

NYC Poised to Ban Salary History Inquiries

On April 5, 2017, the New York City Council (the "Council") will vote on [legislation](#) to prohibit employers from inquiring about the salary and benefits histories of job applicants. The Council's Civil Rights Committee [held a hearing](#) on an earlier draft of the bill in December 2016. Following a [Committee vote](#) on the amended bill on April 4, 2017, the full Council is expected to pass the legislation with Mayor Bill de Blasio's support.

Introduction Number 1253-A would prohibit employers from inquiring about the salary history of an applicant or from relying on an applicant's salary history in determining compensation. The amended bill defines "to inquire" broadly to include questions to the applicant, the applicant's current or former employer, or current or former agents of such applicant's current or former employer. It also includes conducting searches of publicly available records, but does not prohibit employers from informing applicants about the proposed or anticipated salary or salary range.

The amended bill also defines "salary history" broadly to cover all wages and benefits, but does not preclude employers from making inquiries regarding objective measures of productivity, such as revenue or sales.

As with the original draft of the bill, the amended bill allows employers to consider an applicant's salary history where an "applicant voluntarily and without prompting discloses [such] salary history." Importantly, the amended bill also makes clear that an employer "may, without inquiring about salary history, engage in discussion with the applicant about their expectations with respect to salary, benefits and other compensation, including but not limited to unvested equity or deferred compensation that an applicant would forfeit or have cancelled by virtue of the applicant's resignation from their current employer." Additionally, an employer may verify an applicant's voluntarily disclosed salary history.

As amended, Intro. No. 1253-A does not apply to internal applicants for transfer or promotion.

If, as anticipated, the bill passes the Council and is signed by Mayor de Blasio, it will take effect 180 days thereafter, or roughly by the end of October 2017, depending on the exact date of the bill signing.

The New York City law reflects a [growing trend](#) in states and municipalities around the country, including an [Executive Order](#) signed by New York Governor Andrew Cuomo in January prohibiting state agencies from making salary inquiries.

This post was authored by [Matt Lampe](#), [Martin Schmelkin](#), and [Michael Casertano](#) of Jones Day. The views and opinions expressed herein are those of the authors and do not necessarily reflect the views of Jones Day or the New York State Bar Association.

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