

**NEW JERSEY IS FIRST STATE IN THE NATION TO
ADOPT LAW PROHIBITING JOB ADS EXCLUDING
UNEMPLOYED APPLICANTS**

On March 29, 2011, New Jersey Governor Chris Christie signed a bill that prohibits the practice of excluding unemployed individuals in advertisements for job vacancies. The law becomes effective on June 1, 2011.

The bill, first introduced in October 2010, is a response to reported concerns over recent employment advertisements that state that only individuals who are currently employed may apply for job vacancies. Proponents of the bill, likely encouraged by increased Equal Employment Opportunity Commission scrutiny of the practice, allege such advertisements unfairly discriminate against minorities. Proponents speculate they are more likely to be unemployed. While New Jersey is the first state to enact such legislation, it is anticipated that other states will soon follow suit.

Under the new statute, employers may be fined if they “knowingly or purposefully publish” advertisements for job vacancies in New Jersey that list “current employment” as a job qualification, state that currently unemployed applicants will not be considered for employment or state only currently employed job applicants will be considered. While prior versions of the bill found advertisements “stating *or suggesting*” the exclusion of unemployed workers unlawful, the phrase “or suggesting” was deleted from the final draft.

Presumably, the law applies to employers of all sizes as it is silent on the subject. Violators face penalties of \$1,000 for a first violation, \$5,000 for a second violation, and \$10,000 for all subsequent violations. (No private cause of action is created by the bill.) It is unclear from the face of the bill whether a “violation” occurs for each posting of an unlawful advertisement, each day of publication, or otherwise.

Employers would be prudent to “scrub” their job postings.