

The Legal Intelligencer

Salary History Law Adds Hurdle to Law Firm Hiring

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by Lizzy McLellan | April 25, 2017

Case Digest Summary

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Philadelphia's [City Council passed a law](#) in January to ban employers from asking job candidates what they were paid at previous jobs. Recruiters will be bound by the same restrictions when working with Philadelphia businesses.

The law was set to take effect May 23 but was recently postponed due to a lawsuit filed by [Philadelphia businesses](#). It's meant to combat pay inequality, based on the idea that some women and minorities started their careers at a lower salary due to bias, and using that lower pay as a benchmark could hold them back throughout their careers.

"The objective is laudable—equality in pay, it's hard for anyone to disagree with that," said Frank D'Amore, of Attorney Career Catalysts. But "in practice, it's going to cause problems."

Prior salary is a standard question in legal industry hiring, both at law firms or in-house, he and other recruiters said. And the law also prohibits companies from learning a candidate's salary history through alternative means. The only way of learning it is if the candidate discloses it on his or her own accord.

Knowledge Gaps

Recruiters said the law would make placements more time-consuming and negotiations more tedious.

"If you don't have an idea of someone's salary expectations, and whether or not those expectations are realistic, it can be very frustrating," said Sandra Mannix of Abelson Legal Search.

Candidates could easily eliminate themselves from a potential position by placing their desired salary too high, Mannix said, and recruiters can't help them avoid that without all the information at hand. For instance, she said, a lawyer who makes \$85,000 may say she wants to make \$150,000 at the outset of a job search. There may be a great opportunity available for a \$110,000 salary, but without knowing prior salary, a recruiter may eliminate that option in fear that it would low-ball the candidate, Mannix said.

“People do not like to move unless they’re going to make more money,” D’Amore said. “How are you going to gauge whether someone is going to make more money if you don’t know how much they’re making now?”

Prior salary doesn’t just determine what a law firm can offer, D’Amore said, but can also be a key indicator of a candidate’s value. A potential deal could fall apart entirely if a firm unknowingly undervalues a candidate, he said.

“On the partner side, particularly if it’s a partner moving who has business, it becomes important because somebody’s current compensation really indicates how much business they say they have,” he said. And for partners who don’t have a big book of business, it becomes more of a mystery.

Jason Mandel of Alevistar Group works with firms and lawyers in Philadelphia



and the surrounding area. When a candidate comes to him, he said, they are often open to opportunities at firms inside or outside Philadelphia’s city limits.

Recruiters will now have to be mindful whether the new law is at play in a given placement.

“I need to train myself to ask that question in a different way—where would you like to be, what do you think you’re worth?” Mandel said. “We need to be

on top of our practice more than ever.”

Pay Predictions

While recruiters wonder about the mechanics of the city’s law, Pennsylvania lawmakers are mulling a different kind of statewide approach. The state [Senate passed its own law](#), which makes it illegal for employers to prohibit their employees from discussing their salaries or wages. That

provision does not directly contradict Philadelphia's ban—a [Massachusetts new law set to take effect next year](#) features both measures. But the Pennsylvania Senate's bill also specifically pre-empts local legislation barring employers from asking about salary history.

Steve Kruza of Kruza Legal Search said the Philadelphia law could put potential employees in a better position for negotiating. But it depends on the firm and the position, he noted, since salary is far from secret at some large law firms, especially for associates.

Kruza said the ban on prior salary questions may have more of an impact on legal staff, giving candidates for those positions "a little bit of an edge." For lawyers, he said, it's often beneficial to disclose their previous salary, so the new firm can "put their best foot forward."

Mannix predicted that Philadelphia's law would have little impact on pay equity among lawyers, because legal departments and law firms usually come to her with a set salary range before meeting any candidates. Where they fall in that range is usually based on experience, she said.

But Mandel said lawyers who are currently underpaid could benefit from the law. It will have the greatest impact at midsize and smaller law firms, he said, where salary is less often based on a lock-step scale.

"It gets kind of tricky, but I think it will help the candidates get to where they should be," he said. "They will be paid [based] on what they deserve to be paid."

Despite the difficulties, there's an also upside for recruiters, Mandel said. If lawyer salaries increase, their commission will too.



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