



Jan 21, 2016

Categories:

[Publications](#)

Authors:

[Stephen J. Smith](#)

What Ohio Public Employers Need To Know

Catching the “ban the box” wave that has already swept legislation into 17 other states, Governor Kasich has signed into law the “Fair Hiring Act.” This is Ohio’s new “ban the box” law, and it becomes effective on March 23, 2016. The law prohibits public employers from inquiring into and considering the criminal background of applicants during the general application portion of the hiring process (banning that check box).

Public employers in Ohio must now wait until the applicant has been selected, and the employer is ready to make an offer of employment, before running a background check. While public employers can still reject an applicant based on a criminal record, employers must now make an individualized determination that the criminal record is relevant to the job responsibilities before rejecting the applicant. After making that determination, the employer must then state in writing that the applicant’s criminal history was the basis of denying employment.

It is important to note that the law does not prohibit public employers from notifying applicants of state or federal laws that automatically disqualify applicants with a particular criminal history from employment for specific positions.

Although the law provides that the requirements are applicable to public employers, including political subdivisions, it is unclear whether the law will apply to municipal corporations. Under the Home Rule Amendment to the Ohio Constitution, municipal employment matters are generally considered to be matters of local self-government. In the past, the Ohio Supreme Court has ruled that a chartered municipality’s self-government powers include the right to adopt local civil service ordinances, if the charter expressly states the intent to supersede general state statutes. Non-chartered municipalities may also enact civil service ordinances that supersede state statute, if the statutory requirements are substantive rather than procedural. These powers do not, however, exempt municipalities (other than villages) from

complying with Article XV, Section 10 of the Ohio Constitution, and ensuring that civil service appointments and promotions are based upon merit and fitness.

Have you reviewed your job applications to ensure compliance?
Frost Brown Todd can help:

- Advise public employers on how to modify their hiring process, including when they can run background checks and which factors may be considered before rejecting an applicant based on criminal convictions.
- Assist with compliance for all laws and regulations relating to background checks.
- Review a municipal corporation's charter and draft new ordinances under the Home Rule Amendment if the municipality wishes to supersede this new law.
- Keep municipalities up-to-date on how the law applies to them.

For additional information and inquiries on your school or city's hiring policies, please contact [Stephen J. Smith](#) or any other attorney in Frost Brown Todd's [Government Services Practice Group](#).

© 2026 FBT Gibbons LLP. May be considered attorney advertising in some jurisdictions.