



*BEFORE THE SENATE JUDICIARY COMMITTEE
PROPONENT TESTIMONY ON HOUSE BILL 352*

Chairman Eklund, Vice Chair Manning, Ranking Member Thomas, and members of the Senate Judiciary Committee, thank you for the opportunity to provide testimony in support of House Bill 352 (HB 352). My name is Kevin Shimp and I am the Director of Labor and Legal Affairs for the Ohio Chamber of Commerce.

The Ohio Chamber is the state's leading business advocate, and we represent over 8,000 companies that do business in Ohio. Our mission is to aggressively champion free enterprise, economic competitiveness and growth for the benefit of all Ohioans.

In our efforts to champion economic competitiveness, the Ohio Chamber supports HB 352 because better aligning our statutes with federal law and the laws of other states will improve our business and legal climates.

There are many benefits to HB 352 which members from the Ohio Chamber's Labor & Employment Law Committee will highlight in addition to my testimony, so my remarks will focus on the statute of limitation changes and administrative exhaustion requirement within HB 352.

Ohio's current six year statute of limitation for filing civil workplace discrimination claims under R.C. 4112.99 is not the product of action by the Ohio General Assembly since the statute does not specify a statute of limitation. Instead, in 1994 the Supreme Court of Ohio in *Cosgrove v. Williamsburg of Cincinnati Management Co.* applied the six-year statute of limitation from RC 2305.07, which is largely for unwritten contracts, to Ohio's workplace discrimination law.

In addition to the nation's longest statute of limitation for workplace discrimination, current law in Ohio does not preclude individuals from simultaneously filing a charge with the Ohio Civil Rights Commission (OCRC) and a lawsuit. The lack of an administrative exhaustion requirement for workplace discrimination claims in Ohio law negatively impacts the state's legal climate because employers and public agencies must use additional resources to fight the same claim in multiple venues.

HB 352 addresses both of these issues with Ohio's current anti-discrimination law by requiring the exhaustion of administrative remedies at the OCRC prior to filing a civil lawsuit and by codifying a two year statute of limitation for bringing civil actions alleging workplace discrimination. While HB 352 does shorten the civil statute of limitation, it will extend the deadline to file a charge with the OCRC from 180 days to two years.

Requiring the exhaustion of administrative remedies prior to filing a civil lawsuit brings Ohio into alignment with the laws of many other states and federal law – which requires all federal workplace discrimination actions to first be filed with the Equal Employment Opportunity Commission before commencing a civil claim. However, in consideration of the interests of employees, the two year filing deadline for administrative actions at the OCRC as proposed by HB 352 is more than twice as generous as the federal deadline of 300 days. Moreover, regardless of the outcome of the OCRC investigation, an employee maintains their right to file a civil action under HB 352.

Likewise, lowering the statute of limitation and requiring administrative exhaustion can have multiple benefits for the Buckeye State. For Ohio companies, the legislation brings greater consistency between Ohio and federal law, it lessens the need to maintain departed employees' personnel records long after they have departed, and it diminishes the possibility of a dispute where multiple company witnesses have retired, moved on or – frankly, given the amount of time – forgotten details that may be important to the case.

In addition, the benefits to Ohio's business climate, requiring all workplace discrimination actions to begin at OCRC allows employees to take advantage of the Commission's proven dispute resolution processes to address any discrimination they may have faced. Also, the Commission's investigation can be initiated without hiring an attorney and will produce documents that an employee can ultimately use in a civil action against the employer. The administrative exhaustion requirement also puts the Commission in a better position to study the type and frequency of discrimination occurring in Ohio since under current law a discrimination action does not have to involve the OCRC and can be filed in any one of 88 courts of common pleas.

The legislation before this committee today has been a longstanding priority of the Ohio Chamber and through the work of past sponsors and collaboration with interested parties there have been numerous changes to the bill that the Ohio Chamber believes fairly considers the interests of employees and employers. Following my remarks will be the testimony of two practicing employment attorneys in Ohio. They are here to provide their expertise and share why HB 352 improves our state's workplace discrimination laws.

In closing, HB 352 strikes the appropriate balance for the needed reform to Ohio's workplace discrimination statutes. The Ohio Chamber urges your favorable consideration of HB 352 because its passage will benefit all Ohioans, whether they are an employee or job creator.

Thank you for your time, and I will be happy to answer any questions from the committee.