

Challenge to Philadelphia Wage Equity Law Dismissed

Earlier this year, Philadelphia enacted its so-called wage equity ordinance, becoming the first city in the country to prohibit salary history inquiries during the hiring process. The ordinance, which was to take effect on May 23, quickly faced legal challenge. A federal judge temporarily blocked its enforcement, but has now dismissed the lawsuit without prejudice and granted the Chamber of Commerce for Greater Philadelphia additional time to file an amended complaint. Employers will want to continue monitoring developments closely.

Background

In January 2017, Philadelphia enacted an ordinance ([Bill No. 160840](#)) to prohibit most employers and employment agencies from asking about a potential hire’s wage and fringe benefits history, or conditioning job interviews or employment on its disclosure. The so-called wage equity ordinance was to take effect on May 23. (See our [January 27, 2017 For Your Information.](#))

On April 6, the Chamber of Commerce for Greater Philadelphia filed a federal [lawsuit](#) to block its implementation and enforcement on constitutional and other grounds. The Chamber also sought expedited relief, filing a [motion](#) for a preliminary injunction to prevent the ordinance from being enforced during the pendency of the lawsuit. The city agreed to delay implementation until the motion is resolved. On April 19, the U.S. District Court for the Eastern District of Pennsylvania issued an [order](#) that temporarily stayed the May 23 effective date pending resolution of the motion, and ordered the parties to address whether the Chamber has legal standing to bring the lawsuit. (See our [April 28, 2017 For Your Information.](#))

Chamber’s Challenge Dismissed

On May 30, District Judge Mitchell S. Goldberg dismissed the Chamber’s legal challenge because the organization failed to establish that it had standing to bring the action. In his ruling, the judge said the Chamber failed to identify at least one of its members that would be harmed by Philadelphia’s wage equity law, and the “Chamber’s broad allegations about its members simply do not meet the requirements” for associational standing. However, the dismissal was without prejudice, and the court gave the Chamber 14 days to file an amended complaint.



Following the ruling, the city released a [statement](#) saying: “We are gratified by the Judge’s decision. If the Chamber files an amended complaint that cures the standing defects identified by the Court, the City will adhere to its agreement not to enforce the order until the Chamber’s motion for preliminary injunction is resolved. If no amended complaint is filed within the period stipulated by the Court, the City will begin taking steps to enforce the ordinance, which seeks to improve wage equity for women and minority workers in Philadelphia.”

In Closing

Philadelphia’s wage equity ordinance was to have taken effect May 23 but remains on hold for now. While the lawsuit filed by the Chamber of Commerce for Greater Philadelphia was dismissed, the Chamber may file an amended complaint. Employers should closely monitor further developments.

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