



## 97TH GENERAL ASSEMBLY

### State of Illinois

### 2011 and 2012

### SB2153

Introduced 2/10/2011, by Sen. Kimberly A. Lightford

#### SYNOPSIS AS INTRODUCED:

New Act

|                  |                         |
|------------------|-------------------------|
| 775 ILCS 5/1-102 | from Ch. 68, par. 1-102 |
| 775 ILCS 5/1-103 | from Ch. 68, par. 1-103 |
| 775 ILCS 5/2-102 | from Ch. 68, par. 2-102 |

Creates the Employment Advertisement Fairness Act. Provides that no employer, employment agency, labor organization, or an agent or representative of any such entity shall publish in print or on the Internet an advertisement for a job that contains a statement indicating that current employment is a job qualification or that an applicant who is not employed will not be considered. Provides that a violation is a civil penalty not to exceed \$5,000 for the first violation and \$10,000 for each subsequent violation, collectible by the Department of Labor in a proceeding under rules adopted by the Department. Amends the Illinois Human Rights Act. Provides that the public policy of this State in the area of employment is modified to include: to prevent discrimination based on unemployment status or on a gap in employment history. Provides that unless otherwise authorized by law, it is a civil rights violation for any employer, employment agency, or labor organization to inquire into or to use a prospective employee's unemployment status or gap in employment history as a basis to refuse to hire or to act with respect to recruitment, hiring, or other employment decisions. Effective immediately.

LRB097 08052 AJ0 48175 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Employment Advertisement Fairness Act.

6 Section 5. Job advertisement discrimination. No employer,  
7 employment agency, labor organization, or an agent or  
8 representative of any of them, shall publish, in print or on  
9 the Internet, an advertisement for any job vacancy that  
10 contains one or more of the following:

11 (1) any provision stating or suggesting that the  
12 qualifications for a job include current employment;

13 (2) any provision stating or suggesting that the  
14 employer, employment agency, labor organization, or an  
15 agent or representative of any of them, will not consider  
16 or review applications for employment submitted by a job  
17 applicant currently unemployed; or

18 (3) any provision stating or suggesting that the  
19 employer, employment agency, labor organization, or an  
20 agent or representative of any of them, will only consider  
21 or review applications for employment submitted by job  
22 applicants who are currently employed.

1           Section 10. Penalty. An employer who violates this Act is  
2 subject to a civil penalty not to exceed \$5,000 for the first  
3 violation and \$10,000 for each subsequent violation,  
4 collectible by the Department of Labor in a proceeding under  
5 rules adopted by the Department.

6           Section 900. The Illinois Human Rights Act is amended by  
7 changing Sections 1-102, 1-103, and 2-102 as follows:

8           (775 ILCS 5/1-102) (from Ch. 68, par. 1-102)

9           Sec. 1-102. Declaration of Policy. It is the public policy  
10 of this State:

11           (A) Freedom from Unlawful Discrimination. To secure for all  
12 individuals within Illinois the freedom from discrimination  
13 against any individual because of his or her race, color,  
14 religion, sex, national origin, ancestry, age, order of  
15 protection status, marital status, physical or mental  
16 disability, military status, sexual orientation, or  
17 unfavorable discharge from military service in connection with  
18 employment, real estate transactions, access to financial  
19 credit, and the availability of public accommodations.

20           (B) Freedom from Sexual Harassment—Employment and  
21 Elementary, Secondary, and Higher Education. To prevent sexual  
22 harassment in employment and sexual harassment in elementary,  
23 secondary, and higher education.

24           (C) Freedom from Discrimination Based on Citizenship

1 Status-Employment. To prevent discrimination based on  
2 citizenship status in employment.

3 (D) Freedom from Discrimination Based on Familial  
4 Status-Real Estate Transactions. To prevent discrimination  
5 based on familial status in real estate transactions.

6 (E) Public Health, Welfare and Safety. To promote the  
7 public health, welfare and safety by protecting the interest of  
8 all people in Illinois in maintaining personal dignity, in  
9 realizing their full productive capacities, and in furthering  
10 their interests, rights and privileges as citizens of this  
11 State.

12 (F) Implementation of Constitutional Guarantees. To secure  
13 and guarantee the rights established by Sections 17, 18 and 19  
14 of Article I of the Illinois Constitution of 1970.

15 (G) Equal Opportunity, Affirmative Action. To establish  
16 Equal Opportunity and Affirmative Action as the policies of  
17 this State in all of its decisions, programs and activities,  
18 and to assure that all State departments, boards, commissions  
19 and instrumentalities rigorously take affirmative action to  
20 provide equality of opportunity and eliminate the effects of  
21 past discrimination in the internal affairs of State government  
22 and in their relations with the public.

23 (H) Unfounded Charges. To protect citizens of this State  
24 against unfounded charges of unlawful discrimination, sexual  
25 harassment in employment and sexual harassment in elementary,  
26 secondary, and higher education, and discrimination based on

1 citizenship status in employment.

2 (I) Freedom from Discrimination Based on Unemployment  
3 Status-Employment. To prevent discrimination based on  
4 unemployment status in employment or based on a gap in  
5 employment history in employment.

6 (Source: P.A. 95-668, eff. 10-10-07; 96-447, eff. 1-1-10;  
7 96-1319, eff. 7-27-10.)

8 (775 ILCS 5/1-103) (from Ch. 68, par. 1-103)

9 Sec. 1-103. General Definitions. When used in this Act,  
10 unless the context requires otherwise, the term:

11 (A) Age. "Age" means the chronological age of a person who  
12 is at least 40 years old, except with regard to any practice  
13 described in Section 2-102, insofar as that practice concerns  
14 training or apprenticeship programs. In the case of training or  
15 apprenticeship programs, for the purposes of Section 2-102,  
16 "age" means the chronological age of a person who is 18 but not  
17 yet 40 years old.

18 (B) Aggrieved Party. "Aggrieved party" means a person who  
19 is alleged or proved to have been injured by a civil rights  
20 violation or believes he or she will be injured by a civil  
21 rights violation under Article 3 that is about to occur.

22 (C) Charge. "Charge" means an allegation filed with the  
23 Department by an aggrieved party or initiated by the Department  
24 under its authority.

25 (D) Civil Rights Violation. "Civil rights violation"

1 includes and shall be limited to only those specific acts set  
2 forth in Sections 2-102, 2-103, 2-105, 3-102, 3-102.1, 3-103,  
3 3-104, 3-104.1, 3-105, 3-105.1, 4-102, 4-103, 5-102, 5A-102,  
4 6-101, and 6-102 of this Act.

5 (E) Commission. "Commission" means the Human Rights  
6 Commission created by this Act.

7 (F) Complaint. "Complaint" means the formal pleading filed  
8 by the Department with the Commission following an  
9 investigation and finding of substantial evidence of a civil  
10 rights violation.

11 (G) Complainant. "Complainant" means a person including  
12 the Department who files a charge of civil rights violation  
13 with the Department or the Commission.

14 (H) Department. "Department" means the Department of Human  
15 Rights created by this Act.

16 (I) Disability. "Disability" means a determinable physical  
17 or mental characteristic of a person, including, but not  
18 limited to, a determinable physical characteristic which  
19 necessitates the person's use of a guide, hearing or support  
20 dog, the history of such characteristic, or the perception of  
21 such characteristic by the person complained against, which may  
22 result from disease, injury, congenital condition of birth or  
23 functional disorder and which characteristic:

24 (1) For purposes of Article 2 is unrelated to the  
25 person's ability to perform the duties of a particular job  
26 or position and, pursuant to Section 2-104 of this Act, a

1 person's illegal use of drugs or alcohol is not a  
2 disability;

3 (2) For purposes of Article 3, is unrelated to the  
4 person's ability to acquire, rent or maintain a housing  
5 accommodation;

6 (3) For purposes of Article 4, is unrelated to a  
7 person's ability to repay;

8 (4) For purposes of Article 5, is unrelated to a  
9 person's ability to utilize and benefit from a place of  
10 public accommodation.

11 (I-5) Gap in Employment History. "Gap in employment  
12 history" means a period of time between periods of employment  
13 during which a person was not employed.

14 (J) Marital Status. "Marital status" means the legal status  
15 of being married, single, separated, divorced or widowed.

16 (J-1) Military Status. "Military status" means a person's  
17 status on active duty in or status as a veteran of the armed  
18 forces of the United States, status as a current member or  
19 veteran of any reserve component of the armed forces of the  
20 United States, including the United States Army Reserve, United  
21 States Marine Corps Reserve, United States Navy Reserve, United  
22 States Air Force Reserve, and United States Coast Guard  
23 Reserve, or status as a current member or veteran of the  
24 Illinois Army National Guard or Illinois Air National Guard.

25 (K) National Origin. "National origin" means the place in  
26 which a person or one of his or her ancestors was born.

1 (K-5) "Order of protection status" means a person's status  
2 as being a person protected under an order of protection issued  
3 pursuant to the Illinois Domestic Violence Act of 1986 or an  
4 order of protection issued by a court of another state.

5 (L) Person. "Person" includes one or more individuals,  
6 partnerships, associations or organizations, labor  
7 organizations, labor unions, joint apprenticeship committees,  
8 or union labor associations, corporations, the State of  
9 Illinois and its instrumentalities, political subdivisions,  
10 units of local government, legal representatives, trustees in  
11 bankruptcy or receivers.

12 (M) Public Contract. "Public contract" includes every  
13 contract to which the State, any of its political subdivisions  
14 or any municipal corporation is a party.

15 (N) Religion. "Religion" includes all aspects of religious  
16 observance and practice, as well as belief, except that with  
17 respect to employers, for the purposes of Article 2, "religion"  
18 has the meaning ascribed to it in paragraph (F) of Section  
19 2-101.

20 (O) Sex. "Sex" means the status of being male or female.

21 (O-1) Sexual orientation. "Sexual orientation" means  
22 actual or perceived heterosexuality, homosexuality,  
23 bisexuality, or gender-related identity, whether or not  
24 traditionally associated with the person's designated sex at  
25 birth. "Sexual orientation" does not include a physical or  
26 sexual attraction to a minor by an adult.



1 (P) Unfavorable Military Discharge. "Unfavorable military  
2 discharge" includes discharges from the Armed Forces of the  
3 United States, their Reserve components or any National Guard  
4 or Naval Militia which are classified as RE-3 or the equivalent  
5 thereof, but does not include those characterized as RE-4 or  
6 "Dishonorable".

7 (P-5) Unemployment status. "Unemployment" means the status  
8 of being unemployed or not working for an employer.

9 (Q) Unlawful Discrimination. "Unlawful discrimination"  
10 means discrimination against a person because of his or her  
11 race, color, religion, national origin, ancestry, age, sex,  
12 marital status, order of protection status, disability,  
13 military status, sexual orientation, or unfavorable discharge  
14 from military service as those terms are defined in this  
15 Section.

16 (Source: P.A. 95-392, eff. 8-23-07; 95-668, eff. 10-10-07;  
17 95-876, eff. 8-21-08; 96-328, eff. 8-11-09; 96-447, eff.  
18 1-1-10.)

19 (775 ILCS 5/2-102) (from Ch. 68, par. 2-102)

20 Sec. 2-102. Civil Rights Violations - Employment. It is a  
21 civil rights violation:

22 (A) Employers. For any employer to refuse to hire, to  
23 segregate, or to act with respect to recruitment, hiring,  
24 promotion, renewal of employment, selection for training or  
25 apprenticeship, discharge, discipline, tenure or terms,

1 privileges or conditions of employment on the basis of unlawful  
2 discrimination, ~~or~~ citizenship status, or unemployment status  
3 or a gap in employment history.

4 (A-5) Language. For an employer to impose a restriction  
5 that has the effect of prohibiting a language from being spoken  
6 by an employee in communications that are unrelated to the  
7 employee's duties.

8 For the purposes of this subdivision (A-5), "language"  
9 means a person's native tongue, such as Polish, Spanish, or  
10 Chinese. "Language" does not include such things as slang,  
11 jargon, profanity, or vulgarity.

12 (B) Employment Agency. For any employment agency to fail or  
13 refuse to classify properly, accept applications and register  
14 for employment referral or apprenticeship referral, refer for  
15 employment, or refer for apprenticeship on the basis of  
16 unlawful discrimination or citizenship status or to accept from  
17 any person any job order, requisition or request for referral  
18 of applicants for employment or apprenticeship which makes or  
19 has the effect of making unlawful discrimination or  
20 discrimination on the basis of citizenship status a condition  
21 of referral.

22 (C) Labor Organization. For any labor organization to  
23 limit, segregate or classify its membership, or to limit  
24 employment opportunities, selection and training for  
25 apprenticeship in any trade or craft, or otherwise to take, or  
26 fail to take, any action which affects adversely any person's

1 status as an employee or as an applicant for employment or as  
2 an apprentice, or as an applicant for apprenticeships, or  
3 wages, tenure, hours of employment or apprenticeship  
4 conditions on the basis of unlawful discrimination or  
5 citizenship status.

6 (D) Sexual Harassment. For any employer, employee, agent of  
7 any employer, employment agency or labor organization to engage  
8 in sexual harassment; provided, that an employer shall be  
9 responsible for sexual harassment of the employer's employees  
10 by nonemployees or nonmanagerial and nonsupervisory employees  
11 only if the employer becomes aware of the conduct and fails to  
12 take reasonable corrective measures.

13 (E) Public Employers. For any public employer to refuse to  
14 permit a public employee under its jurisdiction who takes time  
15 off from work in order to practice his or her religious beliefs  
16 to engage in work, during hours other than such employee's  
17 regular working hours, consistent with the operational needs of  
18 the employer and in order to compensate for work time lost for  
19 such religious reasons. Any employee who elects such deferred  
20 work shall be compensated at the wage rate which he or she  
21 would have earned during the originally scheduled work period.  
22 The employer may require that an employee who plans to take  
23 time off from work in order to practice his or her religious  
24 beliefs provide the employer with a notice of his or her  
25 intention to be absent from work not exceeding 5 days prior to  
26 the date of absence.

1 (F) Training and Apprenticeship Programs. For any  
2 employer, employment agency or labor organization to  
3 discriminate against a person on the basis of age in the  
4 selection, referral for or conduct of apprenticeship or  
5 training programs.

6 (G) Immigration-Related Practices.

7 (1) for an employer to request for purposes of  
8 satisfying the requirements of Section 1324a(b) of Title 8  
9 of the United States Code, as now or hereafter amended,  
10 more or different documents than are required under such  
11 Section or to refuse to honor documents tendered that on  
12 their face reasonably appear to be genuine; or

13 (2) for an employer participating in the Basic Pilot  
14 Program, as authorized by 8 U.S.C. 1324a, Notes, Pilot  
15 Programs for Employment Eligibility Confirmation (enacted  
16 by PL 104-208, div. C title IV, subtitle A) to refuse to  
17 hire, to segregate, or to act with respect to recruitment,  
18 hiring, promotion, renewal of employment, selection for  
19 training or apprenticeship, discharge, discipline, tenure  
20 or terms, privileges or conditions of employment without  
21 following the procedures under the Basic Pilot Program.

22 (H) Pregnancy; peace officers and fire fighters. For a  
23 public employer to refuse to temporarily transfer a pregnant  
24 female peace officer or pregnant female fire fighter to a less  
25 strenuous or hazardous position for the duration of her  
26 pregnancy if she so requests, with the advice of her physician,

1 where that transfer can be reasonably accommodated. For the  
2 purposes of this subdivision (H), "peace officer" and "fire  
3 fighter" have the meanings ascribed to those terms in Section 3  
4 of the Illinois Public Labor Relations Act.

5 (I) Unemployment-Related Practices. Unless otherwise  
6 authorized by law, for any employer, employment agency, or  
7 labor organization to inquire into or to use a prospective  
8 employee's unemployment status or gap in employment history as  
9 a basis to refuse to hire or to act with respect to  
10 recruitment, hiring, promotion, renewal of employment,  
11 selection for training or apprenticeship, discharge,  
12 discipline, tenure, or terms, privileges, or conditions of  
13 employment.

14 It is not a civil rights violation for an employer to take  
15 any action that is required by Section 1324a of Title 8 of the  
16 United States Code, as now or hereafter amended.

17 (Source: P.A. 95-25, eff. 1-1-08; 95-137, eff. 1-1-08; 95-876,  
18 eff. 8-21-08.)

19 Section 999. Effective date. This Act takes effect upon  
20 becoming law.