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H.B. 352
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 352's Bill Analysis](#)

Version: As Passed by the Senate

Primary Sponsors: Reps. Cross and Lang

Local Impact Statement Procedure Required: No

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Highlights

- In order to complete the work created by the bill, the Ohio Civil Rights Commission may need additional resources. At a minimum, this would likely include the need to hire two additional staff, estimated to cost \$160,000 (\$80,000 per employee, inclusive of benefits) per year. The Commission's available GRF and federal funding may not be sufficient to cover that cost.
- The bill may reduce the number of cases filed in municipal, county, and common pleas courts with subject matter jurisdiction over civil actions. The potential savings effect on a court's annual operating costs is not readily measurable in terms of dollars and cents.

Detailed Analysis

Modification of civil rights laws – employment

The bill primarily affects two entities – the Ohio Civil Rights Commission and courts of common pleas – by requiring the exhaustion of specified Commission procedures prior to filing a lawsuit alleging unlawful discriminatory practices relating to employment. Because of the bill, additional discrimination charges will be filed with the Commission; it is possible that, if cases are mediated instead of a right to sue notice being issued, fewer lawsuits will be filed with the courts. These effects largely result from provisions in the bill that: (1) decrease the time in which lawsuits related to employment discrimination can be brought (from six years to two years), (2) increase the time a charge can be filed with the Commission (from six months to two years), and (3) impose an exhaustion requirement that generally bars concurrent actions in the courts and the Commission.

Statute of limitations for lawsuits

The bill decreases the time in which civil actions related to employment discrimination can be brought from six years to two years, with exceptions, to mirror the statute of limitations that lawsuits related to discrimination in the workplace can be brought under federal law. Except for cases under federal law and certain age discrimination cases, the reduction in the statute of limitations could decrease the number of lawsuits filed with the courts of common pleas or, if the lawsuit is filed against the state as an employer, with the Court of Claims.

Commission timeframes and procedures

Current law requires a charge alleging employment discrimination to be filed with the Commission within six months after the act was committed. The bill increases that filing timeframe to within two years after the act was committed. The Commission expects this change to result in additional employment discrimination cases requiring investigation that otherwise may have been unpursued or filed with the federal Equal Employment Opportunity Commission (EEOC).¹ From FY 2015 through FY 2020, the number of new filings with the Commission averaged 3,403 annually, around 70% of which were employment-related.

The bill generally prohibits, with exceptions, a person from filing an employment discrimination lawsuit unless the person has exhausted Commission procedures, including issuance of a notice of right to sue. A person who files a charge with the Commission may make a written request for the right to sue which cannot be granted until at least 60 days after the filing. A right to sue notice will be issued without such a request if the Commission determines from a preliminary investigation that it is not probable that an unlawful discriminatory practice related to employment has occurred. The Commission may immediately grant a request if it is made more than 60 days after the charge was filed. A person is prohibited from refileing the charge after a dismissal. If the Commission fails to provide the requested notice of right to sue within 45 days after the date that the Commission may grant the request, the person may proceed with the lawsuit.

The above-noted filing timeframe and procedural changes will increase the Commission's workload and may require additional resources. At a minimum, this would likely include the need to hire two additional staff, estimated to cost \$160,000 (\$80,000 per employee, inclusive of benefits) per year. The Commission's available GRF and federal funding may not be sufficient to cover that cost.

Definition of employer

Under current law, the definition of employer means the state, any political subdivision of the state, or a person employing four or more persons within the state and any person acting

¹ Generally, the EEOC requires a charge to be filed within 180 calendar days from the day the discrimination took place. The filing deadline is extended to 300 calendar days if a state or local agency enforces a law that prohibits employment discrimination on the same basis. The rules are slightly different for age discrimination charges. For age discrimination, the filing deadline is extended to 300 days if there is a state law prohibiting age discrimination in employment and a state agency or authority enforcing that law. The deadline is not extended if only a local law prohibits age discrimination.

directly or indirectly in the interest of an employer. The bill removes any person acting directly or indirectly in the interest of the employer and adds an agent of the state, political subdivision, or person. The bill's definition could reduce the number of individuals against whom a claim of employment-related discrimination may be filed with the Commission and/or the courts compared to current law.

Statutes of limitations

The bill generally does the following:

- Shortens the period of limitations for commencing a civil action on a contract in writing generally from eight to six years and on a contract not in writing generally from six to four years;
- Requires generally an action arising out of a consumer transaction be commenced within six years after the cause of action accrues;²
- Prohibits certain actions based upon a cause of action that accrued in another state or foreign jurisdiction from being commenced in Ohio if the limitation period under either the other jurisdiction's law or Ohio law has expired; and
- Requires a legal malpractice action against an attorney or a law firm or legal professional association be commenced within one year after the action accrues or not later than one year after the person discovers the injury resulting from an act or omission if certain requirements are met, and prohibits a legal malpractice action from being commenced more than four years after the occurrence.

To the extent these statutes of limitations provisions create any fiscal effect, it would involve the volume of actions before the common pleas, municipal, and county courts with jurisdiction over civil actions. By reducing the period in which action must be brought, it is possible that some cases may not be filed, or if filed dismissed, because the plaintiff(s) allowed the period of limitations to expire. Such outcomes create a savings effect on court operations, the magnitude of which is not readily measurable in terms of dollars and cents.

Tolling of statutes of limitations and time limitations

The bill: (1) specifies that the time period between March 9, 2020, and July 30, 2020, cannot be computed as part of the periods of limitation and time limitations that are tolled under H.B. 197 of the 133rd General Assembly as a result of the emergency declared by Executive Order 2020-01D, issued on March 9, 2020, (2) specifies that the tolling expires on July 30, 2020, rather than when the period of emergency ends or July 30, 2020, whichever is sooner, and (3) includes an emergency clause so that these provisions go into immediate effect. These provisions have no readily apparent direct fiscal effect on the state or political subdivisions.

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² The limitation periods under Ohio's Commercial Paper Law of an action to recover title to or possession of real property, or violations of the Consumer Sales Practices Act, are excluded.