

One Minute Memo®



More Proposed Pay Changes: Bill To Restrict Employers From Asking About Salary History Introduced to the New York City Council

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Seyfarth Synopsis: A bill was introduced to the New York City Council that would prohibit New York City employers from inquiring or relying on a job applicant's wage or salary history.

Although New Yorkers and Bostonians have been airing their differences for years on the baseball diamond, the gridiron, the basketball court, and the hockey rink, they are finally seeing eye-to-eye on something, and employers should pay close attention. On August 16, 2016, a bill was introduced to the New York City Council that would prohibit employers from inquiring about a prospective employee's salary history on a job application, or at any other stage in the employment process. The proposed bill closely follows a provision from Massachusetts' recent amendments to its Equal Pay Act, which prohibits Massachusetts employers from requesting the compensation history of prospective employees, unless the prospective employee has "voluntarily" disclosed such information (see our prior alert on the recent amendments to the Massachusetts Equal Pay Act [here](#)).

The proposed New York City bill would amend the New York City Human Rights Law to make it a discriminatory employment practice for an employer to: (1) inquire about the salary history of an applicant for employment, which includes either asking the applicant directly about his or her salary history or conducting a search of publicly available records or reports; or (2) rely on the salary history of an applicant in determining that applicant's salary at any stage in the employment process, unless the applicant "unprompted" and "willingly" discloses his or her prior salary information.

Notably, California is also considering legislation which would prohibit employers from relying on an employee's prior salary history as the sole justification of a wage disparity (see the current version of the proposed California bill [here](#)). While Governor Brown has previously vetoed bills which would have prohibited employers from *asking* employees about salary history, it remains to be seen whether the new, more narrow, bill will become law.

Outlook

Over the last few years, New York City employers have faced a plethora of new laws prohibiting employers from inquiring about applicants' credit, criminal, and now, potentially, compensation history. In light of the City's new focus on prior salary history information, employers should be mindful of these pending restrictions and begin to evaluate how the proposed

legislation may impact their practices. We will closely monitor this pending bill and keep the employer community updated on key developments.

If you have any questions about legal issues regarding New York City employment law, please contact your local Seyfarth Shaw attorney, [Maria Papasevastos](mailto:mpapasevastos@seyfarth.com) at mpapasevastos@seyfarth.com, [Samuel Sverdlov](mailto:ssverdlov@seyfarth.com) at ssverdlov@seyfarth.com, or [Annette Tyman](mailto:atyman@seyfarth.com) at atyman@seyfarth.com.

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