

BILL SUMMARY
1st Session of the 53rd Legislature

Bill No.:	SB 837
Version:	Engrossed
Request Number:	N.A.
Author:	Sen. Jolly/Rep. Sullivan
Date:	3/20/2011
Impact:	\$209,000

Research Analysis

SB 837, as engrossed, provides for exclusive remedies within the state of the polices embodied in certain federal laws relating to discrimination. The measure modifies the definition of a discriminatory practice, as well as other definitions throughout the act, to include individuals with a disability, unless the employer can demonstrate that accommodation for the disability would impose an undue hardship on the operation of the business or genetic information with respect to the employee. The measure makes the act applicable to employment applicants.

The measure creates a cause of action for employment-based discrimination and abolishes all common law remedies. The measure provides, that in order have standing to allege certain discrimination against an employer, the aggrieved party must file the charge with EEOC or the OHRC within 300 days of the alleged discrimination who will complete an investigation and issue a Notice of Right to Sue. The complaining party may request a Notice of Right to Sue within 180 days of filing. Civil actions brought pursuant to such Notice must be filed within 90 days of receiving the Notice, The defendants may allege certain defenses and either party is entitled to a jury trial. The measure provides for damages and attorney fees available to the charging party.

The measure clarifies references and language throughout the act.

Prepared By: Andrea Merten

Fiscal Analysis

According to the Oklahoma Human Rights Commission (OHRC), Section 13.6 of SB 837 threatens OHRC's federal contract with the U.S. Department of Housing and Urban Development (HUD) because it limits the meaning of handicap or disability. Passage of this language could result in loss of generated revenue to OHRC and the state.

For several years, OHRC has contracted with HUD for investigating and processing housing discrimination complaints. OHRC has been able to contract with HUD because HUD has certified the provisions of Oklahoma's Anti-Discrimination Law that pertain to fair housing as being substantially equivalent to the provisions of the Federal Fair Housing Act. For the past five fiscal years of 2006 through 2010, OHRC has generated and received revenue from HUD at an average of \$209,000.00 annually. Approximately 35% to 40% of that amount comes from processing housing complaints based on disability. If HUD determines that Oklahoma's state statute's definition of disability is no longer substantially equivalent to the Federal Fair Housing Act, OHRC might be unable to contract with HUD to investigate disability based housing complaints resulting in lost revenue.

Prepared By: David Ligon

Other Considerations

According to OHRC, several aspects of SB 837 have a positive impact upon OHRC and the citizens of Oklahoma. Such positive aspects include increasing OHRC's ability to investigate Genetic Information discrimination allegations, specifically providing for enforcement of anti-pregnancy discrimination, and updating the obsolete language of the term handicap by changing that term to that of disability.