

118TH CONGRESS  
1ST SESSION

# H. R. 1054

To amend title VII of the Civil Rights Act of 1964 to require the Equal Employment Opportunity Commission to approve commencing, intervening in, or participating in certain litigation, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2023

Mr. WALBERG introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend title VII of the Civil Rights Act of 1964 to require the Equal Employment Opportunity Commission to approve commencing, intervening in, or participating in certain litigation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “EEOC Transparency  
5 and Accountability Act”.

1 **SEC. 2. APPROVAL OF EEOC LITIGATION COMMENCEMENT,**  
2 **INTERVENTION, OR PARTICIPATION.**

3 Section 705 of the Civil Rights Act of 1964 (42  
4 U.S.C. 2000e-4) is amended by adding at the end the fol-  
5 lowing:

6 “(l)(1) The Commission shall decide by majority  
7 vote—

8 “(A) whether the Commission will commence or  
9 intervene in litigation, for—

10 “(i) each case involving an allegation of  
11 systemic discrimination or a pattern or practice  
12 of discrimination;

13 “(ii) each case for which the litigation is  
14 expected to involve a major expenditure of  
15 agency resources, including staffing and staff  
16 time, or expenses associated with extensive dis-  
17 covery or expert witnesses;

18 “(iii) each case presenting an issue on  
19 which the Commission has taken a position con-  
20 trary to precedent in the Judicial Circuit of the  
21 United States in which the case will be or has  
22 been filed;

23 “(iv) each case presenting an issue on  
24 which the General Counsel proposes to take a  
25 position contrary to precedent in the Circuit in  
26 which the case will be or has been filed; and

1           “(v) each case that the General Counsel  
2           reasonably believes to be appropriate for a  
3           Commission decision on such commencement or  
4           intervention, including—

5                   “(I) cases that implicate areas of the  
6                   law that are not settled; and

7                   “(II) cases that are likely to generate  
8                   public controversy;

9           “(B) for each recommendation regarding  
10          whether the Commission will participate as amicus  
11          curiae in a case, whether the Commission will so  
12          participate; and

13          “(C) in considering at least 1 litigation rec-  
14          ommendation from each district office of the Com-  
15          mission each fiscal year, including litigation rec-  
16          ommendations for cases described in subparagraph  
17          (A), whether the Commission will commence or in-  
18          tervene in the litigation for each case.

19          “(2) A member of the Commission shall have the  
20          power to require the Commission to decide by majority  
21          vote whether the Commission shall commence, intervene  
22          in, or participate in any litigation as described in para-  
23          graph (1).

1       “(3) Neither the Commission nor a member of the  
2 Commission may delegate the authority provided under  
3 paragraph (1) or (2) to any other person.

4       “(4) Not later than 30 days after the Commission  
5 commences, intervenes in, or participates in litigation pur-  
6 suant to approval under this subsection, the Commission  
7 shall post and maintain the following information on its  
8 public website with respect to the litigation:

9               “(A) The court in which the case was brought.

10              “(B) The name and case number of the case.

11              “(C) The nature of the allegation.

12              “(D) The causes of action for the case brought.

13              “(E) Each Commissioner’s vote on com-  
14 mencing, intervening in, or participating in the liti-  
15 gation.

16       “(5) The Commission shall issue, in a manner con-  
17 sistent with section 713, procedural regulations to carry  
18 out this subsection.”.

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