

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 559

STATE OF NEW JERSEY
218th LEGISLATURE

ADOPTED MARCH 5, 2018

Sponsored by:

Senator NIA H. GILL

District 34 (Essex and Passaic)

Senator LORETTA WEINBERG

District 37 (Bergen)

Co-Sponsored by:

Senators Turner, Beach, Cunningham, Greenstein, Gopal and Brown

SYNOPSIS

Concerns employer inquiries about worker's wage and salary experience.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Labor Committee.



1 AN ACT concerning employer inquiries about wage and salary
2 history and supplementing P.L.1945, c.169 (C.10:5-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. a. Except as provided in subsection b. of this section, it shall
8 be an unlawful employment practice in violation of P.L.1945, c.169
9 (C.10:5-1 et seq.) for any employer:

10 (1) to screen a job applicant based on the applicant's salary
11 history, including, but not limited to, the applicant's prior wages,
12 salaries or benefits;

13 (2) to require that the applicant's salary history satisfy any
14 minimum or maximum criteria;

15 (3) to rely on the applicant's salary history in determining salary,
16 benefits, and other compensation for the applicant; or

17 (4) to inquire, in writing or otherwise, about the salary history of
18 a job applicant at any stage in the hiring process, including finalizing
19 the employment contract, except that the employer may request,
20 verify, and consider that history if an applicant voluntarily, without
21 employer prompting or coercion, provides the employer with
22 written authorization to do so. An applicant not providing the
23 authorization or volunteering salary history information shall not be
24 considered in any employment decisions.

25 b. This section shall not apply to:

26 (1) applications for internal transfer or promotion with an
27 employee's current employer, or use by the employer of previous
28 knowledge obtained as a consequence of prior employment with the
29 employer;

30 (2) any actions taken by an employer pursuant to any federal
31 law or regulation that expressly requires the disclosure or
32 verification of salary history for employment purposes, or requires
33 knowledge of salary history to determine an employee's
34 compensation;

35 (3) any attempt by an employer to obtain, or verify a job
36 applicant's disclosure of, non-salary related information when
37 conducting a background check on the job applicant, provided that,
38 when requesting information for the background check, the
39 employer shall specify that salary history information is not to be
40 disclosed. If, notwithstanding that specification, salary history
41 information is disclosed, employer shall not retain that information
42 or consider it when determining the salary, benefits, or other
43 compensation of the applicant; or

44 (4) employer inquiries regarding an applicant's previous
45 experience with incentive and commission plans and the terms and
46 conditions of the plans, provided that the employer shall not seek or
47 require the applicant to report information about the amount of
48 earnings of the applicant in connection with the plans, and that the

1 employer shall not make any inquiry regarding the applicant's
2 previous experience with incentive and commission plans unless the
3 employment opening with the employer includes an incentive or
4 commission component as part of the total compensation program.

5 c. An applicant may provide salary history information,
6 including information regarding the applicant's experience with
7 incentive or commission plans, to an employment agency contacted
8 by the applicant for assistance in searching for and identifying
9 employment opportunities, but the employment agency shall not
10 share the information with potential employers without the express
11 written consent of the applicant.

12 d. Nothing in this section shall be construed as prohibiting an
13 employer from offering an applicant for a job information regarding
14 wage or salary rates set for the job by collective bargaining
15 agreements or by civil service or other laws, or from paying those
16 rates if the applicant is hired.

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18 2. This act shall take effect immediately.