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Perry vetoed wage bill after getting letters from retailers

Gov. Rick Perry vetoed a bill that would have let victims of wage discrimination sue in state court after receiving letters against the measure from the Texas Retailers Association and five of its members, mostly grocery stores, according to records obtained by the Houston Chronicle.

Rep. Senfronia Thompson, D-Houston, who authored HB 950 mirroring the federal Lilly Ledbetter Fair Pay Act, said she unaware that the group and the businesses opposed her bill, or that they sought a gubernatorial veto.

Among the businesses advocating for a veto was Kroger Food Stores.

"I shop at Kroger's for my groceries," Thompson said. "I shopped there just last week. I'm going to have to go to HEB now. I am really shocked."

Also writing to seek a veto were representatives of Macy's, the Houston grocery company Gerland Corp., Brookshire Grocery Company, Market Basket, the Texas Association of Business and the National Federation of Independent Businesses.



HEB is a member of the Texas Retailers Association, but lobbyist Rusty Kelley said the company did not lobby against the bill.

The letters to Perry provide a behind-the-scene glimpse of the legislative process. Entities such as the Texas Retailers Association can seek a gubernatorial veto without the knowledge of sponsors. Thompson and her Senate counterpart, Sen. Wendy Davis, D-Fort Worth, say they were blindsided by Perry's veto and the retailers' opposition.

Veteran Austin lobbyist Bill Miller said seeking a gubernatorial veto is a common lobby tactic. "That's a smart play. You don't fade the heat (by publicly opposing a bill) on the front end and you win on the back end." He said that, except for the Chronicle's open records request, "no one would be the wiser. You do what you gotta do to protect your client."

Bill 'unnecessary'?

Two other prominent business groups - the Texas Association of Business and the National Federation of Independent Businesses - also wrote Perry urging a veto, but those groups opposed publicly during committee hearings. Thompson said she heard "not one time" from any of the retailers.

In his veto proclamation, Perry did not mention the opposition of any business groups, but cited Texas' positive business climate as a reason to oppose the bill: "Texas' commitment to smart regulations and fair courts is a large part of why we continue to lead the nation in job creation. House Bill 950 duplicates federal law, which already allows employees who feel they have been discriminated against through compensation to file a claim with the U.S. Equal Employment Opportunity Commission."

In his request for a veto, Ronnie Volkening, president and CEO of the Texas Retailers, said the bill was "unnecessary, in that existing law provides adequate remedies against employment discrimination; and harmful, in that it undermines opportunities for timely resolution of employment dispute in favor of fomenting expensive and divisive litigation."

The federal Lilly Ledbetter Fair Pay Act was adopted by Congress in reaction to a U.S. Supreme Court ruling that an Alabama factory worker's complaint of wage discrimination was barred by the statute of limitations. The court ruled she should have made her complain within 180 days of the initial decision about her pay.

Proponents of the federal act point out that many workers are unaware for years that they are the victims of discrimination. The federal law would allow a worker to sue for discrimination within

180 days of receiving a paycheck that included unfair wages.

While the federal act permits such lawsuits in federal court, HB 950 would have allowed workers to file their lawsuits in state court. Advocates say state courts provide easier access and are less costly.

The retailers complained to Perry that under HB 950, the statute of limitations would be reset every time a worker received a retirement check. Not so, said Thompson, who said she rewrote the bill to exclude retirement benefits to win Republican support in the Texas Senate.

"They didn't read the bill or someone get them the wrong information," she said.

'Protects employers'

Gary Huddleston, Kroger's director of consumer affairs, said he relied on the retailers association for his information on the bill. "I regret that Representative Thompson is upset and I am sure Kroger, along with the Texas Retailers Association, would like to discuss the issue with her," he said.

Volkening could not be reached for comment.

Like Volkening, Texas Association of Business President Bill Hammond urged Perry to veto the bill, arguing that the current statute of limitations "protects employers from the burden of defending claims arising from employment decisions that are long past." His comments mirrored his association's public position during the legislative session.

Davis also said she was disappointed to hear of the effort to kill the bill through gubernatorial veto.

"Here in Texas, so many families need both a mom and a dad working to make sure kids are taken care of and bills are covered," she said. "When a mother is not paid fairly for doing the same job as any other co-worker, it doesn't just shortchange her, it shortchanges the entire family."





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