



RECENT DEVELOPMENT

City of Columbia, SC Clarifies Coverage of Criminal Records and Salary History Ordinance

By William J. Simmons and Bill Foster on February 10, 2020

Last year, the City of Columbia, South Carolina enacted an ordinance that appeared to require substantial changes to private employers' criminal record and salary history inquiry practices. At the time of enactment, the ordinance defined a covered "employer" as the "City, private employers and government contractors; any person regularly employing five or more persons, any person acting as an agent of an employer, directly or indirectly; or any person undertaking for compensation to procure employees or opportunities for employment." There was a disconnect, however, between this plain-text definition of "employer" and other portions of the ordinance and public statements about the ordinance that otherwise suggested the City had actually not intended to cover private employers.

Shortly after the news of the ordinance's passage, a coalition of interested private employers wrote a letter to the Mayor and City Council requesting that the ordinance be amended to cover only the practices of the City itself.¹ We are informed that other interested stakeholders and groups contacted the City on this matter as well.

As a result, the City of Columbia City Council has now formally amended the ordinance to omit any reference to private employers in the definition of "employer." The amended ordinance now reads that "Employment shall be defined to include only 'the City of Columbia as a municipal corporation.'"²

Therefore, private employers with no contracts or vending relationship with the City of Columbia can confidently conclude they are **not** covered by the criminal history and salary history ordinance. The City should continue to monitor the City's practices and contracts issued by the City, though, because the ordinance presently "encourages" City vendors "to adopt and employ conviction and wage history practices, and standards that are consistent with City standards." The ordinance also still provides that the City can review vendors' practices on these topics as part of the "criteria to be evaluated by the City when determining whether to award a City contract."

¹ This coalition effort was led by Littler's Workplace Policy Institute.

² The amendments can be found at: https://www.columbiasc.net/depts/city-council/docs/2019/2019Ordinances/Ordinance_2019_098_Amending_Chapter_2_Article_VII_Sec.2-352_Definitions_Emp

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