

REVISED LEGISLATIVE DIGEST
(Amended in Committee - June 21, 2017)

[Police, Administrative Codes - Employer Consideration of Applicant's Salary History]

Ordinance amending the Police and Administrative Codes to ban employers, including City contractors and subcontractors, from considering current or past salary of an applicant in determining whether to hire an applicant or what salary to offer the applicant, and from asking applicants about their current or past salary; to prohibit employers, including City contractors and subcontractors, from disclosing a current or former employee's salary history without that employee's authorization unless the salary history is publicly available; authorizing the Office of Labor Standards Enforcement to implement and enforce these provisions; and authorizing the City to bring a civil action against an employer for violations.

Existing Law

Existing law permits consideration of current or past salary in setting a job applicant's salary. In addition, existing law permits asking job applicants questions about their current or past salary and doesn't require that an employer have a current or former employee's permission to share that employee's current or past salary.

Amendments to Current Law

This Ordinance adds Article 33 to the Police Code and Chapter 12K to the Administrative Code to prohibit consideration of current or past salary in determining whether to offer employment to an applicant or what salary to offer. The Ordinance also prohibits employers from asking applicants about their current or past salary. The Ordinance also prohibits disclosure of a current or former employee's salary without that employee's permission, with specified exceptions. The Ordinance does permit an employer to consider current or past salary, if the applicant discloses his or her current or past salary voluntarily and without prompting.

The Ordinance would apply to applicants for employment with non-governmental employers when the applicants' work would be performed in whole or in part in San Francisco. With some exceptions, the Ordinance would also apply to applicants for employment with non-governmental employers when the applicants' work would be performed under a contract with the City, or when the work would be performed on City property used under a lease, permit, or license.

The Ordinance authorizes the Office of Labor Standards Enforcement ("OLSE") to implement and enforce the law. The Ordinance requires OLSE to publish notices in multiple languages describing employees' rights under the Ordinance, and requires employers to post the notices

in a conspicuous site at every workplace in the City. Finally, the Ordinance authorizes the City to bring a civil action against an employer for violations of the Ordinance.

Employers' obligations under the Ordinance would become operative on July 1, 2018.

Background Information

The purpose of the Ordinance is to narrow or close the gender-based wage gap. By prohibiting consideration of current or past salary in setting salary and prohibiting inquiry about or the sharing of current or past salary as part of the application process, the Ordinance is intended to prevent the perpetuation of historical patterns of gender bias and discrimination.

This legislative digest reflects amendments adopted by the Government Audit and Oversight Committee on June 7, 2017. Among other changes, the amendments added Chapter 12K of the Administrative Code to apply to applicants for employment under City contracts and on City property.

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