

## New Veterans Law Offers Tax Credits to Employers and Recognizes Hostile Work Environment Claims Under USERRA

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On November 21, 2011, President Obama signed into law the Veterans Opportunity to Work (VOW) to Hire Heroes Act. This new law was passed quickly and with rare bipartisan and bicameral support. Two of the more significant provisions of this new Act are discussed in this Alert.

First, this new legislation provides for job training and transition assistance to veterans, which is a direct attempt to reduce their unemployment rate. The Department of Labor's Bureau of Labor Statistics recently reported that the jobless rate for those who served in Iraq and Afghanistan is 12.1% - much higher than the national average of 9%. A more detailed analysis of this figure reveals that approximately 2/3 of these veterans are under the age of 35 which, when broken down further, translated into an alarmingly high unemployment rate of 21.9% in 2010 for males ranging in age from 18 to 24. The new law provides a range of methods to address this situation, among which are increases in education and training, job counseling, transition and placement assistance, and additional help for disabled veterans. Of particular interest to employers are the tax credits available for companies which hire veterans. Generally, the law provides a tax credit of up to \$5,600 for hiring a veteran who has been looking for a job for more than 6

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months, a \$2,400 credit for a veteran unemployed for more than 4 weeks but less than 6 months, and a tax credit of up to \$9,600 for hiring a veteran with service-connected disabilities who has been looking for a job for more than six months. These provisions became effective November 22, 2011, and will remain in effect through December 31, 2012.

Second, the new law amends the Uniformed Services Employment Rights Act (USERRA) - the federal law which provides job protection to service members - to recognize claims of hostile work environment based on an individual's military status. By amending USERRA to prohibit discrimination with respect to the "terms, conditions, or privileges of employment," the VOW to Hire Heroes Act establishes the same standard for hostile work environment claims on account of military status as that governing Title VII and similar employment discrimination laws. Given that this portion of the law is characterized as a "clarification of benefits of employment covered under USERRA," employers should proceed from this point forward – if they have not already – to conduct business in accordance with this new standard. In addition, because the new law is intended to expand the types of claims available under USERRA, employers would be well advised to (i) make sure they include military and veteran status in their equal employment opportunity policies, (ii) provide reporting procedures for USERRA workplace complaints, and (iii) train their supervisors regarding USERRA compliance and the need for prompt and full investigation of any complaints.

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