

Intro. Res. No. 1856-2018

Laid on Table 9/5/2018

Introduced by Presiding Officer, on request of the County Executive and Legislators Hahn, Martinez, Anker, Berland, Fleming, Gregory, Calarco, Flotteron, Trotta, McCaffrey, Spencer

**RESOLUTION NO. 926 -2018, ADOPTING LOCAL LAW NO. 25 -2018, A LOCAL LAW TO RESTRICT INFORMATION REGARDING SALARY AND EARNINGS (“RISE” ACT)**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a meeting held on September 5, 2018, a proposed local law entitled, "**A LOCAL LAW TO RESTRICT INFORMATION REGARDING SALARY AND EARNINGS (“RISE” ACT)**"; and said local law in final form is the same as when presented and introduced; now, therefore be it

**RESOLVED**, that said local law be enacted in form as follows:

**LOCAL LAW NO. 25 -2018, SUFFOLK COUNTY, NEW YORK**

**A LOCAL LAW TO RESTRICT INFORMATION REGARDING SALARY AND EARNINGS (“RISE” ACT)**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK**, as follows:

**Section 1. Legislative Intent.**

This Legislature hereby finds and determines that despite state and federal laws prohibiting gender-based pay discrimination, women and racial and ethnic minority workers have historically encountered lower wages and salaries causing a wage gap that pervades all industries.

This Legislature further finds and determines that a report issued in April 2018 by the New York State Department of Labor (NYSDOL) found that women in Suffolk County earn 78.1% of what their male counterparts earn, compared to the State-wide percentage of 86.8%.

This Legislature further finds that there are significant disparities across racial and ethnic groups; with the same April 2018 NYSDOL study revealing that women of color in New York are faring worse than women of other identities with African American or Black women earning 64.4% and Latino or Hispanic women earning 55.3% of what men earn.

This Legislature further finds that a 2016 analysis commissioned by the New York Women’s Foundation in partnership with the Institute for Women’s Policy Research found that if New York’s women were paid the same as comparable men, each would earn \$6,600 more per year, an earnings increase that would add \$29.6 billion to the state economy. If New York’s working women were paid the same as their male peers-men who are of the same age, have the same level of education, work the same number of hours, and have the same urban/rural status - it would reduce the poverty rate for the state’s women and their families by more than half, from 7.5 to 3.6 percent.

This Legislature further finds that because women and racial and ethnic minorities are statistically proven to be paid lower wages across all positions and industries and unlikely to be

successful in negotiating for salary, they can be negatively impacted by employers who rely on salary and wage history when making an employment offer.

This Legislature further finds that restricting access to a prospective employee's salary history will help break the cycle of wage discrimination and close the wage gap, because salary history is often used as a tool for setting wages, and thus can perpetuate the inequitable pay scale that women and people of color face with each successive job.

This Legislature further finds that individuals who leave the workforce for extended periods of time (ie: to care for a child or sick or elderly relative), can be at a disadvantage upon return when prospective employers inquire about salary history and which inquiries can unfairly anchor the applicant to an outdated salary that is no longer industry standard.

This Legislature further finds that experienced workers who leave or lose high-paying positions often have trouble securing interviews with employers who, in relying on salary history, believe they cannot afford the applicant's previous salary, even if the applicant is willing to accept less pay for the new position.

Therefore, the purpose of this local law is to prohibit employers from inquiring about and relying on prior or current salary information when setting compensation for new employees.

## **Section 2. Amendment**

Chapter 528 of the SUFFOLK COUNTY CODE is hereby amended as follows:

### **Chapter 528. Human Rights**

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#### **Article II. Unlawful Discriminatory Acts.**

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#### **§ 528-7. Unlawful Discriminatory Practices in Employment.**

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##### **(13) Wage and Salary history.**

(a) For any employer, employment agency, employee or agent thereof to inquire, whether in any form of application or otherwise, about a job applicant's wage or salary history, including but not limited to, compensation and benefits. For purposes of this subdivision, "to inquire" means to ask an applicant or former employer orally, or in writing or otherwise or to conduct a search of publicly available records or reports.

(b) For any employer, employment agency, employee or agent thereof to rely on the salary history of an applicant for employment in determining the wage or salary amount for such applicant at any stage in the employment process including the offer or contract.

(c) This subdivision shall not apply to any actions taken by an employer, employment agency, employee or agent thereof pursuant to any federal, state or local law that requires the disclosure or verification of salary for employment purposes.

(d) This subdivision shall not apply to the exercise of any right of an employer or employee pursuant to a collective bargaining agreement.

### **Section 3. Applicability.**

This law shall apply to all actions occurring on or after the effective date of this law.

### **Section 4. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

### **Section 5. SEQRA Determination.**

This Legislature, being the lead agency under the State Environmental Quality Review Act ("SEQRA"), N.Y. Environmental Conservation Law Article 8 and Chapter 450 of the Suffolk County Code, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (NYCRR) in that the action constitutes routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

### **Section 6. Effective Date.**

This law shall take effect within 120 days upon its filing in the Office of the Secretary of State and not before June 30, 2019.

\_\_ Underlining denotes addition of new language.

DATED: November 20, 2018

APPROVED BY:  
/s/ Steven Bellone  
County Executive of Suffolk County

Date: November 30, 2018  
After a public hearing duly held on November 29, 2018  
Filed with the Secretary of State on December 20, 2018