THE WOMEN’S LAW PROJECT OPPOSES HB 2071

House Bill 2071 creates a loophole that would enable employers to implement discriminatory policies in violation of local law.

HB 2071 is a preemption bill that:

- Gives employers “the right, at the employer’s discretion, to implement a workplace violence prevention measure to provide for the safety of employees...” (emphasis added).

- Defines “workplace violence policy” and “workplace violence prevention measure” broadly to include any type of policy or measure (using “including but not limited to” language); and

- Provides a vaguely-worded right to sue a municipality presumably for having a local law that prohibited a workplace measure that the employer wants to implement. When they sue, the bill punitively allows employers to sue municipalities for costs, including attorney’s fees, and damages of $10,000 (even when the local law over which the employer is suing the municipality did not cause any economic damages to the employer, such as loss of profits or damage to property). Arguably, an employer does not even need to win their case to obtain costs, attorney’s fees, and a $10,000 award, because the section says, “a party who brings or maintains an action against a municipality in order to obtain relief... shall be entitled to recover...”

- HB 2071 allows employers to ignore local laws by claiming that measures otherwise prohibited by local laws are “workplace violence prevention measures.” They would then be able to implement these measures unless state or federal law prohibits it.

Constituents rely on local anti-discriminatory laws. They are especially important to protect in a state that lacks so many statewide discrimination protections.

Local Laws apply to more employers than state or federal laws do:
  o Title VII of the Civil Rights Act of 1964 does not apply to employers with under 15 employees.
  o The Pennsylvania Human Relations Act does not apply to employers with under 4 employees.
  o Only local laws like the Philadelphia Fair Practices Ordinance apply to employers with 1 or more employees.
  o As a result, there are many employers who are subject only to local anti-discrimination law, not state or federal anti-discrimination law.
HB 2071 would allow employers to ignore local anti-discrimination laws across the Commonwealth by merely claiming an action otherwise prohibited by these laws is intended to prevent workplace violence (based solely on the employer’s discretion rather than objective criteria).

**Examples of ways HB2071 enables employers to discriminate:**

- HB 2071 could allow an employer with fewer than four employees (and thus subject only to local antidiscrimination law) to hire men only because they believe—based on stereotypes—that not hiring women will reduce the possibility of sexual harassment in the workplace.

- HB 2071 could allow an employer with fewer than four employees to discriminate against individuals of certain racial or ethnic backgrounds in hiring because they believe — based on stereotypes — that people of certain racial or ethnic backgrounds are more likely to be criminals.

- HB 2071 could allow an employer with fewer than four employees to ask job applicants invasive questions about their sexual behaviors because they believe — based on stereotypes — that women who engage in “risky” sexual behaviors will “invite” workplace violence.

- HB 2071 could allow employers to ignore municipal building codes if they believe — based solely on their discretion rather than objective criteria — that those codes interfere with their ability to prevent workplace violence.

- The list goes on and on.

HB 2071 is a vaguely-worded preemption bill that gives employers too much discretion to ignore local laws across the Commonwealth. For these reasons, the Women’s Law Project strongly opposes it.

For questions, please contact Amal Bass, Staff Attorney at the Women’s Law Project (abass@womenslawproject.org).

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