

LOCAL LAW “E” FOR 2022

A LOCAL LAW OF THE COUNTY OF ALBANY AMENDING LOCAL LAW NO. 1 FOR 2013, ENTITLED "AN OMNIBUS HUMAN RIGHTS LAW FOR ALBANY COUNTY"

Introduced: 5/9/22

By McLaughlin, Plotsky, A. Joyce:

BE IT ENACTED BY THE LEGISLATURE OF THE COUNTY OF ALBANY AS FOLLOWS:

SECTION 1. Legislative Intent

The purpose of this Local Law is to prevent discrimination in employment by requiring the disclosure of the minimum and maximum salary or wage at the time any position for hire in Albany County is solicited.

In 2017, this honorable body adopted rules prohibiting employers from requiring job applicants to provide prior or current salary information before an offer of employment is made.

The County of Albany continues to be dedicated to protecting the rights of its residents and eliminating discrimination and bias in the workplace.

This Legislature hereby finds and determines that withholding salary information during the employment solicitation process places employees at a disadvantage and can lead to discriminatory pay inequality.

Therefore, the purpose of this law is to amend the Albany County Omnibus Human Rights Law (Local Law No. 1 for 2013, as amended) to require employers to provide the minimum and maximum salary or hourly wage for any position being solicited for employment.

SECTION 2. Prohibitions

Section 7, subsection 1 (i) of Local Law No. 1 for 2013, “An Omnibus Human Rights Law for Albany County,” as amended, is further amended by the addition of a new subdivision (4) as follows:

(4) Advertise a job, promotion, or transfer opportunity without stating the minimum and maximum salary or hourly wage for such position in such advertisement. In stating the minimum and maximum salary or hourly wage for a position, the range may extend from the lowest to the highest salary the employer in good faith believes at the time of the posting it

would pay for the advertised job, promotion, or transfer opportunity. This subdivision does not apply to a job advertisement for positions that cannot or will not be performed, at least in part, in the County of Albany, or positions for temporary employment at a temporary help firm as such term is defined by subdivision 5 of section 916 of article 31 of the New York State Labor Law. Advertisements for jobs, promotions, or transfer opportunities paid solely on commission shall maintain compliance with this subparagraph by disclosing in writing in a general statement that compensation shall be based on commission.

(4)(a) No employer shall refuse to interview, hire, promote, employ or otherwise retaliate against an applicant or current employee for exercising any rights under this section.

(4)(b) No person shall have a cause of action pursuant to Section 9 of this Local Law for an alleged violation of Section 7 (1)(i)(4), except that an employee may bring such an action against their current employer for an alleged violation in relation to an advertisement by their employer for a job, promotion or transfer opportunity with such employer.

(4)(c) Notwithstanding Section 9, an employment agency, employer or employee or agent thereof shall be subject to a civil penalty of \$0 for a first violation of Section 7 (1)(i)(4), or any rule promulgated thereunder, if such employment agency, employer, employee or agent thereof proved to the satisfaction of the Affirmative Action Officer on behalf of the Commission, within twenty (20) days of the service of a copy of the applicable complaint pursuant to Section 8 (2), that the violation has been cured. The submission of proof of a cure, if accepted by the commission as proof that the violation has been cured, shall be deemed an admission of liability for all purposes.

(4)(d) For the purposes of Section 7 (1)(i)(4), the term “employer” shall mean (i) any person, corporation, limited liability company, association, labor organization or entity employing four (4) or more employees in any occupation, industry, trade, business or service, or any agent thereof; and (ii) any person, corporation, limited liability company, association or entity acting as an employment agent or recruiter, or otherwise connecting applicants with employers, provided that “employer” shall not include a temporary help firm as such term is defined by subdivision 5 of section 916 of article 31 of the New York State Labor Law.

SECTION 3. Enforcement

Section 9, subsection of Local Law No. 1 for 2013, “An Omnibus Human Rights Law for Albany County,” as amended, is further amended as follows:

1. Any person who is aggrieved by an unlawful discriminatory practice set forth in this law shall have a cause of action in any court of appropriate jurisdiction for damages and such other remedies at law and in equity as may be appropriate. If the court should find a violation of this law, it may take such action as may be appropriate, including but not limited to: requiring such party to cease and desist from such unlawful discriminatory practice; requiring such party to take such affirmative action, including (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay; restoration to membership in any labor organization, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program or other occupational training or retraining program; the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons; granting the credit which was the subject of any complaint, and the awarding of compensatory damages to the person aggrieved by the unlawful discriminatory practice.
2. Compliance or non-compliance with any of the requirements set forth in this section may be considered and received into evidence in any investigation or proceeding commenced pursuant to this Local Law. Furthermore, non-compliance with any of the requirements set forth in this section shall be an independent violation of this Local Law, and shall be punishable by a fine of \$500 for the first offense, \$1,000 for the second offense, and \$1,500 for the third and any subsequent offense. Any such violation shall be brought within one year of the violation, except that any violation initiated by the Affirmative Action Officer shall be brought within one year of when the Human Rights Commission first learned of the violation.

SECTION 3. Severability

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm, or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm, or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 4. Effective Date

This Local Law shall take effect 90 days after enactment.

