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Ohio Civil Rights Act Expanded To Prohibit Discrimination On The Basis of Military Status

Effective March 24, 2008, the Ohio Civil Rights Act ("OCRA") will be expanded to prohibit discrimination on the basis of "military status." See R.C. § 4112.02, as amended. Under the new provisions of the OCRA, employers must not discharge, refuse to hire, or otherwise discriminate against any individual with respect to hire, tenure, terms, conditions, or privileges of employment because of that individual's "military status." Military status includes the performance of duty in a uniformed service, whether voluntary or involuntary, and includes active duty and training.

Ohio employers who already comply with the federal law known as USERRA (Uniformed Services Employment and Reemployment Rights Act) which prohibits discrimination against employees and job applicants based on status in the uniformed service, will generally be in compliance with the expanded OCRA's provisions in that regard. Ohio employers should be aware, however, that Ohio law now specifically includes military status as a protected category along with race, color, religion, sex, national origin, disability, age and ancestry.

By merely inserting "military status" as a protected category under the OCRA, the legislation expanding the OCRA will have the unintended consequence of prohibiting veterans' preferences. For example, the expanded OCRA prohibits employers from advertising a preference for veterans. The new language also prohibits employers from advertising for and asking, eliciting, or recording information about a job applicant's military status (this includes asking about military status on a job application). Finally, the amended OCRA can be read to prohibit applicants themselves from publishing an advertisement that indicates their military status or indicates they prefer to work for an employer based on the employer's military status. All of these changes may make it impossible for an employer to comply with federal and state laws requiring preferences for veterans, with various military leave laws and with military reemployment laws. Given these unintended consequences of this legislation, it is likely to be revisited by the Ohio Legislature.

In the meantime, proactive employers should:

- Review and update their non-discrimination policies.
- Review and update their hiring materials including job applications and interview questionnaires.
- Educate their Human Resources personnel and company management on the prohibitions of the new law.

If you have any questions about this or any other employment-related issue, please contact your Vorys lawyer.

This alert contains information necessarily of such a general nature that it cannot be regarded as legal advice. Vorys, Sater, Seymour and Pease LLP is available to provide additional information and to discuss matters contained herein as they may apply to specific situations. ©2008, Vorys, Sater, Seymour and Pease LLP. For additional information, visit www.vorys.com.