



CITY OF HOUSTON

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April 10, 2023

The Honorable Victoria Neave Criado
Chair
House Committee on County Affairs
Austin, TX 78768

Dear Chair Neave Criado and Members of the Committee:

On behalf of the City of Houston ("City"), I write in opposition to House Bill ("HB") 1738 relating to significant limitations regarding settlements involving employees or independent contractors of political subdivisions of the State of Texas. I ask that this written testimony be included in the formal legislative record for HB 1738. The City and I thank the Committee and Chairman for the opportunity to comment regarding this proposed legislation.

My name is Arturo G. Michel. I am the City Attorney for the City of Houston. I testify with the City's full authority to speak on its behalf as part of my role and responsibilities.

The City of Houston opposes HB 1738. HB 1738 would amend Chapter 180 of the Texas Local Government Code to prohibit a settlement agreement if the City had terminated the employment of any plaintiff-person or terminated the contract of any plaintiff-independent-contractor for "misconduct." Section 311.005(2) of the Texas Government Code's "Code Construction Act," defines a person to include a "corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity." The bill broadly defines misconduct to mean any act or omission considered misconduct by the political subdivision. Therefore, the bill's prohibitions and limits would apply to virtually every contract case and every employment case.

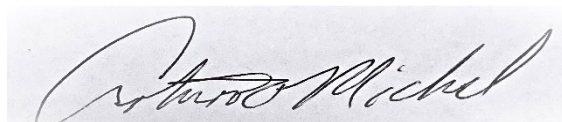
The bill would cover the resolution of all litigation "in relation to" the termination of a person's employment or the termination of the contract of an independent contractor. Because all government contractors are by their nature independent contractors, the bill could cover all contracts for goods and services.

If passed, the bill would prohibit many reasonable resolutions short of litigation. This legislation would require litigation through all the levels of a plaintiff's claim in every lawsuit where an employee claimed wrongful termination under any of the myriad of employment laws. Similarly, it would require litigation through all the levels of a plaintiff's claim in every lawsuit where the government had a misconduct-related dispute with a contractor.

For example, if the City terminated the employment of an employee for misconduct and the employee sued for under-payment, or discrimination, or worker's compensation, etc., the City would be greatly limited in settling, even if it determined in the course of proceedings that it had significant liability risk. The cost of extending a dispute could easily exceed a settlement amount prohibited by this bill. Similarly, if the City terminated for misconduct the contract of a contractor who provided, through itself or its employees or subcontractors, any good or service, the City may pay more to litigate than to settle.

For reasons stated above and HB 1738's conflict with municipal constitutional home-rule authority, the City respectfully opposes HB 1738.

Very truly yours,

A handwritten signature in black ink, reading "Arturo Michel", written in a cursive style.

Arturo G. Michel
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