

## **State Rules Register Alert**

**January 20, 2017**

### **State and Local Restrictions on Obtaining Salary History**

As you are aware, there have been enactments that restrict employers from making inquiries regarding an applicant's salary/wage history. While the news coverage has focused on income disparity for women, these restrictions apply to all applicants regardless of gender, race, etc. These laws should not restrict the providing of past wage information. They restrict the inquiry about such information, thus the inquiry from an employer in a non-restricted jurisdiction to a past employer in a restricted jurisdiction can still legally result in the disclosure of past wages.

Traditionally, CRAs and employers were concerned with enactments by the various states, but now the legislative action seems to be at the municipal level where the Mayor and/or City Council seem to be more liberal than their state legislatures. Unfortunately, this creates a crazy quilt for compliance. The real compliance problem is the enactment of such laws by small cities and towns because there will be minimal to no news coverage that such an ordinance has been enacted. While the CRAHelpDesk can monitor major cities, it cannot monitor smaller municipalities. In these cases, the employer will have to advise a CRA if "Whoville" has enacted such an ordinance in order that you not ask about past salary.

#### **Massachusetts**

On August 1, 2016, but not effective until July 1, 2018, the legislature of the Commonwealth of Massachusetts enacted the 2016 Chapter 177, which prohibits an employer from seeking the wage or salary information of a prospective employee or from a current or former employer. There is an odd exception to allow such an inquiry after an employer has made an offer of employment and the compensation for that employment has been negotiated. Why an inquiry would be made at that time seems unlikely, but obviously somebody in Massachusetts thought it was important.

#### **Philadelphia**

The city that keeps on giving restrictions to its employers has joined this movement as well. Bill No. 160840 was signed by the Mayor on January 23, 2017 making the law effective on May 23, 2017. This is a straightforward restriction on the inquiring about an applicant's wage history, regardless of how calculated. Again, this applies to all applicants, not just to female applicants. Wage history includes "fringe benefits".

#### **New York City**

The City Council has passed Bill No. 1253-A. It is scheduled to be signed by the Mayor on April 25, 2017. If signed on that date, the law will become effective 180 days thereafter: October 22, 2017. The effective date may be extended if the New York City Commission on Human Rights has not yet issued rules regarding this new law.

This ordinance is also a simple restriction on such wage history inquiries applicable to all applicants. It specifically does not apply to current employees be transferred or promoted by the employer. Salary history does include benefits or other forms of compensation. This writer assumes this would include such things as a company car, expense accounts, club memberships and the like.