

House Bill 55

By: Representatives Bazemore of the 63rd, Smyre of the 135th, Beverly of the 143rd, Bruce of the 61st, Mitchell of the 88th, 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 a civil penalty for
5 violations; to provide for a civil right of action and the recovery of attorneys' fees and costs
6 of litigation; to provide for related matters; to provide for an effective date; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

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

13 "34-1-11.

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

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

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

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

19 (4) 'Salary history' means current or prior wages, benefits, or other compensation. Such
20 term shall not include any objective measure of productivity, such as revenue, sales, or
21 other production reports.

22 (b) It shall be unlawful for an employer or employer's agent to:

23 (1) Screen applicants based on their salary history, including, but not limited to,
24 requiring that an applicant's prior salary history satisfy minimum or maximum criteria;
25 or

26 (2) Seek the salary history of an applicant from such applicant or his or her current or
27 former employer.

28 (c) Nothing in this Code section shall:

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

30 (2) Prohibit an employer or employer's agent and an applicant from discussing and
31 negotiating compensation expectations; provided, however, that the employer or the
32 employer's agent does not request or require that the applicant provide a salary history;
33 or

34 (3) Prohibit an employer or employer's agent from seeking the applicant's salary history
35 for the sole purpose of confirming the applicant's salary history after an offer of
36 employment that includes the terms of compensation has been extended to and accepted
37 by the applicant.

38 (d) Any employer or employer's agent that violates this Code section shall be subject to
39 a civil penalty of not less than \$1,000.00 nor more than \$5,000.00 for the first offense and
40 not less than \$5,000.00 nor more than \$10,000.00 for each subsequent violation. Any
41 action by an employer or employer's agent that violates the provisions of this Code section
42 as a result of interviewing and hiring a single applicant for a single position shall constitute

43 a single violation. Such civil penalty may be assessed and recovered in a civil action
44 brought in a court of competent jurisdiction by the Attorney General, the Commissioner
45 of Labor, or any person aggrieved or adversely affected by such violation against the
46 person or persons responsible for such violation. In any action commenced pursuant to this
47 Code section, the plaintiff shall be entitled to recover reasonable attorneys' fees and costs
48 of litigation.

49 (e) If the employer can demonstrate that the employer's agent was informed of and
50 received training as to the requirements and prohibitions of this Code section and was
51 instructed to comply, then the employer shall not be liable for any actions taken by the
52 employer's agent in violation of this Code section."

53 **SECTION 2.**

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

56 **SECTION 3.**

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