

TREND WATCH: Philadelphia Becomes the First City in America to Ban Inquiries into a Job Applicant's Wage History

2 min read

Jan 26, 2017

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On Monday, with the signing of the [Philadelphia Wage Equity Ordinance](#), the city's Fair Practices Ordinance was amended to prohibit employers from asking about an applicant's wage history at any point during the hiring process, making Philadelphia the first City to enact such a prohibition.

The Philadelphia ordinance will take effect on May 23, 2017 and prohibits covered employers from:

1. inquiring about a prospective employee's wage history;
2. requiring disclosure of wage history; conditioning employment or consideration for an interview on disclosure of wage history; or
3. retaliating against a prospective employee for failing to comply with any wage history inquiry.

The Ordinance also makes it unlawful for an employer to rely on the wage history of a prospective employee from any current or former employer when determining the wages for such individual at any stage in the employment process, including in the negotiation or drafting of any employment contract. An employer, however, is permitted to rely on any wage information that is "knowingly and willingly" disclosed by the applicant.

2016 proved to be an active year for this trend, with Massachusetts and California enacting state-wide laws prohibiting employers from inquiring about pay history. The Massachusetts's law, passed in August of 2016, takes effect in 2018 and will prohibit managers from screening applicants based on pay history as well as inquiring into prospective employees' past or current compensation, except to confirm information that the applicant volunteered or where the employer has already made an offer of employment that includes compensation. Detailed information about the Massachusetts law can be found [here](#).

Effective January 1, 2017, California's statute bans employers from using an applicant's pay history information to justify wage disparities between men and women who do substantially similar work. Though California's law does not ban inquiries into pay history, it does restrict how employers can use that information.

In addition to these state-wide bans, pursuant to an Executive Order that went into effect in December 2016, city agencies in New York City are prohibited from inquiring about salary history of job applicants prior to making a conditional offer of employment (an offer which must include the salary for the job). Lawmakers in New Jersey, Pennsylvania, Washington DC and New York City have proposed similar bills to regulate how employers obtain and use pay history information.

These laws are part of a growing national trend intended to close the pay gap between men and women. The rationale behind these legislative measures is that basing pay decisions on pay history will perpetuate past pay disparities, and banning inquiries into an applicant's pay will encourage employers to base salary on job requirements and market rates. As with several recent trends in the employment arena, action is occurring at the state and local level. As a patchwork of similar laws continue to emerge, it will be important for employers to pay close attention to developments in this regard in all jurisdictions in which operations are located to assess how these laws may impact hiring practices.

If you have any questions about this emerging trend, please contact [Aimee Delaney](#) in our Chicago office or your regular Hinshaw attorney.

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