

Legislative Analysis



PROHIBIT EMPLOYERS FROM MAKING DECISIONS BASED ON PHYSICAL ATTRIBUTES OR FITNESS

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House Bill 4926

Sponsor: Rep. Hoon-Yung Hopgood

Committee: Labor

Complete to 6-18-07

A SUMMARY OF HOUSE BILL 4926 AS INTRODUCED 6-14-07

The bill would create a new act, generally, to prohibit an employer from discriminating against an employee or prospective employee based on body type, degree of physical fitness, or other physical characteristics. The act would be known as the Respect for Physical Differences Act.

Employers would be prohibited from failing or refusing to hire or recruit, discharging, or otherwise discriminating with respect to employment, compensation, or a term, condition, or privilege of employment on the basis described above.

The prohibition would not apply when body type, fitness, or a physical characteristic is an established, bona fide occupational requirement or if it impairs an employment activity or responsibility of an employee or group of employees. The burden of establishing the exception would be on the employer.

The bill also would prohibit retaliation or discrimination against an individual because he or she has, or is about to, file a complaint under the new act; testify, assist, or participate in an investigation, proceeding, or action concerning a violation of the act; or oppose a violation of the act. An employer could not require an applicant for employment or an employee to waive any right under the act. An agreement to waive a right would be invalid and unenforceable.

An individual injured by a violation of the act could bring a civil suit to obtain injunctive relief or damages, or both. The court would award costs and reasonable attorney fees to a prevailing plaintiff.

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on the judiciary; the fiscal impact would depend on how the bill increased civil court caseloads and any related administrative costs.

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