poor employment evaluation, and since that time, the employee has allegedly received a lesser paycheck based on that original decision 10 years ago, the employee may nonetheless file a discrimination charge that would be timely, as long as that charge was filed within 180 days of the receipt of a paycheck. In effect, HB 950 allows a shift of alleged discriminatory intent from a long-ago decision not timely challenged to a later act – the issuance of a paycheck – that comes without any discriminatory intent. This defeats the very purposes of the 180 day filing requirement – timely processing and resolution of discrimination claims, timely notification of discrimination claims so that they can be appropriately defended, and assurance that claims will not be impacted by the passage of undue time periods that affect the reliability of evidence.

TAB is asking that you veto the bill because we know that it will have negative consequences for the employers of Texas

If you have specific questions, please do not hesitate to contact me at 512.637.7701 or at [bhammond@txbiz.org](mailto:bhammond@txbiz.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Hammond", with a stylized flourish extending from the end of the name.

Bill Hammond  
President/CEO

cc: Ken Armbrister



May 28, 2013

The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711

Dear Governor Perry,

NFIB/Texas, the state's leading small business association, respectfully requests your veto of HB 950 which creates a cause of action against an employer by an employee for alleged compensation discrimination. HB 950 is very similar to federal law known as the Lilly Ledbetter Act, 2009. In *Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. 618, Ledbetter sued her employer after she had retired for being paid less in wages, and therefore in her retirement received lower benefits, than her male counterparts for the same work. A jury awarded her \$3.3 million which was subsequently reduced to \$300,000. Goodyear appealed the decision to the U.S. Supreme Court who overturned the case because Ledbetter had not filed her lawsuit within the allowed time. Subsequently, in 2009 Congress passed, and President Obama signed into law, the Lilly Ledbetter Act. HB 950 seeks to mirror the federal law which Texas is not mandated to implement.

Currently, it is an unlawful employment practice in Texas for an employer to discriminate in compensation for employees based on sex. (Tex. Lab. Code § 21.051) The distinction between current law and HB 950 is current law requires discrimination complaints be filed with the Texas Workforce Commission's Civil Rights Division within 180-days from the alleged discriminatory act. HB 950 allows an individual to file a complaint within 180-days of *discovery* of an alleged discriminatory act regardless of when the act occurred as long as the individual is still receiving compensation from the employer. A 180-day clock starts from the last compensation received after the individual discovered the alleged discrimination, removing any statute of limitations. For example, if a man was promoted over a woman twenty years ago simply because he was a man, whenever the woman discovers the alleged discrimination it starts a 180-day clock from the last compensation received to file a claim.

HB 950 would allow an individual to bring a cause of action against an employer for alleged compensation discrimination even if the employee is retired, just as in *Ledbetter*. Compensation includes any monetary benefit received from the employer such as 401k payments, retirement benefits or bonuses. Section 21.202(a) states an unlawful employment practice occurs each time: 1) a discriminatory compensation decision or other practice is adopted; 2) when an individual becomes subject to the discriminatory practice; and, 3) an individual is affected by a discriminatory compensation decision or other practices, *including* each time the individual receives wages. This language was added on the Senate floor and was meant to narrow the bill to wages only. It does not achieve that purpose. The language does not exclude other compensation, it merely includes wages.





Section 3 of HB 950 only adds to the convolution of this legislation. This section states the Act only applies to discrimination in payment of compensation on or after the effective date of the Act. This has the effect of delaying the full impact of the Act. An individual who discovers alleged discrimination one week after the date the Act goes into effect would be able to sue the employer as long as the discriminatory act occurred after the effective date and they are paid any type of compensation. The only limitation would be the amount of wages they could recover but it does not limit damages. If the individual discovers the alleged discriminatory act ten years from when the Act took effect, they would still be able to bring a suit against the employer as long as they are receiving any compensation because each payment begins a 180-day clock to file a claim, even if the compensation is retirement benefits. This in effect creates no statute of limitations and opens employers to an immense liability for employment decisions that have occurred years ago and which they were most likely not aware of.

HB 950 is unnecessary. Employees are currently protected by state and federal statutes regarding wages. An employee can sue their employer under Title VII of the Civil Rights Act and the Equal Pay Act if they believe they have been discriminated against in pay. In addition, an employee can bring suit under the federal Lilly Ledbetter Act. Proponents of this legislation argue it is less expensive for both employees and employers to take legal action in state courts. It is never less expensive for an employer to be sued. Regardless of whether the plaintiff prevails, small businesses must incur costs for their defense. Unlike large employers, small business owners do not always have human resources departments and attorneys to assist them in employment decisions. Although HB 950 only allows recovery of two years of wages, this in no way limits an employer's liability to much larger awards.

On behalf of over 24,000 NFIB/Texas members, we respectfully request a veto of HB 950 because current state law provides protections for compensation discrimination as well as federal law. HB 950 is confusing and difficult to interpret leaving employers uncertain of how to comply with the law. This legislation only serves to expand employer liability by extending the timeline to a time uncertain for compensation discrimination claims. Simply put, HB 950 only creates an additional method to sue employers.

Thank you,

Will Newton

NFIB/Texas Executive Director



The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711

Cooper, D. Jason (060613)  
201306061103

Dear Governor Perry:

On behalf of Brookshire Grocery Company, I am writing to request your veto of HB 950.

Simply stated, HB 950:

- 1) seeks to extend the expansive provisions of the recently enacted federal Lily Ledbetter Act into Texas law;
- 2) creates an unnecessary and additional method to sue employers for alleged employment discrimination when adequate remedies currently exist in both state and federal law; and
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Sincerely,

D. Jason Cooper  
Director – Government Relations  
Brookshire Grocery Company  
P.O. BOX 1411  
Tyler, TX 75710-1411  
(903) 534-2161  
[jasoncooper@brookshires.com](mailto:jasoncooper@brookshires.com)



Cohen, Richard A (060613)  
201306061024

GROUP VICE PRESIDENT-LEGISLATIVE AFFAIRS

May 31, 2013

The Honorable Rick Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711

Re: Veto Request - HB 950

Dear Governor Perry:

I am the Group Vice President of Legislative Affairs for Macy's. We operate 55 stores in Texas and employ over 9000 people. I am writing to urge your veto of HB 950.

HB 950 would extend the expansive provisions of the federal Lilly Ledbetter Act into Texas law, creating an unnecessary additional means to sue employers for alleged employment discrimination. Both Texas and federal law already provide adequate remedies to address perceived problems. In addition, HB 950 would extend an employer's exposure to litigation for up to as long as an individual receives retirement benefits from the employer.

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The federal requirements under Lilly Ledbetter are unnecessary and would be harmful to Texas employers. We urge you to veto this legislation. Thank you for your consideration of our views.

Sincerely,

Richard A. Cohen

cc: Ronnie Volkening