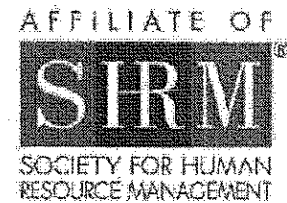




Proponent Testimony from Tony Fiore  
On behalf of  
The Ohio SHRM State Council  
In Support of HB 160  
Before the  
House Government Accountability &  
Oversight Committee  
On  
January 31, 2018



Chairman Blessing, Vice Chair Reineke, Ranking member Clyde and members of the House Government Accountability & Oversight Committee, thank you for the opportunity to provide proponent testimony on HB 160. My name is Tony Fiore and I am an attorney with the Columbus based law firm of Kegler Brown Hill + Ritter. I also serve as the Director, Government Affairs for the Ohio SHRM State Council.

The Society for Human Resources Management ("SHRM") was founded in 1948 in Berea, Ohio. SHRM is the world's largest HR membership organization devoted to human resources management. Representing more than 275,000 members in over 160 countries, the Society is the leading provider of resources to serve the needs of HR professionals and advance the professional practice of human resource management. SHRM has more than 575 affiliated chapters within the United States and subsidiary offices in China, India and United Arab Emirates. In Ohio, the State Council represents over 25 local chapters and more than 15,000 members.

SHRM has developed a national public policy platform that promotes a 21<sup>st</sup> Century Workplace. A 21<sup>st</sup> Century Workplace is:

- 1) **Innovative**: The 21<sup>st</sup> Century Workplace provides employers and employees the flexibility to address how, when and where work is accomplished and allows for the design of employee benefit programs that attract and retain employees, while managing the fiscal realities of modern business.
- 2) **Fair**: The 21<sup>st</sup> Century Workplace provides fair employment practices in hiring, training, and compensation, regardless of non-job related characteristics, and encourages practices that meet the goals of the organization and the needs of its employees.
- 3) **Competitive**: The 21<sup>st</sup> Century Workplace gives employers the ability to attract, recruit, hire and train talent, as needed, to remain competitive in a global economy.

**HB 160** seeks to add “sexual orientation and gender identity or expression” to the list of protected classes under Ohio’s Fair Employment Practices Act. Today, Ohio employers must comply with similar anti-discrimination laws in nineteen municipalities including Akron, Athens, Bexley, Bowling Green, Cincinnati, Cleveland, Cleveland Heights, Columbus, Coshocton, Dayton, East Cleveland, Lakewood, Kent, Newark, Olmsted Falls, Oxford, Toledo, Yellow Springs, and Youngstown. In addition, twenty-one states and the District of Columbia have laws that prohibit discrimination based on sexual orientation and/or gender identity.

Adding “sexual orientation and gender identity or expression” to the list of protected classes in Ohio, as **HB 160** will do, supports SHRM’s goal of promoting a 21<sup>st</sup> Century Workplace across the entire state regardless of where employers or employees call home.

Ohio SHRM proposes two language changes to **HB 160**.

**1) Eliminate lines 2058 through 2065. It states:**

“(Q) It shall be an unlawful discriminatory practice for any employer, employment agency, or labor organization to limit, segregate, or classify its employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment or otherwise adversely affect the status of the individual as an employee because of the individual’s sexual orientation or gender identity or expression.”

Ohio SHRM believes that any action contemplated by this section is already covered by adding sexual orientation and gender identity or expression to ORC 4112.02(A). ORC 4112.02(A) generally prohibits employers from discharging without just cause, refusing to hire, or discriminating against a person with respect to hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment. Therefore, the additional section (Q) is unnecessary.

**2) Eliminate lines 2669-2671. It states:**

“This chapter does not limit actions, procedures, and remedies afforded under federal law.”

Federal law already cannot be limited by Ohio law. Therefore, this statement is unnecessary language contained in the bill.

As you discuss and debate adding these protected classes to the statute there are several other areas that need to be made to make Ohio law more fair and competitive.

Earlier this year the Ohio SHRM State Council worked with the Ohio Chamber of Commerce, Ohio Civil Rights Commission (OCRC) and employment plaintiff's counsel to, for the first time that I can remember, develop the employment law reforms contained in **HB 2**, sponsored by Rep. Bill Seitz. If enacted, **HB 2** would:

1. retain employment liability on employers while eliminate personal liability on managers and supervisors as federal law and a majority of states proscribe,
2. reduce the statute of limitations from 6 years, the longest in the nation, to be in line with most states between 1 and 2 years, and
3. require claimants to pursue their employment claims in the Ohio Civil Rights Commission or in court instead of requiring employers to defend claims in both forums similar to federal law – this change will also assist the OCRC to track and report ALL discrimination claims in Ohio on an annual basis.

I call human resource professionals the “guardians” of employees civil rights because they are, and should be, the first line of defense to help eviscerate discrimination in our state. But, many of Ohio's civil rights laws are duplicative and make it more difficult for HR professionals, whether at a small or large company, to navigate this employment compliance maze. Therefore, if a decision is made to add “sexual orientation and gender identity or expression” to the list of protected classes under **HB 160** please consider enacting all of the comprehensive reforms to Ohio's employment discrimination statute contained in **HB 2**.

Every employment law should strike the right balance between employee rights and employer obligations. **HB 160** in addition to **HB 2** strikes and appropriate balance between employers and employees in promoting a 21<sup>st</sup> Century Workplace.

Chairman Blessing, Vice Chair Reineke and Ranking member Clyde and members of the committee, thank you for the opportunity to provide testimony today. I would be happy to answer any questions.