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H.B. 398
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Miranda and Abdullahi

Paul Luzzi, Attorney

SUMMARY

- Prohibits certain employers from refusing to interview or consider a prospective employee for employment based on the prospective employee's wage or salary history.
- Prohibits, unless an exception applies, certain employers from requesting or seeking information regarding a prospective employee's wage or salary history from the prospective employee or the prospective employee's current or former employer.
- Prohibits certain employers from requiring that a prospective employee's wage or salary history satisfy minimum or maximum criteria.
- Allows any prospective employee alleging a violation of the bill to sue to recover damages, or for equitable relief, along with costs and reasonable attorney's fees.
- Allows the Attorney General, at the written request of one or more prospective employees alleging an employer violated the bill, to take an assignment of such a claim or claims.

DETAILED ANALYSIS

Prospective employee wage and salary history – prohibitions

Subject to the exceptions described below, the bill prohibits an employer from doing any of the following:

1. Refusing to interview or consider a prospective employee for employment based on the prospective employee's wage or salary history;
2. Requesting or seeking information regarding a prospective employee's wage or salary history from the prospective employee or the prospective employee's current or former employer;

3. Requiring that a prospective employee's wage or salary history satisfy minimum or maximum criteria.¹

Under the bill, an "employer" is any person who has 15 or more employees and includes an agent of an employer, the state or any agency or instrumentality of the state, and any municipal corporation, county, township, school district, or other political subdivision or any agency or instrumentality thereof.²

Exceptions

The bill allows an employer to request information regarding or seeking to confirm a prospective employee's wage or salary history from the prospective employee or the prospective employee's current or former employer if both of the following apply:

1. The prospective employee has voluntarily disclosed to the employer information regarding the prospective employee's wage or salary history;
2. The employer has made an offer of employment with compensation to the prospective employee.³

The bill also specifies that it does not prohibit an employer from doing either of the following:

1. Inquiring as to a prospective employee's wage or salary expectations or requirements;
2. Providing information regarding the wages, salary, benefits, commissions, or any other forms of remuneration or compensation offered in connection with any position for which the prospective employee is applying.⁴

Additionally, if an employee is seeking to fill another position with the employee's employer by transfer or promotion, the bill allows the employer to consider the employee's wage or salary for the purpose of determining the employee's wage or salary in the new position.⁵

Enforcement

Any prospective employee alleging a violation of the bill may sue to recover damages sustained due to an employer's violation, or for equitable relief, along with costs and reasonable attorney's fees. The bill allows two or more prospective employees alleging the same employer violated the bill to join as co-plaintiffs in one lawsuit.

¹ R.C. 4113.12(B).

² R.C. 4113.12(A).

³ R.C. 4113.12(C).

⁴ R.C. 4113.12(D).

⁵ R.C. 4113.12(E).

The bill allows the Attorney General, at the written request of one or more prospective employees alleging an employer violated the bill, to take an assignment of such a claim or claims.⁶

HISTORY

Action	Date
Introduced	02-05-24

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⁶ R.C. 4113.12(F).