

RESOLUTION NO. ____ - 2022

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2022, entitled "A LOCAL LAW amending Chapter 700 of the Laws of Westchester County relating to prohibiting employers from posting job listings without minimum and maximum salary information." The public hearing will be held at __.m. on the ____ day of _____, 2022 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

TO: BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee recommends the adoption of “A LOCAL LAW amending Chapter 700 of the Laws of Westchester County relating to prohibiting employers from posting job listings without minimum and maximum salary information.”

Your Committee is advised that the Westchester County Human Rights Law (“Human Rights Law”) is intended to address and prevent discrimination, bigotry, prejudice, and intolerance in Westchester County because of a person’s actual or perceived membership in a protected class. Under the Human Rights Law, it is unlawful to discriminate in relation to employment, public accommodations, housing accommodation, commercial space and land transactions, and the issuance of credit.

Your Committee notes that, historically, a gender and racial wage gap has existed. Women earn on average less than their male counterparts do and people of color generally earn less than their White counterparts do. This disparity in pay can have a significant impact on the earnings of woman and people of color over the course of their careers. The Human Rights Law already bans employers from requesting, with few exceptions, the salary history of applicants to prevent employers from excluding people from the pool of applicants and using salary history to perpetuate gender and racial pay disparity.

Your Committee is advised that the proposed amendment to the Human Rights Law will make it unlawful for employers to advertise a job, promotion, or transfer opportunity without also including the minimum or maximum salary for the job, promotion, or transfer, in the job posting or advertisement. In any advertisement for a job, promotion, or transfer opportunity, the employer must provide a range 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 new requirement will help to bring about transparency around salary ranges and level the playing field for negotiating pay and ensuring that job applicants, particularly women and people of color, are paid a fair salary based upon what the job is worth. Moreover, it will help to close the gender and racial pay disparity by leveling the information playing field and helping to ensure that employees can receive equal pay for equal work, regardless of their group identity. Prospective applicants can better decide whether they want to devote their time to applying for a particular job or forego that particular opportunity if they know the salary range. On the other hand, prospective employers will not waste their time on applicants who are not interested in a particular job based upon the salary range. Colorado and New York City have recently enacted salary range disclosure laws.

Your Committee is advised that the proposed amendment will make it an unlawful discriminatory practice to fail to include the minimum and maximum salary for a job posting. Posting is defined as any written or printed communication whether electronic or hard copy, that the employer is recruiting and accepting applications for a specific position but does not include a "Help Wanted" sign or similar communication, affixed to the premises of the employer or place of employment, indicating only generally, without reference to any particular positions, that an employer is accepting applications or hiring. The amendment would apply to any employer posting for positions that are required to be performed, in whole or in part, in Westchester County, whether from an office, in the field, or remotely. Violations of this amendment would be subject to any of the appropriate penalties listed in Section 700.11(h) of the Laws of Westchester County.

Your Committee is informed that the proposed legislation does not meet the definition of an action under New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning dated January 14, 2022, which is on file with the Clerk of the Board of Legislators. Your Committee concurs in this conclusion.

Your Committee recommends adoption of this Local Law.

Dated: April 18, 2022
White Plains, New York

Arthur Esz
Mary E. Bar
Vedat Jatin
Margaret A. Cyzio
Colin J. [Signature]

Dated: April 18, 2022
White Plains, New York

The following members attended the meeting remotely, pursuant to Chapter 56 of the New York State Laws of 2022, and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Committee(s) on:

Legislation

Handwritten signature of Mary Jane Shimoda in cursive script.Handwritten signature of Benjamin Bonfanti in cursive script.Handwritten signature of William R. Maher in cursive script.

(WOP)

FISCAL IMPACT STATEMENT

SUBJECT: Salary Range Posting Requirement

☒ NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

☐ GENERAL FUND

☐ AIRPORT FUND

☐ SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ -

Total Current Year Revenue \$ -

Source of Funds (check one): ☐ Current Appropriations ☐ Transfer of Existing Appropriations

☐ Additional Appropriations

☐ Other (explain)

Identify Accounts: _____

Potential Related Operating Budget Expenses: Annual Amount \$ -

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount \$ -

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four Years: _____

Prepared by: Gideon Grande

Title: Deputy Director

Department: Budget

Date: March 24, 2022

Reviewed By: 

Budget Director

Date: 3/24/22

LOCAL LAW INTRO. NO. -2022

A LOCAL LAW amending Chapter 700 of the Laws of Westchester County relating to prohibiting employers from posting job listings without minimum and maximum salary information.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Subsection 9 of Section 700.03 of the Laws of Westchester County is hereby amended to read as follows:

Section 700.03. – Unlawful discriminatory practices in employment.

a. It shall be an unlawful discriminatory practice:

...

9. For an employer, labor organization, employment agency or licensing agency, or employee or agent to:

- (i) Post a job, promotion, or transfer opportunity without stating the minimum and maximum salary for such position in such posting. In stating the minimum and maximum salary 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 posting 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. Posting is defined as any written or printed communication whether electronic or hard copy, that the employer is recruiting and accepting applications for a specific position but does not include a "Help Wanted" sign or similar communication, affixed to the premises of the employer or place of employment, indicating only generally, without reference to any particular positions, that an employer is accepting applications or hiring. For the purposes of this subdivision, an employer, defined in section 700.02(7) of this Chapter, shall also include any employer who posts for positions that are required to be performed, in whole or in part, in Westchester County, whether from an office, in the field, or remotely.

- (ii) Rely on the wage history of a prospective employee from any current or former employer of the individual in determining the wages for such individual; provided that an employer may rely on prior wage history when it is voluntarily provided by a prospective employee to support a wage higher than the wage offered by the employer;
- (iii) Orally, or in writing, request or require as a condition of being interviewed, or as a condition of continuing to be

considered for an offer of employment, or as a condition of employment, that a prospective employee disclose information about the employee's own wages from any current or former employer; and

- (iv) Orally, or in writing, seek from any current or former employer the previous wages of any prospective employee; provided, however, that an employer may seek to confirm prior wage information only after an offer of employment with compensation has been made to the prospective employee and the prospective employee responds to the offer by providing prior wage information to support a wage higher than offered by the employer. Under these circumstances, the employer may only seek to confirm prior wages after obtaining written authorization by the prospective employee to do so.

The employer shall not refuse to hire or otherwise retaliate against an employee or prospective employee based upon prior wage or salary history or because the employee or prospective employee has opposed any act or practice made unlawful by this subdivision.

This section shall be null and void on the day that Statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or federal

administrative agency issues and promulgates regulations preempting such action by the County of Westchester. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation, or pertinent preempting State or federal regulations have been enacted for the purposes of triggering the provisions of this section.

Section 3. This Local Law shall take effect 180 days after enactment.