

DECEMBER 2007

<http://www.ohioshrm.org/butler>

December 6th – MONTHLY MEETING

SPEAKER: Matthew D. Miko – Chief Legal Counsel for the Ohio Civil Rights Commission

COST: \$13.00 Members, \$15.00 Non-Members

DATE: Thursday, December 6, 2007

TIME: 7:15 AM – Registration/Networking

7:30 AM – Breakfast

8:00 AM – Presentation

**A joint meeting with
OEC**

LOCATION: Wetherington Country Club

Directions: Take 75 to Tylersville & turn west. Go to the entrance of Wetherington Homes, which is just past Shell & Encore Café, turn right and follow to the stop at corner of Country Club Lane. Turn right at stop and follow road to left. It takes you into Country Club parking lot.

Pregnancy In the Workplace: Employee Rights and Employer Obligations

The Ohio Civil Rights Commission has recently voted to issue regulations which would expand the leave and reinstatement rights of women affected by pregnancy, childbirth or a related condition. Matthew Miko, Chief Legal Counsel for the OCRC will discuss several aspects of this leave including employee rights as well as employer obligations.

Matthew D. Miko, is responsible for directing all of the agency's legal activities, including advising the Executive Director and Commissioners on all legal matters and directing the agency's defense in multiple areas of litigation. Prior to joining the Ohio Civil Rights Commission, Mr. Miko held the positions of Assistant State Solicitor, Major Appeals Group and Assistant Attorney General, Civil Rights Section with the Ohio Attorney General's Office.

Mr. Miko has received a number of awards, including the Best Appellate Brief Award, Attorney General's Office in 2000. He is a member of the Ohio State Bar Association and the Labor & Employment Section, Board of Governors for the Ohio State Bar Association. Mr. Miko has presented on a number of topics, including the areas of equal opportunity, the administrative investigation process, workplace investigations and best practices.

Please reserve your seat by **Friday, November 30th** by emailing Kristi Cain at kristi.cain@craneamerica.com or by calling (937) 293-6526 x. 246.

President's Message

Ann Bachmann with Ingle-Bachmann in Dayton presented on "How to work with an HR Consultant". She gave us tips on what to look for in a consultant, how to choose the right consultant for the task and provided us with tools to use for this process.

We hope to see everyone at our December 6th meeting. We wish everyone a safe and happy Holiday Season.

Kristi Cain, SPHR - President B/WSHRM

Take Pride in how far you have come and have faith in how far you can go

2007 BWSHRM Year End Member Survey

Your BWSHRM Board of Directors is busy working on some exciting programs for next year and would like your input. This survey has been prepared with the goal of better understanding the needs of our members in an effort to serve you to the best of our ability and to assist in planning for future activities. **Please click on the link below to complete the survey NO LATER THAN 11-30-07. Your feedback is essential to the success of our chapter.**

http://www.surveymonkey.com/s.aspx?sm=XhfElbOdtmSoYNvgJuOuHO_3d_3d

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Foundation Advocate

Vacant

BWSHRM Local Membership Drive

Once again, we want to challenge our members to participate in another year of growth by inviting a new member to join our chapter. In return for a new member application, you are invited to join us at the next breakfast meeting at no cost to you. Together, we can make it happen!

To request a membership application, please contact our Membership Advocate:

Marc Fleischauer, SPHR – Partner, Porter Wright Morris & Arthur, LLP
1 S. Main St., Suite 1600, Dayton, OH 45402
937-449-6720 or mfleischauer@porterwright.com

Or visit our website at www.ohioshrm.org/butler and click on the membership link for more information. If you are a SHRM National Member, your local dues are only \$45 per year. If you want to join our local organization only, your local dues are only \$90 per year.

We hope to see you soon!

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**Jo Majors
HR Director
Norman-Spencer
Insurance Agency**

**Angela Imbronyev
Student Member
Indiana Wesleyan
University**

**Dale Layton
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Your Foundation at Work: Making a Difference

You know what excellence is. It's people...with talent. People who are dedicated and work hard to continually improve themselves, to be the best they can be. They are able to work with others, to be part of a team and to achieve something bigger than themselves. That's what the HR profession is all about. You work behind the scenes to help your employees and companies achieve excellence. You play a major role in finding talented and dedicated people and you help them develop as individuals and team members. This is an exciting time to be an HR professional. The opportunities to provide leadership in your organization have never been greater, but you must continually increase your professional knowledge and stay one step ahead of the rapid changes taking place all around you. The **SHRM Foundation** helps you to meet these challenges through its support of research, publications and education. The Foundation enables HR professionals like you to make a difference.

The SHRM Foundation: 40 Years of Advancing the HR Profession

Join GCHRA for Day Inside the District With State Senator Bill Seitz and State Senator Eric Kearney

Date: Friday, December 14, 2007

7:30 a.m. – 8:00 a.m. – Registration & Continental Breakfast

8:00 a.m. – 9:30 a.m. - Program

**Location: The Health Foundation of Greater Cincinnati –
3805 Edwards Road, Conference Room 500 (Rookwood Commons)
Seating will be Limited**

Day Inside the District, a national SHRM program, offers GCHRA members (and non-members as well) the opportunity to meet and interact with two of the most influential legislators in Southwest Ohio. The program has been approved for 1.5 Strategic HRCI recertification credits.

Senators Seitz and Kearney will provide an overview and insights on pending and upcoming legislation in the state of Ohio which impact the HR profession. Attendees will be given the opportunity to help our legislators understand "HR Life in the Trenches" and to foster relationships so we are viewed as experts when they consider legislation which impacts the HR field and the organizations we represent.

Rep. Bill Seitz will move from the OH House of Representatives to the OH Senate, effective October 10th, for the 8th District, which includes most of Western Hamilton County. Prior to being appointed to the State Senate, Senator Seitz had been the Majority Whip for the Ohio House of Representatives and a four term Representative for the House's 30th District which, like the 8th Senate District, covers much of western Hamilton County. Senator Seitz had been on the House Civil and Commercial Law, Criminal Justice, Judiciary, and State Government and Elections committees. He is a partner at the Cincinnati law firm Taft, Stettinius & Hollister. Senator Seitz received his undergraduate and law degrees from the University of Cincinnati.

Senator Eric Kearney is the Ranking Minority Member on the Ohio Senate Insurance, Commerce and Labor Committee. Senator Kearney represents the 9th District, which is composed primarily of the City of Cincinnati. He is also on the Senate Judiciary, and Ways and Means and Economic Development committees. He has been the CEO/President of Sesh Communications, a publishing company which includes the Cincinnati Herald, the Dayton Defender and Our Week. Senator Kearney was also formerly a partner with the Cincinnati law firm Cohen, Todd, Kite & Stanford. Senator Kearney received his undergraduate degree from Dartmouth College and a law degree from the University of Cincinnati.

Cost: \$15 GCHRA or BWSHRM Member or \$25 Non-member, if registered until December 7th

\$20 GCHRA or BWSHRM Member or \$30 Non-member, after December 7th

Location: The Health Foundation at Rockwood Commons (Directions at <http://www.healthfoundation.org/directions.html>)

***For registration or more information, please call the GCHRA office at 513-554-4747
and reference "Day inside the District."***

OCRC Approves Regulations Mandating 12 Weeks Maternity Leave and Light Duty Employment for Pregnant Employees (if Light Duty Offered to Anyone)

By John O'Connor, SPHR

The Ohio Civil Rights Commission ("OCRC") has recently approved changes in the Ohio pregnancy anti-discrimination regulations which would require Ohio employers to provide all female employees with a minimum of 12 weeks "paid or unpaid" leave for "pregnancy, childbirth, and related medical reasons" provided the leave is "medically necessary." Failure to provide the leave is presumed under the new regulations to constitute unlawful sex discrimination "unless justified by business necessity." The proposed regulations greatly expand the availability of leave for pregnant employees beyond that provided by the FMLA. First, the Ohio rule would apply to any company employing four or more employees in Ohio while the FMLA applies to companies employing 50 or more employees. Second, a pregnant employee would be eligible for leave on day one of her employment as the Ohio regulations, unlike the FMLA (with its one-year and 1250-hour eligibility requirements), has no eligibility requirements. Notably, the regulations provide for no leave for fathers.

The regulations would further require Ohio employers to provide light-duty work opportunities to any employee "affected by pregnancy, childbirth, or a related medical condition" if light-duty opportunities are provided to any other employees. Many employers utilize light-duty programs to reduce workers' compensation cost by returning injured on the job employees to work and limit participation in the light-duty programs to employees injured on the job. If the proposed regulations become effective, employers will be faced with either the cost of expanding their light-duty programs to pregnant employees or dropping the programs all together and losing the cost-savings under their workers' compensation programs.

Remaining Legislative Process Before Regulations Become Effective

The proposed regulations are not effective until the Ohio administrative rule-making procedure is completed. The regulations will be reviewed at the December 3 meeting of the Joint Committee on Agency Rule Review (JCARR). JCARR may recommend that the General Assembly invalidate the regulations if JCARR determines that the regulations exceed the scope of the OCRC's statutory authority or conflict with the intent of the Ohio legislature in enacting the Ohio Civil Rights Act. Notably, the Ohio Chamber of Commerce took the position in testimony at the OCRC's August 1 hearing that the regulations exceed the OCRC's rule-making authority for two reasons. First, the Ohio Civil Rights Act which the regulations purport to interpret prohibits discrimination against pregnant employees, but the regulations go much beyond this. Instead, the proposed regulations require employers to treat pregnant employees more favorably than similarly situated employees in terms of light duty opportunities and required amount of leave. Second, Ohio courts interpreting the Ohio Civil Rights Act pregnancy discrimination prohibitions routinely look to federal cases interpreting the Pregnancy Discrimination Act for guidance and the Sixth Circuit has found that a pregnancy-blind policy which denies light duty opportunities to all employees not-injured on the job does not discriminate against pregnant employees. *Reeves v. Swift Transportation Company*, 446 F.3d 637, 640 (2006).

If JCARR recommends that the regulations be invalidated, the General Assembly must invalidate the rule by concurrent resolution. If the proposed regulations are not invalidated through this process, the regulations can become effective ten days after the Ohio Civil Rights Commission files the final rules.

Many employers believe that the proposed regulations are bad for Ohio employers and Ohio's economy. If you would like to express your opinion regarding whether JCARR should recommend that the proposed regulations be invalidated, please go to JCARR's website (www.jcarr.state.oh.us) for a list of the state legislators on the JCARR committee.

John O'Connor is a partner with the law firm Taft, Stettinius & Hollister and formerly was Mgr. of Human Resources and Labor and Employment Counsel for AK Steel. If you have questions or comments about this article, you can contact him at (513) 357-9641 or OConnor@taftlaw.com.