ACEC New York

American Council of Engineering Companies of New York

Testimony of the American Council of Engineering Companies of New York

Concerns about Introductions 982, 1064, and 808

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About ACEC New York: The American Council of Engineering Companies of New York (ACEC New York) is an association representing nearly 300 engineering and affiliate firms with 30,000 employees in New York. Our members design the mechanical, electrical, energy performance, structural, plumbing, civil, environmental, fire protection and technology systems of buildings and infrastructure for public and private owners across New York. Our members have a concentrated presence in New York City.

ACEC New York has a history of providing feedback to the city from the perspective of the *licensed professional engineering businesses* who design city buildings and infrastructure, for policymakers to consider as laws are implemented.

ACEC New York is opposed to these bills as presently drafted. In summary, the bills create unreasonable administrative burdens on businesses in New York City without creating commensurate benefit to employee pay transparency, and without necessarily increasing pay transparency at all. As with existing laws that require businesses to submit data to city agencies, agencies themselves indicate inadequate resources to make meaningful use of the data that is collected.

Intro. 808 expands existing requirements to include "*non-wage compensation"* in job listings (such as bonuses, benefits, stocks, bonds, options and equity or ownership, if any).

a. **Non-wage compensation is often case-specific and unknown at the time of job listing.** For example:
    1 Non-wage benefits, in many instances, are performance-based and are not defined at the time of hire.
    2 A member firm may have an applicant who will require relocation assistance. This would be specific to individuals and not applicable across all candidates. This is considered a recruiting cost, and to offer that (via job listing) to employees with the same title irrespective of whether the individual candidate must relocate is unreasonable.
    3 In this job market and for some hard to fill positions, a sign-on bonus may be warranted. This is considered a recruiting cost, and is generally specific to the compensation a potential employee is forfeiting at their prior position. This cannot be addressed in a posting.

We have overarching privacy concerns on behalf of the 300 member firms and 30,000 employees our association represents regarding Intro 982 and Intro 1064.

Int 0982-2024: requires employers to report to the Department of Consumer and Worker Protection information relating to *each* employee: salary and wages for the previous calendar year; the month and year the employee was hired; job title; gender; race and ethnicity; birth year; the borough in which the

employee works; whether the employee is a member of a labor union; whether the employee works more than 35 hours per week, less than 35 hours per week, or on a seasonal or temporary basis; and whether the employee is a manager, and to do so annually.

a. **Administrative Burden on Employers:** annual reporting, combined with the detailed nature of the required information, will impose significant burdens on employers, especially for smaller businesses covered by the bill, which may not have or have limited Human Resource Information Systems (HRIS). Additionally, many employers are already required to submit an annual EEO-1 Report and this bill creates an additional reporting obligation; HR employees will therefore spend more time reporting vs. their HR-related job functions.
b. **Data Accuracy and Potential Misinterpretation:** Ensuring the accuracy of demographic data, such as race and ethnicity, can be challenging, especially if employees do not self-identify. Additionally, aggregated data may not account for regional variations in pay due to Cost of Living differences between "upstate" or out-of-city workers traveling to NYC, which is common in our industry, to work occasionally and workers who are employed Full Time in NYC.
c. **Potential for Legal Exposure**: Employers may face risk of legal claims if data is misinterpreted, or discrepancies are identified without context.
d. **Timeline Feasibility:** With the first report due February 1, 2025, employers will struggle to prepare and collect data in time, especially considering all of the end of year processes such as annual increases/evaluations, W-9 prep, etc.
e. **Privacy and Proprietary Business Information:** The bill as drafted provides no prohibition on the release of the highly sensitive information required to be provided. While the agency may choose to apply FOIL exemptions, that is not the same as a requirement that they do so and even FOIL exemptions are subject to interpretation and litigation. The information required to be provided is extremely intrusive and sensitive for the employees as well as the employers and subjects them to the risks of fraud and other scams as well as invasion of privacy. For the companies, it is disclosure of very sensitive information which can compromise their ability to recruit and retain staff but also their ability to effectively propose on City design contracts. At a minimum, the bill should include strict prohibition of disclosure, with criminal penalties, comparable to those in the Internal Revenue Code.

Int 1064-2024 requires employers to make efforts to notify current employees of job opportunities prior to selecting a candidate for the role.

a. **Operational Feasibility:** Requiring employers who have chosen not to post publicly on their websites to notify all employees of job opportunities, especially in large organizations, can be logistically challenging and resource-intensive.
b. **Unintended Workplace Dynamics:** Announcing information about the selected candidate may lead to perceived privacy violations by employees. It may also lead to resentment between units, or within a single unit, or a sense of favoritism, harming workplace morale and cohesion. Additionally, the selected candidate may feel targeted or singled out, including possibly against their wishes, by having their name announced Company-wide or Unit-wide, especially if they did not consent to disclosure. Separately, a company may intentionally choose to fill a position only from the outside, for example because it wants technical, recent overseas or government experience, or simply to bring fresh approaches to the organization. The decision to do so could create disharmony in the workplace among current employees not eligible to apply

c. **Timing and Impact on Hiring Processes:** Mandating pre-selection notifications could delay hiring, particularly for roles requiring urgent filling, such as project-based positions. It may also deter external candidates from applying if the perception is that internal candidates receive preference regardless of merit, qualification, skills or experience.
d. **Disclosing former job title doesn't convey meaningful information:** There are soft skills (leadership experience, former team size, past project size, specific job needs) that are not captured by "former job title" which the bill requires to be disclosed to fellow employees of new hires. Different businesses assign job titles in different ways, liberally, sparingly, and so forth. Requiring employers to report the former job title of newly selected employees to their fellow employees does not convey meaningful information in most cases.

These bills lack specific details and clear implementation guidelines, leaving much open to interpretation and exposing employers to liability and potential penalties. If passed at all, the agency should be required to adopt Rules prior to the law being effective.

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