



Ohio Legislative Service Commission

Bill Analysis

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Sub. S.B. 261

129th General Assembly
(LSC 129 1669-1)

Sens. Tavares, Schiavoni, Turner, Sawyer, Skindell

BILL SUMMARY

- Adds discrimination based on unemployment status to the list of employment-related, unlawful, discriminatory acts.
- Defines making current employment a job requirement, and printing such in an advertisement of employment, an unlawful discriminatory practice.
- Requires the Civil Rights Commission or a court to fine individuals found to be engaging in unemployment status discrimination \$5,000 for the first offense and \$10,000 for each subsequent offense.

CONTENT AND OPERATION

The bill makes it illegal to discriminate against a person because the person is unemployed with respect to hiring, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment. The bill applies to employers, employment agencies, and labor organizations, including an entity controlling apprentice training programs.¹

Under the bill, an employer, employment agency, or labor organization engages in an unlawful discriminatory practice if it includes in an advertisement for an employment opportunity a provision that states or suggests any of the following, except where based on bona fide occupational qualification criteria, certified by the Ohio Civil Rights Commission in advance:

- That current employment is a job qualification;

¹ R.C. 4112.02(A), (B), (C), and (D).

- That an application from a person who is unemployed will not be reviewed or that the applicant will not be considered for an interview or be hired;
- That only applications for employment from applicants who are currently employed will be considered.

The bill clarifies that an employer may grant preference to current employees or to require previous job experience that is relevant to the position advertised.²

Under continuing law, a complainant files a charge with the Ohio Civil Rights Commission, which then investigates the complaint. If the Commission finds it probable that an unlawful discriminatory practice has been or is being engaged in, it tries to eliminate the practice by informal methods. If those fail, it holds a hearing, and, if it determines that the employer, employment agency, or labor organization has engaged in, or is engaging in, an unlawful discriminatory practice, it issues a cease and desist order. The order also must require the employer, employment agency, or labor organization to take any further action that will effectuate the purposes of the Civil Rights Law, including hiring employees with or without back pay. Both sides have the opportunity to appeal the Commission's decision to the court of common pleas in the county where the discrimination occurred.³ An individual who is discriminated against also has a cause of action against the individual's employer, bypassing the Commission and going directly to the courts, and may be entitled to damages, injunctive relief, or any other appropriate relief.⁴ Under the bill, in addition to these remedies, both the courts and the Commission are required to impose a fine on employers, employment agencies, and labor organizations found to be engaging in unlawful workplace discrimination related to unemployment status, including discriminatory advertising. The amount of the fine is \$5,000 for the first violation and \$10,000 for each subsequent violation.⁵ All such fines are to be deposited in the Civil Rights Commission General Reimbursement Fund.⁶

The bill defines unemployment status as being unemployed and currently available for work.⁷

² R.C. 4112.02(E)(7).

³ R.C. 4112.05 and 4112.06.

⁴ R.C. 4112.99(A).

⁵ R.C. 4112.05(G)(1) and 4112.99(B).

⁶ R.C. 4112.15.

⁷ R.C. 4112.01(A)(24).

HISTORY

ACTION

DATE

Introduced

11-21-11

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