

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4909

STATE OF NEW JERSEY

DATED: JANUARY 19, 2023

The Assembly Labor Committee reports favorably Assembly Bill No. 4909.

This bill regulates the use of automated employment decision tools during the hiring process to minimize employment discrimination that may result from the use of the tools.

Under the bill, “automated employment decision tool” means any system the function of which is governed by statistical theory, or systems the parameters of which are defined by systems, including inferential methodologies, linear regression, neural networks, decision trees, random forests, and other learning algorithms, which automatically filters candidates or prospective candidates for hire or for any term, condition or privilege of employment in a way that establishes a preferred candidate or candidates.

The bill prohibits the sale of automated employment decision tools in the State unless:

(1) The tool is the subject of a bias audit conducted in the past year prior to selling the tool or offering the tool for sale;

(2) The sale of the tool includes, at no additional cost, an annual bias audit service that provides the results of the audit to the purchaser; and

(3) The tool is sold or offered for sale with a notice stating that the tool is subject to the provisions of the bill.

In addition, the bill provides that any person who uses an automated employment decision tool to screen a candidate for an employment decision is required to notify each candidate of the following within 30 days of the use of the tool:

(1) That an automated employment decision tool, which is subject to an audit for bias, was used in connection with the candidate’s application for employment; and

(2) The tool assessed the job qualifications or characteristics of the candidate.

The bill provides for civil penalties to be collected for violations of its provisions.

The bill is intended to affirm certain rights of candidates for employment under the circumstances specified in the bill, and will not be construed to reduce, limit, or curtail any rights of any candidate provided by law, or to limit the authority of the State or its agencies to investigate and enforce rights relating to bias and discrimination in employment, or to promulgate rules and regulations relating to bias and discrimination in employment.