

House Bill 1177

By: Representatives Bazemore of the 63rd, Beverly of the 143rd, Bennett of the 94th, Williams of the 37th, Hugley of the 136th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 34 of the Official Code of Georgia Annotated, relating to
2 general provisions of labor and industrial relations, so as to prohibit an employer from
3 seeking salary history information about an applicant during the hiring process; to provide
4 for definitions; to provide for applicability and exceptions; to impose civil penalties for
5 violations; to provide for a civil right of action and the recovery of attorney's fees and costs
6 of litigation; to require employers to make certain disclosures in job postings and to keep
7 certain records; to provide for related matters; to provide for an effective date; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 1 of Title 34 of the Official Code of Georgia Annotated, relating to general
12 provisions of labor and industrial relations, is amended by adding two new Code sections to
13 read as follows:

14 "34-1-11.

15 (a) As used in this Code section, the term:

16 (1) 'Applicant' means a prospective employee applying for employment.

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17 (2) 'Employer' means any natural person or entity that employs one or more employees
18 and shall include a public employer and any agent of the employer.

19 (3) 'Public employer' shall have the same meaning as provided in Code Section 45-19-22.

20 (4) 'Salary history' means current or prior wages, benefits, or other compensation paid
21 to an applicant for employment by the applicant's current employer or any previous
22 employers.

23 (b) It shall be an unlawful employment practice for an employer to:

24 (1) Rely on an applicant's salary history in considering the applicant for employment,
25 including, but not limited to, requiring that an applicant's prior salary history satisfy
26 minimum or maximum criteria as a condition of being considered for employment;
27 provided, however, that after the employer makes an offer of employment that includes
28 the terms of compensation to the applicant, the employer may rely on a salary history to
29 support a wage higher than the wage offered by the employer, if such salary history was
30 voluntarily provided by the applicant without prompting by the employer;

31 (2) Seek the salary history of an applicant from such applicant or his or her current or
32 former employer; provided, however, that after the employer makes an offer of
33 employment that includes the terms of compensation to the applicant the employer may
34 seek to confirm the salary history of the applicant in order to support a wage higher than
35 the wage offered by the employer, if such salary history was voluntarily provided by the
36 applicant without prompting by the employer; or

37 (3) Refuse to interview, hire, promote, or employ or otherwise retaliate against an
38 applicant because such applicant does not provide a salary history.

39 (c) Nothing in this Code section shall:

40 (1) Apply to an internal transfer or promotion with the applicant's current employer;

41 (2) Prohibit an employer and an applicant from discussing and negotiating compensation
42 expectations; provided, however, that the employer shall not request or require that the
43 applicant provide a salary history;

44 (3) Prohibit an employer from seeking the applicant's salary history for the sole purpose
45 of confirming the applicant's salary history after an offer of employment that includes the
46 terms of compensation has been extended to and accepted by the applicant; or

47 (4) Relieve any employer of the duty to comply with any state or federal laws with
48 respect to employment, including, but not limited to, laws prohibiting wage differentials
49 on the basis of sex and other forms of employment discrimination.

50 (d) Any employer that violates this Code section shall be subject to a civil penalty of not
51 less than \$1,000.00 nor more than \$5,000.00 for the first violation and not less than
52 \$5,000.00 nor more than \$10,000.00 for each subsequent violation. Any action by an
53 employer that violates the provisions of this Code section as a result of interviewing and
54 hiring a single applicant for a single position shall constitute a single violation. Such civil
55 penalty may be assessed and recovered in a civil action brought in a court of competent
56 jurisdiction by the Attorney General, the Commissioner of Labor, or any person aggrieved
57 or adversely affected by such violation against the person or persons responsible for such
58 violation. In any action commenced pursuant to this Code section, the plaintiff shall be
59 entitled to recover reasonable attorney's fees and costs of litigation.

60 34-1-12.

61 (a) As used in this Code section, the term:

62 (1) 'Applicant' means a prospective employee applying for employment or a current
63 employee of the employer who is applying for an internal transfer or promotion.

64 (2) 'Employer' means any natural person or entity that employs one or more employees
65 and shall include a public employer and any agent of the employer.

66 (3) 'Public employer' shall have the same meaning as provided in Code Section 45-19-22.

67 (4) 'Salary history' means current or prior wages, benefits, or other compensation paid
68 to an applicant for employment by the applicant's current employer or any previous
69 employers.

70 (b) An employer shall disclose in each posting for every job opening the hourly or salary
71 compensation or a range of the hourly or salary compensation and a general description of
72 all benefits and other compensation to be offered to the hired applicant.

73 (c) Prior to making a promotion decision, an employer shall make reasonable efforts to
74 announce, post, or otherwise make known to all current employees on the same calendar
75 day any opportunities for promotion.

76 (d) An employer shall keep records of the postings required under subsection (b) of this
77 Code section and the salary history for each individual hired by the employer for the
78 duration of such individual's employment, plus two years after the end of such
79 employment."

80 **SECTION 2.**

81 This Act shall become effective upon its approval by the Governor or upon its becoming law
82 without such approval.

83 **SECTION 3.**

84 All laws and parts of laws in conflict with this Act are repealed.