

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.