

Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Kwame R. Brown
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi 
Chief Financial Officer

DATE: January 25, 2012

SUBJECT: Revised Fiscal Impact Statement – “Unemployed Anti-Discrimination Act of 2012”

REFERENCE: Bill 19-486 Draft Committee Print as shared with OCFO on January 23, 2012

This revised fiscal impact statement accounts for substantial changes to the originally introduced bill and replaces the statement issued on December 19, 2011.

Conclusion

Funds are not sufficient in the FY 2012 through FY 2015 budget and financial plan to implement the bill. The bill requires additional resources at the Office of Human Rights of \$38,100¹ in FY 2012 and \$521,300 over the FY 2012 through FY 2015 period.

The implementation of the bill is subject to its inclusion in an approved budget and financial plan.

Background

Unemployment in the Washington, D.C. Metropolitan Area stood at 5.4 percent as of November 2011.² Over 166,000 people were looking for work in the area, many of whom looked for opportunities in the District.

The bill prohibits discrimination against a person’s status or history of unemployment, making it illegal for District employers³ to consider that status in the hiring process. Specifically, the bill makes it unlawful for an employing agency or employment agency to:

¹ Assumes an implementation date of July 1, 2012.

² According to the Office of Revenue Analysis’ Monthly D.C. Economic Indicators (January 2012).

- Fail or refuse to consider for employment or hire an individual because of the individual's status as unemployed;
- Advertise a job vacancy in any medium stating that status as unemployed is a disqualifying factor or that an unemployed individual would not be considered;
- Interfere with, restrain, or deny an attempt to exercise rights provided for in the bill; or
- Discriminate against an individual who opposes, files charges related to, supports an inquiry into, or testifies in an inquiry into discriminatory practices.

The bill does not prohibit an advertisement to set forth qualifications such as a current and valid professional or occupational license, certificate, registration, permit, or other credential if required to perform the advertised job.

The Office of Human Rights (OHR)⁴ is responsible for receiving, reviewing, investigating, and enforcing complaints raised under this bill. OHR must respond to complaints within one month after receipt. If a complaint is deemed a valid violation, OHR can assess civil penalties with the penalty being paid out to the aggrieved potential employee or current employee.⁵

Currently four states and the U.S. Congress have bills or enacted legislation addressing the issue of discrimination against the unemployed.⁶ The main focus of these bills is to limit discrimination in the advertising of job opportunities. The New Jersey legislation is the first to be signed into law and focuses on prohibiting three items: employment advertisements listing current employment as a required qualification, advertisements stating unemployed candidates will not be considered, and advertisements stating only employed candidates will be considered.

Financial Plan Impact

Funds are not sufficient in the FY 2012 through FY 2015 budget and financial plan to implement the bill. The bill requires additional resources at the Office of Human Rights of \$38,100 in FY 2012 and \$521,300 over the FY 2012 through FY 2015 period. The implementation of the bill is subject to its inclusion in an approved budget and financial plan.

The main driver of the additional costs is the need for OHR to accommodate additional cases and investigations brought against District employers as a result of prohibiting discrimination against a person's status or history of unemployment. It is expected the bill will result in one hundred fifty-four new cases⁷ to be investigated each year.

³ Employer is defined in the bill as any person who, employs or seeks to employ for compensation one or more individuals for a position in the District.

⁴ OHR's main responsibility is to receive, mediate, investigate, and adjudicate all discrimination complaints under the jurisdiction of District law (Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38, 24 DCR 6038)).

⁵ First violation: \$1,000; second violation: \$5,000; and each subsequent violation: \$10,000; up to a maximum of \$20,000.

⁶ The citations are New Jersey: AB 3359; Illinois: SB 2153; Michigan: HB 4675; New York: AB 7830, SB 5151, SB 5316; U.S. Senate: S. 1471; U.S. House of Representatives: H.R. 2501.

⁷ This estimate is consistent with the estimated complaint rate of 0.04 to 0.2 percent that resulted from the inclusion of the transgendered population as a protected group under the Human Rights Clarification

The Honorable Kwame R. Brown

FIS: Revised B19-486 "Unemployed Anti-Discrimination Act of 2012," as shared with OCFO on January 23, 2012

To analyze the population of potential cases, it was important to look at the number of unemployed individuals not just located in the District, but also the entire metropolitan region. The District is an employment center for many residents of surrounding communities and thirty-eight percent of cases OHR reviews are from those communities.⁸ Thus, the estimated population of potential cases is 77,200⁹ individuals.¹⁰

Currently, seven OHR investigators review sixty-six cases each based on the FY 2008 through FY 2011 average total caseload of four hundred fifty-nine cases. The addition of one hundred fifty-four cases requires two new investigators in order to keep the current caseload close to the four-year average per investigator.

Estimated Fiscal Impact of Bill 19-486 Unemployed Anti-Discrimination Amendment Act of 2012 FY 2012 through FY 2015					
Cost Elements	FY 2012	FY 2013	FY 2014	FY 2015	Total
Personnel ^a	\$38,100 ^b	\$154,200	\$161,000	\$168,000	\$521,300

Table Notes

^a Includes two OHR investigators.

^b Assumes a July 1, 2012 implementation date.

Any civil fines imposed and collected by OHR under the bill do not have a fiscal impact because the fines are paid out to the aggrieved party.

Amendment Act of 2005, effective March 8, 2006 (D.C. Law 16-58; 53 DCR 14). The high-end of 0.2 percent is used in this analysis due to the historically high unemployment rate.

⁸ Based on OHR data provided on December 1, 2011.

⁹ The District unemployed population was estimated at 34,800 and the Metropolitan region (excluding D.C.) was estimated at 146,500. A proportion of each was taken at sixty-two percent for the District and thirty-eight percent for the Metropolitan region based on OHR information. Unemployment data source: Rolling three month averages of December 2010 through November 2011 unemployment data provided in the Office of Revenue Analysis' Economic Indicators reports.

¹⁰ This population excludes currently employed individuals who may file a case under the proposed legislation's provisions making it unlawful to target an employee who opposes discriminatory practices or participates in an inquiry into those practices.