



OHIO LEGISLATIVE SERVICE COMMISSION

Jessica Murphy

Fiscal Note & Local Impact Statement

Bill: H.B. 2 of the 132nd G.A.

Status: As Reported by House Economic Development, Commerce and Labor

Sponsor: Rep. Seitz

Local Impact Statement Procedure Required: No

Subject: Employment discrimination charges

State Fiscal Highlights

- The bill generally prohibits a person from filing an employment discrimination lawsuit unless the person has filed a charge with the Ohio Civil Rights Commission and has received a notice of the right to sue. The result will be an increase in administrative work for the Commission, the annual cost of which is uncertain.

Local Fiscal Highlights

- The courts of common pleas may experience a savings effect on their annual operating costs stemming from a possible reduction in employment discrimination lawsuits due to the bill's provisions that generally require a person first file a charge with the Ohio Civil Rights Commission and the tolling of the statute of limitations to file a lawsuit.

Detailed Fiscal Analysis

The bill primarily affects two entities – the Ohio Civil Rights Commission (hereinafter referred to as the "Commission") and courts of common pleas – and the disposition of unlawful discriminatory practices relating to employment. Additional discrimination charges will be filed with the Commission and it is possible that fewer lawsuits will be filed with the courts. These effects result from provisions in the bill that: (1) decrease the time in which lawsuits related to discrimination in the workplace can be brought, (2) make changes to the definition of employer, (3) establish, for employers, an affirmative defense in certain cases, and (4) impose an exhaustion requirement that generally bars concurrent actions in the courts and the Commission.

Statute of limitations

The bill changes the time in which civil actions related to discrimination in the workplace can be brought to two years¹ from six years generally 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 the Court of Claims, if the lawsuit is filed against the state as an employer.

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 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.

Affirmative defense

The bill prescribes an affirmative defense for employers for vicarious liability resulting from alleged sexual harassment of an employee by the employee's supervisor when the alleged practice did not result in a significant change in employment status of the employee.

Commission procedures

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. A person is prohibited from refiling the charge after a dismissal. The Commission will experience an increase in administrative costs to implement a notification procedure including responding to requests and issuing notices. The additional administrative work and related annual operating expenses that these exhaustion and notice of right to sue requirements will create for the Commission is uncertain.

¹ The statute of limitations is tolled for 60 days after filing a charge with the Commission.