

One Minute Memo®



Philadelphia to Enact Law Prohibiting Inquiry Into a Prospective Employee's Wage History

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Seyfarth Synopsis: Philadelphia is positioning to be the next jurisdiction to prohibit employers from inquiring into job applicants' wage history during the employment application process.

The Ordinance

The Philadelphia City Council recently passed [Bill No. 160840](#), amending Title 9 of The Philadelphia Code by adding wage equity measures to Philadelphia's Fair Practices Ordinance, which was initially passed in 2011 to prohibit employers from inquiring as to non-conviction arrests and has since been expanded to include ban the box restrictions and mandatory poster requirements (see our prior coverage [here](#) and [here](#)). The amended Ordinance prohibits employers (and employment agencies) from inquiring about a prospective employee's wage history. Retaliation against a prospective employee for refusing to respond to such an inquiry is also prohibited, as long as no federal, state, or local law specifically authorizes the disclosure of wage history in connection with employment.

The Ordinance resembles the legislation recently enacted in Massachusetts, which will restrict employers from seeking salary history beginning in July 2018. Similar to Massachusetts's "Act to Establish Pay Equity," the Ordinance makes it unlawful for an employer or employment agency to:

- Inquire about a prospective employee's wage history (in writing or otherwise);
- Require disclosure of wage history;
- Condition employment or consideration for an interview on disclosure of wage history inquiry.

"Wages" are broadly defined as all earnings, 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," such as other lawful deductions.

The Ordinance is due to take effect 120 days after it is signed by Mayor Jim Kenney.

Employer Outlook

Employers in Philadelphia should begin to review their applications and other hiring documents to remove any inquiry pertaining to wage history and advise recruiters and hiring managers to avoid making any similar inquiry. Moreover, expect to see a growing wave of similar legislation arise in other jurisdictions at various levels of government, ranging from state-wide to municipal ordinances, to address wage equity issues (e.g., Pennsylvania, New Jersey, and New York City).

We will update when we learn the Ordinance's effective date.

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