ASSEMBLY, No. 3131

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:
Assemblyman WAYNE P. DEANGELO
District 14 (Mercer and Middlesex)

SYNOPSIS

Prohibits employment discrimination based on applicant employment status.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the hiring of unemployed job applicants and supplementing P.L.2011, c.40 (C.34:8b-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. An employer or employer's agent, representative, or designee shall not discriminate against an applicant for employment in any employment decision with regard to hiring, compensation or the terms, conditions or privileges of employment because the applicant is currently unemployed, except that nothing in this section shall be construed as prohibiting an employer, employment agency, or agent thereof, when making employment decisions with regard to hiring, compensation, or the terms, conditions or privileges of employment, from:

a. Inquiring into the applicant’s employment history, including the circumstances surrounding an applicant’s separation from prior employment;

b. Considering any substantially job-related qualifications, including, but not limited to, a current and valid professional or occupational license, a certificate, registration, permit, or other credential, a minimum level of education or training, or a minimum level of professional, occupational, or field experience;

c. Determining that only applicants who are currently employed by the employer will be considered for employment or given priority for employment or with respect to compensation or terms, conditions or privileges of employment; or

d. Setting compensation, terms, or conditions of employment for the applicant based on the applicant’s actual amount of experience.

Nothing set forth in this section shall be construed as creating, establishing or authorizing a private cause of action by an aggrieved person against an employer who has violated, or is alleged or believed to have violated, the provisions of this section; nor shall evidence that an employer has violated, or is alleged or believed to have violated the provisions of this section, be admissible in any legal proceeding with respect to any law or claim other than a proceeding to enforce the provisions of this section.

2. This act shall take effect immediately.

STATEMENT

The bill prohibits an employer or employer's agent, representative, or designee from discriminating against an applicant for employment in any employment decisions with regard to hiring,

compensation or the terms, conditions or privileges of employment because the applicant is currently unemployed.

The bill, however, does not prohibit the employer, agent, representative, or designee, when making employment decisions, from:

1. Inquiring into the applicant's employment history and the circumstances surrounding an applicant's separation from prior employment;

2. Considering any substantially job-related qualifications, including: a professional or occupational license, certificate, registration, permit, or other credential; or the level of education or training, or level of professional, occupational, or field experience;

3. Determining that only applicants who are currently employed by the employer will be considered for employment or given priority; or

4. Considering the applicant's actual amount of experience.

The bill provides that nothing set forth in the bill may be construed as creating or establishing a private cause of action by an aggrieved person against an employer; nor may evidence that an employer who has violated, or is alleged or believed to have violated the provisions of the bill, be admissible in any legal proceeding other than a proceeding to enforce the provisions of this bill.

The current law, which this bill supplements, provides for civil penalties of up to $1,000 for the first violation, $5,000 for the second violation and $10,000 for each subsequent violation, collectible by the Commissioner of Labor and Workforce Development. Those penalties would therefore apply to violations of the provisions of this bill.