



Asking How Much an Applicant was Previously Paid May Actually Cost You

Client Advisories

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On January 23, 2017, Mayor Jim Kenney of Philadelphia signed into law a bill, which prohibits employers from asking prospective employees about their wage history or requiring prospective employees to disclose their wage history. The bill also prohibits employers from relying on wage history in making its decisions unless applicants made the disclosure willingly and knowingly. Also, "wage" is broadly defined as *"all earnings of an employee, regardless of whether determined on time, task, piece, commission or other method of calculation and including fringe benefits, wage supplements, or other compensation whether payable by the employer from employer funds or from amounts withheld from the employee's pay by the employer."* Any violation of this provision, like any other violation under Philadelphia's Fair Practices Ordinance, could cost an employer up to \$2,000 in penalties per violation in addition to other remedies.

The findings by the City Council and comments by the Mayor make it clear that Philadelphia hopes to ameliorate the gender wage gap with this bill. The law takes effect May 23, 2017, making Philadelphia the first city in the Nation to have such prohibitions. However, it will likely not be alone. Massachusetts, in August 2016, was the first State, to enact this type of law, but its law does not take effect until July 2018.

New Jersey currently has a bill of similar nature pending in the legislature. Senators Nia H. Gill (D-Essex/Passaic) and Loretta Weinberg (D-Bergen) introduced a similar bill in September 2016, S. 2536. New York City Public Advocate Letitia James introduced a similar bill back in August of 2016 as well.

If you have questions about whether your prospective employee questions are permissible, given the new Philadelphia law against wage history inquiries, or whether your city or state has similar law pending, please contact any member of Archer's Labor Group in Haddonfield, N.J., at (856) 795-2121, in Princeton, N.J., at (609) 580-3700, in Hackensack, N.J., at (201) 342-6000, in Philadelphia, Pa., at (215) 963-3300, or in Wilmington, Del., at (302) 777-4350.

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