

Employment Laws That May Apply to Your City

TML Legal Department

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FEDERAL EMPLOYMENT LAWS

Statute	Minimum Number of Employees	What is it?
Title VII of the Civil Rights Act of 1964 – Title VII (42 U.S.C. §§ 2000e-2; 2000e-3)	15 or more employees	<ul style="list-style-type: none"> • Prohibits employment discrimination based on race, color, national origin, religion or sex (includes pregnancy, sex stereotyping, and sexual harassment). • Prohibits retaliation against an employee or applicant who opposes an unlawful employment action under Title VII, files a charge, testifies, assists or participates in an investigation, proceeding, or litigation under Title VII.
Title I of the Americans With Disabilities Act - ADA (42 U.S.C. § 12112)	15 or more employees	<ul style="list-style-type: none"> • Prohibits employment discrimination against a qualified individual with a disability, and requires the employer to provide such employee with a reasonable accommodation unless doing so would result in an undue hardship to the city. • Prohibits retaliation against an individual for opposing employment practices that discriminate based on disability or for filing a charge, testifying, assisting or participating in an investigation, proceeding or litigation under the ADA.
Equal Pay Act – EPA (29 U.S.C. § 206 (d))	All	<ul style="list-style-type: none"> • Prohibits pay differentials based on gender for employees working in substantially equal jobs requiring equal skill, effort, and responsibility under similar working conditions.

Fair Labor Standards Act – FLSA (29 U.S.C. § 201 et seq.)	All	<ul style="list-style-type: none"> • Establishes minimum wage, overtime pay, record-keeping and youth employment standards affecting full-time or part-time workers. • Prohibits a city from retaliating against any employee because the employee has filed any complaint, instituted or caused to be instituted any proceeding under or related to the FLSA, or has testified or is about to testify in any such proceeding.
Age Discrimination in Employment Act - ADEA (29 U.S.C. § 621)	20 or more employees	<ul style="list-style-type: none"> • Protects individuals (employee or applicant) who are 40 years or older from employment discrimination based on age. • Prohibits retaliation against an individual who opposes employment practices that discriminate based on age, or who files a charge, testifies, assists or participates in an investigation, proceeding, or litigation under the ADEA.
Section 1981 of the Civil Rights Act of 1866 – Section 1981 (42 U.S.C. § 1981)	All	<ul style="list-style-type: none"> • Prohibits racial and ethnic bias in employment.
Uniformed Services Employment and Reemployment Rights Act – USERRA (38 U.S.C. § 4311 et seq.)	All	<ul style="list-style-type: none"> • Prohibits a city from denying any benefit of employment on the basis of an individual's membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services. • Prohibits retaliation against any person because such person has taken an action to enforce a right under USERRA, has testified or made a statement in connection with any proceeding under USERRA, has assisted or otherwise participated in an investigation under USERRA, or has exercised a right under USERRA (applies to any person regardless of whether a person has served in the uniformed services).

<p>Family Medical Leave Act – FMLA (29 U.S.C. § 2601 <i>et seq.</i>)</p>	<p>All cities provide notice; Only eligible employees are given benefits</p>	<ul style="list-style-type: none"> • Requires an employer to grant an eligible employee (an employee of a city that has more than 50 employees who has been employed by the city for at least 12 months and has worked at least 1,250 hours during the last 12-month period immediately preceding the commencement of leave) up to 12 work-weeks of unpaid leave during a 12-month period for certain family and medical reasons (birth of a child, to care for an employee’s newborn child; placement of a child with the employee for adoption or foster care; to care for an employee’s family member who has a serious health condition; and for the employee’s own serious health condition). • Requires an employer to provide special leave benefits for uniformed military and their families. • Prohibits an employer from interfering, restraining, or denying the exercise of an employee’s right to take leave under the FMLA. • Prohibits an employer from retaliating against an employee who opposes practices made unlawful by the FMLA (applies to

		<p>all employees even if not eligible for FMLA).</p> <ul style="list-style-type: none"> • Requires an employee to be restored to the same position the employee held before taking leave or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.
<p>Immigration Reform and Control Act of 1986 – IRCA (8 U.S.C. § 1324b)</p>	Four	<ul style="list-style-type: none"> • Prohibits employment discrimination against protected individuals (U.S. citizens, permanent residents, temporary residents, refugees, or asylees) on the basis of national origin or because of an individual's citizenship status. • Requires all employers (regardless of size) to verify and keep records of work-authorization documents.
<p>Service on Grand jury (29 U.S.C. § 1875)</p>	All	<ul style="list-style-type: none"> • Prohibits an employer from discharging, threatening to discharge, intimidating, or coercing any employee because of the employee's service on a petit or grand jury.
<p>Workplace Safety (29 USC § 3660(c))</p>	All	<ul style="list-style-type: none"> • Prohibits an employer from discharging an employee because the employee has filed a complaint or instituted or caused to be instituted any proceeding as to violations of safe workplace conditions.
<p>Consolidated Omnibus Budget Reconciliation Act – COBRA (42 U.S.C. § 300bb-5)</p>	Applies if the city employed more than 20 employees in a typical business day during the preceding calendar year (includes full-time and part-time employees)	<ul style="list-style-type: none"> • Requires continuation coverage of health benefits to be offered to covered employees, their spouses, former spouses, and dependent children when certain specific events occur (death of a covered employee; termination or reduction in hours of a covered employee's employment for reasons other than gross misconduct; divorce or legal separation from a covered employee; a covered employee becoming entitled to Medicare; and the child's loss of dependent status under the health plan). • Special provisions under the Stimulus Bill now require employers to pay a portion of the COBRA health benefits for

		certain employees who have left their employment. The city's contribution to these health benefits is repaid by the government.
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TEXAS EMPLOYMENT LAWS

Employment Law	Minimum Number of Employees	What is it?
Texas Commission on Human Rights Act – TCHRA (Tex. Lab. Code § 21.051-.055)	All	<ul style="list-style-type: none"> • Prohibits employment discrimination on the basis of race, color, disability, religion, sex, national origin, or age. • Prohibits retaliation for opposing a discriminatory practice, making or filing a charge, filing a complaint, testifying or participating in an investigation, proceeding or hearing under the TCHRA.
Texas Whistleblower Act (Tex. Gov't Code § 554.002)	All	<ul style="list-style-type: none"> • Prohibits retaliation against an employee who in good faith reports a violation of law by the city or a city employee to an appropriate law enforcement authority.
Texas Workers' Compensation Act (Tex. Lab. Code § 451.001)	All	<ul style="list-style-type: none"> • Prohibits retaliation against an employee who files or pursues a workers' compensation claim in good faith, including hiring a lawyer to pursue a claim, or testifying in a claim proceeding.
Jury Service (Tex. Civ. Prac. & Remedies Code § 122.001)	All	<ul style="list-style-type: none"> • Prohibits an employer from discharging an employee because the employee is called to jury duty.

Military Service (Tex. Gov't Code § 431.005)	Eligible employee (member of state military forces or reserve component of the armed forces)	<ul style="list-style-type: none"> • Provides that a an eligible employee is entitled to paid leave of absence of 15 days in a fiscal year for military training or duty, and is not subject to loss of time, efficiency rating, personal time, sick leave, vacation time, or salary. • Provides that an employee is entitled to be restored to the same position that the employee held when ordered to duty.
Withholding of Wages (Tex. Family Code § 158.209)	All	<ul style="list-style-type: none"> • Prohibits an employer from using a using a writ of withholding wages as grounds in whole or part for the refusal to hire, terminate, or take disciplinary action against an employee.
Right to Work (Tex. Lab. Code § 101.052)	All	<ul style="list-style-type: none"> • Prohibits an employer from denying employment to an applicant based on membership or non-membership in a labor union.
Political Activity (Tex. Elec. Code § 161.007)	All	<ul style="list-style-type: none"> • Prohibits an employer from preventing an employee from attending a county, district, or state political convention as a delegate or retaliating against an employee for doing so.
Voting (Tex. Elec. Code §§ 276.001; 276.004)	All	<ul style="list-style-type: none"> • Prohibits retaliation against an employee because the employee voted for or against a candidate or measure, or because the employee refuses to reveal how they voted. • Prohibits an employer from denying an employee time off to vote unless the polls are open on election day for two consecutive hours outside the employee's regular work hours.
Genetic Information (Tex. Lab. Code § 21.401 et seq.)	All	<ul style="list-style-type: none"> • Prohibits employment discrimination and retaliation against an employee because of genetic information concerning an individual or because an individual refused to submit to a genetic test.
Compliance with Subpoena (Tex. Lab. Code § 52.051)	All	<ul style="list-style-type: none"> • Prohibits a city from retaliating against an employee because the employee complies with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding

<p>Emergency Evacuations (Tex. Lab. Code §§ 22.002; 22.004)</p>	<p>All (except emergency service personnel)</p>	<ul style="list-style-type: none"> • Prohibits an employer from discharging an employee who leaves the employee's place of employment to participate in a general public evacuation ordered under an emergency evacuation order. <p><u>Exception:</u> does not apply to emergency service personnel if the city provides adequate emergency shelter; and does not apply to persons necessary to provide for safety and well-being of general public including persons necessary for the restoration of vital services.</p>
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