



May the 4th Be With You: Philadelphia's Wage Equity Saga Continues

Insights

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It is only fitting that, on this day, May the 4th, which has become known colloquially as Star Wars Day, we bring you this update on Philadelphia's Wage Equity Ordinance saga which could send significant ripples throughout the galaxy.

Just to bring the readers up to speed, below is the timeline of events, to date:

- December 8, 2016 – Philadelphia City Council passes Philadelphia Bill No. 16084 which would, among other things, prevent employers from asking prospective employee's about their wage history during the hiring process;
- January 9, 2017 – Members of the Philadelphia business community submit a legal memo to City Hall through which the businesses urged Mayor Jim Kenney to veto Bill No. 16084 because it may represent a violation of First Amendment free speech rights;
- January 23, 2017 – Philadelphia Mayor Kenney signs Bill No. 16084 into law and the law is set to go into effect in 120 days – on May 23, 2017;
- February 8, 2017 – Pennsylvania lawmakers in Harrisburg pass a Bill amending the Commonwealth's Equal Pay Act which contains, among other things, a preemption clause which would preempt any state or local ordinances regarding equal pay (this Bill, to date, has not been signed into law);
- April 6, 2017 – The Chamber of Commerce for Greater Philadelphia files a federal lawsuit challenging Philadelphia's Wage Equity Ordinance as unconstitutional in violation of business' First Amendment rights;
- April 6, 2017 – This same day, The Chamber of Commerce for Greater Philadelphia files a Motion for Preliminary Injunction seeking a Court Order enjoining enforcement of the Wage Equity Ordinance; and
- April 19, 2017 – Judge Goldberg (E.D.Pa) issued an Order which provided that the "'Fair Practices Ordinance: Protections Against Unlawful Discrimination,' Phila. Code. § 9-1101 *et seq.* is **STAYED** pending resolution of 'Plaintiff's Motion for a Preliminary Injunction.'"

Following this background, The City of Philadelphia filed a Motion to Dismiss the lawsuit filed by The Chamber of Commerce for Greater Philadelphia on the grounds that the Chamber lacks standing in

the matter. As of today, the date on which the Wage Equity Ordinance was originally set to go into effect (May 23, 2017) *has been STAYED*.

The key takeaway for those doing business in Philadelphia is that, as of today, the Wage Equity Ordinance will **not** go into effect on May 23, 2017. It is unclear if The City's recent Motion to Dismiss the Chamber's lawsuit will affect this. Moreover, even if The City of Philadelphia prevails on its Motion to Dismiss and/or defeats The Chamber's Motion for Preliminary Injunction, the legislation coming from Harrisburg may end up preempting Philadelphia's law anyway. This is not to say, however, that the law will never take effect, therefore, business still need to prepare for compliance and stay tuned for further updates.