

Common Sense, Rather Than Hiring Law is Needed

By Holly Culhane, Contributing Columnist



Several California legislators, on both sides of the political aisle, hold annual “there ought to be a law” contests. They encourage constituents to submit ideas for new laws. The winning entries are introduced by legislators and certainly stand a chance of becoming new state laws.

But, with more than 2,300 bills introduced by California legislators in 2011 and nearly 800 of those proposals signed into law, the numbers seem overwhelming.

To solve every problem and correct every “wrong,” there really doesn’t need to be a new law. Common sense and good business practices often can be more effective.

Assemblyman Michael Allen of Santa Rosa has introduced AB 1450, which “would make it unlawful, unless based on a bona fide occupational qualification or any other provision of law, for an employer to knowingly or intentionally refuse to consider for employment or refuse to offer employment to an individual because of the individual’s status as unemployed....”

The law also would prohibit publishing advertisements or job announcements that state unemployed workers will not be considered. Employment agencies could not screen out applicants because they are unemployed, as well. Violators would be hit with hefty civil penalties.

Allen’s bill is similar to one passed last year and signed into law by New Jersey Gov. Chris Christie. Similar proposals are being considered in other states and by members of Congress.

These new and proposed laws stem from a growing, troubling trend: The hiring door is being slammed shut on unemployed workers.

In help-wanted advertisements, employment agency screenings and company human resources departments, unemployed workers are being excluded from the application and hiring process.

The federal Labor Department reported in December that 5.6 million people in the U.S. have been unemployed for six months or more. That is 42.5 percent of all unemployed Americans. The state Employment Development Department reported last year that 738,000 Californians have been out of work for at least a year. The plight of the long-term unemployed tugs at our hearts and continues to hinder the state and nation’s economic recovery.

Some companies are reaching beyond the long-term unemployed to filter job applicants. They refuse to hire anyone who doesn’t have a job – newly laid-off, entry-level college graduate, you name it.

Seen as a form of discrimination, “only the employed need apply” policies are fueling calls for protective legislation, such as AB 1450.

While blanket policies that shut hiring doors on unemployed applicants are wrong, so are laws that arbitrarily prohibit companies from using applicants' work histories, among other factors, in hiring the best employees.

There are legitimate reasons why employers may be reluctant to hire long-term unemployed workers. Job skills get rusty. Performance problems may be suspected. Questions about gaps in an applicant's work history are legitimate, as well.

But to have a hard-and-fast policy that excludes from hiring consideration people who are unemployed is short-sighted. It risks passing up on applicants who may become top performers. It also overlooks the possibility that an employed applicant may be a "job hopper" – someone who is more interested in the next job than the present one.

In evaluating the qualifications of unemployed job applicants, companies should ask:

- **Why did the applicant leave their previous job?** Was there a termination, or a workforce reduction? If the job was lost through a layoff, were terminated employees selected because of designated criteria, such as seniority, or performance?
- **Why has the applicant been unable to find a job?** Ask about the applicant's job-seeking activities. Could there be reasons beyond a recession-plagued economy? Why won't other companies hire the applicant? Has he or she been actively seeking a job, working part-time, or volunteering?
- **How have job skills been kept current?** Has the applicant taken classes, obtained new certifications, performed contract work?
- **Does the applicant have sufficient references?** These references should go beyond the names of former supervisors. Particularly for long-term unemployed, they should include people associated with training programs and volunteer activities who can attest to job skills and performance.

Rather than arbitrary laws or blanket hiring exclusions, both employers and job-seekers alike are benefited by common sense and open-minded hiring policies.

This article written by Holly Culhane first appeared online and in The Bakersfield Californian on Friday, February 3, 2012. Holly Culhane is president of the Bakersfield-based human resources consulting firm P.A.S. Associates. She can be contacted through her website www.pasassociates.com and through the [PAS Facebook](#) page or by phone at 631-2165.