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**NEWSPAPER ARTICLES:** Yes

"Bill targeting pay discrimination signed," The Record, 8-30-16

LAW/RWH

P.L.2013, CHAPTER 154, *approved August 28, 2013*  
Assembly, No. 2648 (*Second Reprint*)

1 AN ACT concerning disclosure of certain employment information  
2 and amending <sup>2</sup>~~1~~[P.L.1986, c.105] P.L.1945, c.169<sup>2</sup>.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 <sup>2</sup>~~1~~Section 3 of P.L.1986, c.105 (C.34:19-3) is amended to read  
8 as follows:

9 3. An employer shall not take any retaliatory action against an  
10 employee because the employee does any of the following:

11 a. Discloses, or threatens to disclose to a supervisor or to a  
12 public body an activity, policy or practice of the employer, or  
13 another employer, with whom there is a business relationship, that  
14 the employee reasonably believes:

15 (1) is in violation of a law, or a rule or regulation promulgated  
16 pursuant to law, including any violation involving deception of, or  
17 misrepresentation to, any shareholder, investor, client, patient,  
18 customer, employee, former employee, retiree or pensioner of the  
19 employer or any governmental entity, or, in the case of an employee  
20 who is a licensed or certified health care professional, reasonably  
21 believes constitutes improper quality of patient care; or

22 (2) is fraudulent or criminal, including any activity, policy or  
23 practice of deception or misrepresentation which the employee  
24 reasonably believes may defraud any shareholder, investor, client,  
25 patient, customer, employee, former employee, retiree or pensioner  
26 of the employer or any governmental entity;

27 b. Provides information to, or testifies before, any public body  
28 conducting an investigation, hearing or inquiry into any violation of  
29 law, or a rule or regulation promulgated pursuant to law by the  
30 employer, or another employer, with whom there is a business  
31 relationship, including any violation involving deception of, or  
32 misrepresentation to, any shareholder, investor, client, patient,  
33 customer, employee, former employee, retiree or pensioner of the  
34 employer or any governmental entity, or, in the case of an employee  
35 who is a licensed or certified health care professional, provides  
36 information to, or testifies before, any public body conducting an  
37 investigation, hearing or inquiry into the quality of patient care; or

38 c. Objects to, or refuses to participate in any activity, policy or  
39 practice which the employee reasonably believes:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ALA committee amendments adopted March 12, 2012.

<sup>2</sup>Assembly amendments adopted in accordance with Governor's  
recommendations October 11, 2012.

1 (1) is in violation of a law, or a rule or regulation promulgated  
 2 pursuant to law, including any violation involving deception of, or  
 3 misrepresentation to, any shareholder, investor, client, patient,  
 4 customer, employee, former employee, retiree or pensioner of the  
 5 employer or any governmental entity, or, if the employee is a  
 6 licensed or certified health care professional, constitutes improper  
 7 quality of patient care;

8 (2) is fraudulent or criminal, including any activity, policy or  
 9 practice of deception or misrepresentation which the employee  
 10 reasonably believes may defraud any shareholder, investor, client,  
 11 patient, customer, employee, former employee, retiree or pensioner  
 12 of the employer or any governmental entity; or

13 (3) is incompatible with a clear mandate of public policy  
 14 concerning the public health, safety or welfare or protection of the  
 15 environment; or

16 d. Discloses to any other employee or former employee of the  
 17 employer, or any authorized representative of the other employee or  
 18 former employee, <sup>1</sup>or requests, whether the request was responded  
 19 to or not,<sup>1</sup> information regarding the job title, occupational  
 20 category, and rate of compensation, including benefits, of any  
 21 employee or former employee, or the gender, race<sup>1</sup>, ethnicity,  
 22 military status,<sup>1</sup> or <sup>1</sup>【other characteristics】 national origin<sup>1</sup> of the  
 23 employee or former employee <sup>1</sup>【for which it is a violation of law to  
 24 discriminate against an individual】 , if the disclosure was made in a  
 25 reasonable belief on the part of the requesting or disclosing  
 26 employee that the purpose of the request or disclosure of the  
 27 information was to assist in investigating the possibility of the  
 28 occurrence of, or in taking of legal action regarding, potential  
 29 discriminatory treatment concerning pay, compensation, bonuses,  
 30 other compensation or benefits<sup>1</sup>.

31 (cf: P.L.2005, c.329, s.1)】<sup>2</sup>

32  
 33 <sup>2</sup>1. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to  
 34 read as follows:

35 11. It shall be an unlawful employment practice, or, as the case  
 36 may be, an unlawful discrimination:

37 a. For an employer, because of the race, creed, color, national  
 38 origin, ancestry, age, marital status, civil union status, domestic  
 39 partnership status, affectional or sexual orientation, genetic  
 40 information, sex, gender identity or expression, disability or  
 41 atypical hereditary cellular or blood trait of any individual, or  
 42 because of the liability for service in the Armed Forces of the  
 43 United States or the nationality of any individual, or because of the  
 44 refusal to submit to a genetic test or make available the results of a  
 45 genetic test to an employer, to refuse to hire or employ or to bar or  
 46 to discharge or require to retire, unless justified by lawful  
 47 considerations other than age, from employment such individual or

1 to discriminate against such individual in compensation or in terms,  
2 conditions or privileges of employment; provided, however, it shall  
3 not be an unlawful employment practice to refuse to accept for  
4 employment an applicant who has received a notice of induction or  
5 orders to report for active duty in the armed forces; provided further  
6 that nothing herein contained shall be construed to bar an employer  
7 from refusing to accept for employment any person on the basis of  
8 sex in those certain circumstances where sex is a bona fide  
9 occupational qualification, reasonably necessary to the normal  
10 operation of the particular business or enterprise; provided further  
11 that nothing herein contained shall be construed to bar an employer  
12 from refusing to accept for employment or to promote any person  
13 over 70 years of age; provided further that it shall not be an  
14 unlawful employment practice for a club exclusively social or  
15 fraternal to use club membership as a uniform qualification for  
16 employment, or for a religious association or organization to utilize  
17 religious affiliation as a uniform qualification in the employment of  
18 clergy, religious teachers or other employees engaged in the  
19 religious activities of the association or organization, or in  
20 following the tenets of its religion in establishing and utilizing  
21 criteria for employment of an employee; provided further, that it  
22 shall not be an unlawful employment practice to require the  
23 retirement of any employee who, for the two-year period  
24 immediately before retirement, is employed in a bona fide executive  
25 or a high policy-making position, if that employee is entitled to an  
26 immediate non-forfeitable annual retirement benefit from a pension,  
27 profit sharing, savings or deferred retirement plan, or any  
28 combination of those plans, of the employer of that employee which  
29 equals in the aggregate at least \$27,000.00; and provided further  
30 that an employer may restrict employment to citizens of the United  
31 States where such restriction is required by federal law or is  
32 otherwise necessary to protect the national interest.

33 The provisions of subsections a. and b. of section 57 of  
34 P.L.2003, c.246 (C.34:11A-20), and the provisions of section 58 of  
35 P.L.2003, c.246 (C.26:8A-11), shall not be deemed to be an  
36 unlawful discrimination under P.L.1945, c.169 (C.10:5-1 et seq.).

37 For the purposes of this subsection, a "bona fide executive" is a  
38 top level employee who exercises substantial executive authority  
39 over a significant number of employees and a large volume of  
40 business. A "high policy-making position" is a position in which a  
41 person plays a significant role in developing policy and in  
42 recommending the implementation thereof.

43 b. For a labor organization, because of the race, creed, color,  
44 national origin, ancestry, age, marital status, civil union status,  
45 domestic partnership status, affectional or sexual orientation,  
46 gender identity or expression, disability or sex of any individual, or  
47 because of the liability for service in the Armed Forces of the  
48 United States or nationality of any individual, to exclude or to expel

1 from its membership such individual or to discriminate in any way  
2 against any of its members, against any applicant for, or individual  
3 included in, any apprentice or other training program or against any  
4 employer or any individual employed by an employer; provided,  
5 however, that nothing herein contained shall be construed to bar a  
6 labor organization from excluding from its apprentice or other  
7 training programs any person on the basis of sex in those certain  
8 circumstances where sex is a bona fide occupational qualification  
9 reasonably necessary to the normal operation of the particular  
10 apprentice or other training program.

11 c. For any employer or employment agency to print or circulate  
12 or cause to be printed or circulated any statement, advertisement or  
13 publication, or to use any form of application for employment, or to  
14 make an inquiry in connection with prospective employment, which  
15 expresses, directly or indirectly, any limitation, specification or  
16 discrimination as to race, creed, color, national origin, ancestry,  
17 age, marital status, civil union status, domestic partnership status,  
18 affectional or sexual orientation, gender identity or expression,  
19 disability, nationality or sex or liability of any applicant for  
20 employment for service in the Armed Forces of the United States,  
21 or any intent to make any such limitation, specification or  
22 discrimination, unless based upon a bona fide occupational  
23 qualification.

24 d. For any person to take reprisals against any person because  
25 that person has opposed any practices or acts forbidden under this  
26 act or because that person has filed a complaint, testified or assisted  
27 in any proceeding under this act or to coerce, intimidate, threaten or  
28 interfere with any person in the exercise or enjoyment of, or on  
29 account of that person having aided or encouraged any other person  
30 in the exercise or enjoyment of, any right granted or protected by  
31 this act.

32 e. For any person, whether an employer or an employee or not,  
33 to aid, abet, incite, compel or coerce the doing of any of the acts  
34 forbidden under this act, or to attempt to do so.

35 f. (1) For any owner, lessee, proprietor, manager,  
36 superintendent, agent, or employee of any place of public  
37 accommodation directly or indirectly to refuse, withhold from or  
38 deny to any person any of the accommodations, advantages,  
39 facilities or privileges thereof, or to discriminate against any person  
40 in the furnishing thereof, or directly or indirectly to publish,  
41 circulate, issue, display, post or mail any written or printed  
42 communication, notice, or advertisement to the effect that any of  
43 the accommodations, advantages, facilities, or privileges of any  
44 such place will be refused, withheld from, or denied to any person  
45 on account of the race, creed, color, national origin, ancestry,  
46 marital status, civil union status, domestic partnership status, sex,  
47 gender identity or expression, affectional or sexual orientation,  
48 disability or nationality of such person, or that the patronage or

1 custom thereof of any person of any particular race, creed, color,  
2 national origin, ancestry, marital status, civil union status, domestic  
3 partnership status, sex, gender identity or expression, affectional or  
4 sexual orientation, disability or nationality is unwelcome,  
5 objectionable or not acceptable, desired or solicited, and the  
6 production of any such written or printed communication, notice or  
7 advertisement, purporting to relate to any such place and to be made  
8 by any owner, lessee, proprietor, superintendent or manager thereof,  
9 shall be presumptive evidence in any action that the same was  
10 authorized by such person; provided, however, that nothing  
11 contained herein shall be construed to bar any place of public  
12 accommodation which is in its nature reasonably restricted  
13 exclusively to individuals of one sex, and which shall include but  
14 not be limited to any summer camp, day camp, or resort camp,  
15 bathhouse, dressing room, swimming pool, gymnasium, comfort  
16 station, dispensary, clinic or hospital, or school or educational  
17 institution which is restricted exclusively to individuals of one sex,  
18 provided individuals shall be admitted based on their gender  
19 identity or expression, from refusing, withholding from or denying  
20 to any individual of the opposite sex any of the accommodations,  
21 advantages, facilities or privileges thereof on the basis of sex;  
22 provided further, that the foregoing limitation shall not apply to any  
23 restaurant as defined in R.S.33:1-1 or place where alcoholic  
24 beverages are served.

25 (2) Notwithstanding the definition of "a place of public  
26 accommodation" as set forth in subsection l. of section 5 of  
27 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,  
28 manager, superintendent, agent, or employee of any private club or  
29 association to directly or indirectly refuse, withhold from or deny to  
30 any individual who has been accepted as a club member and has  
31 contracted for or is otherwise entitled to full club membership any  
32 of the accommodations, advantages, facilities or privileges thereof,  
33 or to discriminate against any member in the furnishing thereof on  
34 account of the race, creed, color, national origin, ancestry, marital  
35 status, civil union status, domestic partnership status, sex, gender  
36 identity, or expression, affectional or sexual orientation, disability  
37 or nationality of such person.

38 In addition to the penalties otherwise provided for a violation of  
39 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2)  
40 of subsection f. of this section is the holder of an alcoholic beverage  
41 license issued under the provisions of R.S.33:1-12 for that private  
42 club or association, the matter shall be referred to the Director of  
43 the Division of Alcoholic Beverage Control who shall impose an  
44 appropriate penalty in accordance with the procedures set forth in  
45 R.S.33:1-31.

46 g. For any person, including but not limited to, any owner,  
47 lessee, sublessee, assignee or managing agent of, or other person  
48 having the right of ownership or possession of or the right to sell,

1 rent, lease, assign, or sublease any real property or part or portion  
2 thereof, or any agent or employee of any of these:

3 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise  
4 to deny to or withhold from any person or group of persons any real  
5 property or part or portion thereof because of race, creed, color,  
6 national origin, ancestry, marital status, civil union status, domestic  
7 partnership status, sex, gender identity or expression, affectional or  
8 sexual orientation, familial status, disability, nationality, or source  
9 of lawful income used for rental or mortgage payments;

10 (2) To discriminate against any person or group of persons  
11 because of race, creed, color, national origin, ancestry, marital  
12 status, civil union status, domestic partnership status, sex, gender  
13 identity or expression, affectional or sexual orientation, familial  
14 status, disability, nationality or source of lawful income used for  
15 rental or mortgage payments in the terms, conditions or privileges  
16 of the sale, rental or lease of any real property or part or portion  
17 thereof or in the furnishing of facilities or services in connection  
18 therewith;

19 (3) To print, publish, circulate, issue, display, post or mail, or  
20 cause to be printed, published, circulated, issued, displayed, posted  
21 or mailed any statement, advertisement, publication or sign, or to  
22 use any form of application for the purchase, rental, lease,  
23 assignment or sublease of any real property or part or portion  
24 thereof, or to make any record or inquiry in connection with the  
25 prospective purchase, rental, lease, assignment, or sublease of any  
26 real property, or part or portion thereof which expresses, directly or  
27 indirectly, any limitation, specification or discrimination as to race,  
28 creed, color, national origin, ancestry, marital status, civil union  
29 status, domestic partnership status, sex, gender identity, or  
30 expression, affectional or sexual orientation, familial status,  
31 disability, nationality, or source of lawful income used for rental or  
32 mortgage payments, or any intent to make any such limitation,  
33 specification or discrimination, and the production of any such  
34 statement, advertisement, publicity, sign, form of application,  
35 record, or inquiry purporting to be made by any such person shall  
36 be presumptive evidence in any action that the same was authorized  
37 by such person; provided, however, that nothing contained in this  
38 subsection shall be construed to bar any person from refusing to  
39 sell, rent, lease, assign or sublease or from advertising or recording  
40 a qualification as to sex for any room, apartment, flat in a dwelling  
41 or residential facility which is planned exclusively for and occupied  
42 by individuals of one sex to any individual of the exclusively  
43 opposite sex on the basis of sex provided individuals shall be  
44 qualified based on their gender identity or expression;

45 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
46 to deny to or withhold from any person or group of persons any real  
47 property or part or portion thereof because of the source of any



1 lawful income received by the person or the source of any lawful  
2 rent payment to be paid for the real property; or

3 (5) To refuse to rent or lease any real property to another person  
4 because that person's family includes children under 18 years of  
5 age, or to make an agreement, rental or lease of any real property  
6 which provides that the agreement, rental or lease shall be rendered  
7 null and void upon the birth of a child. This paragraph shall not  
8 apply to housing for older persons as defined in subsection mm. of  
9 section 5 of P.L.1945, c.169 (C.10:5-5).

10 h. For any person, including but not limited to, any real estate  
11 broker, real estate salesperson, or employee or agent thereof:

12 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
13 sale, rental, lease, assignment, or sublease any real property or part  
14 or portion thereof to any person or group of persons or to refuse to  
15 negotiate for the sale, rental, lease, assignment, or sublease of any  
16 real property or part or portion thereof to any person or group of  
17 persons because of race, creed, color, national origin, ancestry,  
18 marital status, civil union status, domestic partnership status,  
19 familial status, sex, gender identity or expression, affectional or  
20 sexual orientation, disability, nationality, or source of lawful  
21 income used for rental or mortgage payments, or to represent that  
22 any real property or portion thereof is not available for inspection,  
23 sale, rental, lease, assignment, or sublease when in fact it is so  
24 available, or otherwise to deny or withhold any real property or any  
25 part or portion of facilities thereof to or from any person or group of  
26 persons because of race, creed, color, national origin, ancestry,  
27 marital status, civil union status, domestic partnership status,  
28 familial status, sex, gender identity or expression, affectional or  
29 sexual orientation, disability or nationality;

30 (2) To discriminate against any person because of race, creed,  
31 color, national origin, ancestry, marital status, civil union status,  
32 domestic partnership status, familial status, sex, gender identity or  
33 expression, affectional or sexual orientation, disability, nationality,  
34 or source of lawful income used for rental or mortgage payments in  
35 the terms, conditions or privileges of the sale, rental, lease,  
36 assignment or sublease of any real property or part or portion  
37 thereof or in the furnishing of facilities or services in connection  
38 therewith;

39 (3) To print, publish, circulate, issue, display, post, or mail, or  
40 cause to be printed, published, circulated, issued, displayed, posted  
41 or mailed any statement, advertisement, publication or sign, or to  
42 use any form of application for the purchase, rental, lease,  
43 assignment, or sublease of any real property or part or portion  
44 thereof or to make any record or inquiry in connection with the  
45 prospective purchase, rental, lease, assignment, or sublease of any  
46 real property or part or portion thereof which expresses, directly or  
47 indirectly, any limitation, specification or discrimination as to race,  
48 creed, color, national origin, ancestry, marital status, civil union

1 status, domestic partnership status, familial status, sex, gender  
2 identity or expression, affectional or sexual orientation, disability,  
3 nationality, or source of lawful income used for rental or mortgage  
4 payments or any intent to make any such limitation, specification or  
5 discrimination, and the production of any such statement,  
6 advertisement, publicity, sign, form of application, record, or  
7 inquiry purporting to be made by any such person shall be  
8 presumptive evidence in any action that the same was authorized by  
9 such person; provided, however, that nothing contained in this  
10 subsection h., shall be construed to bar any person from refusing to  
11 sell, rent, lease, assign or sublease or from advertising or recording  
12 a qualification as to sex for any room, apartment, flat in a dwelling  
13 or residential facility which is planned exclusively for and occupied  
14 exclusively by individuals of one sex to any individual of the  
15 opposite sex on the basis of sex, provided individuals shall be  
16 qualified based on their gender identity or expression;

17 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
18 to deny to or withhold from any person or group of persons any real  
19 property or part or portion thereof because of the source of any  
20 lawful income received by the person or the source of any lawful  
21 rent payment to be paid for the real property; or

22 (5) To refuse to rent or lease any real property to another person  
23 because that person's family includes children under 18 years of  
24 age, or to make an agreement, rental or lease of any real property  
25 which provides that the agreement, rental or lease shall be rendered  
26 null and void upon the birth of a child. This paragraph shall not  
27 apply to housing for older persons as defined in subsection mm. of  
28 section 5 of P.L.1945, c.169 (C.10:5-5).

29 i. For any person, bank, banking organization, mortgage  
30 company, insurance company or other financial institution, lender  
31 or credit institution involved in the making or purchasing of any  
32 loan or extension of credit, for whatever purpose, whether secured  
33 by residential real estate or not, including but not limited to  
34 financial assistance for the purchase, acquisition, construction,  
35 rehabilitation, repair or maintenance of any real property or part or  
36 portion thereof or any agent or employee thereof:

37 (1) To discriminate against any person or group of persons  
38 because of race, creed, color, national origin, ancestry, marital  
39 status, civil union status, domestic partnership status, sex, gender  
40 identity or expression, affectional or sexual orientation, disability,  
41 familial status or nationality, in the granting, withholding,  
42 extending, modifying, renewing, or purchasing, or in the fixing of  
43 the rates, terms, conditions or provisions of any such loan,  
44 extension of credit or financial assistance or purchase thereof or in  
45 the extension of services in connection therewith;

46 (2) To use any form of application for such loan, extension of  
47 credit or financial assistance or to make record or inquiry in  
48 connection with applications for any such loan, extension of credit

1 or financial assistance which expresses, directly or indirectly, any  
2 limitation, specification or discrimination as to race, creed, color,  
3 national origin, ancestry, marital status, civil union status, domestic  
4 partnership status, sex, gender identity or expression, affectional or  
5 sexual orientation, disability, familial status or nationality or any  
6 intent to make any such limitation, specification or discrimination;  
7 unless otherwise required by law or regulation to retain or use such  
8 information;

9 (3) (Deleted by amendment, P.L.2003, c.180).

10 (4) To discriminate against any person or group of persons  
11 because of the source of any lawful income received by the person  
12 or the source of any lawful rent payment to be paid for the real  
13 property; or

14 (5) To discriminate against any person or group of persons  
15 because that person's family includes children under 18 years of  
16 age, or to make an agreement or mortgage which provides that the  
17 agreement or mortgage shall be rendered null and void upon the  
18 birth of a child. This paragraph shall not apply to housing for older  
19 persons as defined in subsection mm. of section 5 of P.L.1945,  
20 c.169 (C.10:5-5).

21 j. For any person whose activities are included within the  
22 scope of this act to refuse to post or display such notices concerning  
23 the rights or responsibilities of persons affected by this act as the  
24 Attorney General may by regulation require.

25 k. For any real estate broker, real estate salesperson or  
26 employee or agent thereof or any other individual, corporation,  
27 partnership, or organization, for the purpose of inducing a  
28 transaction for the sale or rental of real property from which  
29 transaction such person or any of its members may benefit  
30 financially, to represent that a change has occurred or will or may  
31 occur in the composition with respect to race, creed, color, national  
32 origin, ancestry, marital status, civil union status, domestic  
33 partnership status, familial status, sex, gender identity or  
34 expression, affectional or sexual orientation, disability, nationality,  
35 or source of lawful income used for rental or mortgage payments of  
36 the owners or occupants in the block, neighborhood or area in  
37 which the real property is located, and to represent, directly or  
38 indirectly, that this change will or may result in undesirable  
39 consequences in the block, neighborhood or area in which the real  
40 property is located, including, but not limited to the lowering of  
41 property values, an increase in criminal or anti-social behavior, or a  
42 decline in the quality of schools or other facilities.

43 l. For any person to refuse to buy from, sell to, lease from or  
44 to, license, contract with, or trade with, provide goods, services or  
45 information to, or otherwise do business with any other person on  
46 the basis of the race, creed, color, national origin, ancestry, age,  
47 sex, gender identity or expression, affectional or sexual orientation,  
48 marital status, civil union status, domestic partnership status,

1 liability for service in the Armed Forces of the United States,  
2 disability, nationality, or source of lawful income used for rental or  
3 mortgage payments of such other person or of such other person's  
4 spouse, partners, members, stockholders, directors, officers,  
5 managers, superintendents, agents, employees, business associates,  
6 suppliers, or customers. This subsection shall not prohibit refusals  
7 or other actions (1) pertaining to employee-employer collective  
8 bargaining, labor disputes, or unfair labor practices, or (2) made or  
9 taken in connection with a protest of unlawful discrimination or  
10 unlawful employment practices.

11 m. For any person to:

12 (1) Grant or accept any letter of credit or other document which  
13 evidences the transfer of funds or credit, or enter into any contract  
14 for the exchange of goods or services, where the letter of credit,  
15 contract, or other document contains any provisions requiring any  
16 person to discriminate against or to certify that he, she or it has not  
17 dealt with any other person on the basis of the race, creed, color,  
18 national origin, ancestry, age, sex, gender identity or expression,  
19 affectional or sexual orientation, marital status, civil union status,  
20 domestic partnership status, disability, liability for service in the  
21 Armed Forces of the United States, or nationality of such other  
22 person or of such other person's spouse, partners, members,  
23 stockholders, directors, officers, managers, superintendents, agents,  
24 employees, business associates, suppliers, or customers. (2)

25 Refuse to grant or accept any letter of credit or other document  
26 which evidences the transfer of funds or credit, or refuse to enter  
27 into any contract for the exchange of goods or services, on the  
28 ground that it does not contain such a discriminatory provision or  
29 certification.

30 The provisions of this subsection shall not apply to any letter of  
31 credit, contract, or other document which contains any provision  
32 pertaining to employee-employer collective bargaining, a labor  
33 dispute or an unfair labor practice, or made in connection with the  
34 protest of unlawful discrimination or an unlawful employment  
35 practice, if the other provisions of such letter of credit, contract, or  
36 other document do not otherwise violate the provisions of this  
37 subsection.

38 n. For any person to aid, abet, incite, compel, coerce, or induce  
39 the doing of any act forbidden by subsections l. and m. of section  
40 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to  
41 do so. Such prohibited conduct shall include, but not be limited to:

42 (1) Buying from, selling to, leasing from or to, licensing,  
43 contracting with, trading with, providing goods, services, or  
44 information to, or otherwise doing business with any person  
45 because that person does, or agrees or attempts to do, any such act  
46 or any act prohibited by this subsection; or

47 (2) Boycotting, commercially blacklisting or refusing to buy  
48 from, sell to, lease from or to, license, contract with, provide goods,

1 services or information to, or otherwise do business with any person  
2 because that person has not done or refuses to do any such act or  
3 any act prohibited by this subsection; provided that this subsection  
4 shall not prohibit refusals or other actions either pertaining to  
5 employee-employer collective bargaining, labor disputes, or unfair  
6 labor practices, or made or taken in connection with a protest of  
7 unlawful discrimination or unlawful employment practices.

8 o. For any multiple listing service, real estate brokers'  
9 organization or other service, organization or facility related to the  
10 business of selling or renting dwellings to deny any person access  
11 to or membership or participation in such organization, or to  
12 discriminate against such person in the terms or conditions of such  
13 access, membership, or participation, on account of race, creed,  
14 color, national origin, ancestry, age, marital status, civil union  
15 status, domestic partnership status, familial status, sex, gender  
16 identity or expression, affectional or sexual orientation, disability or  
17 nationality.

18 p. Nothing in the provisions of this section shall affect the  
19 ability of an employer to require employees to adhere to reasonable  
20 workplace appearance, grooming and dress standards not precluded  
21 by other provisions of State or federal law, except that an employer  
22 shall allow an employee to appear, groom and dress consistent with  
23 the employee's gender identity or expression.

24 q. (1) For any employer to impose upon a person as a condition  
25 of obtaining or retaining employment, including opportunities for  
26 promotion, advancement or transfers, any terms or conditions that  
27 would require a person to violate or forego a sincerely held  
28 religious practice or religious observance, including but not limited  
29 to the observance of any particular day or days or any portion  
30 thereof as a Sabbath or other holy day in accordance with the  
31 requirements of the religion or religious belief, unless, after  
32 engaging in a bona fide effort, the employer demonstrates that it is  
33 unable to reasonably accommodate the employee's religious  
34 observance or practice without undue hardship on the conduct of the  
35 employer's business. Notwithstanding any other provision of law to  
36 the contrary, an employee shall not be entitled to premium wages or  
37 premium benefits for work performed during hours to which those  
38 premium wages or premium benefits would ordinarily be  
39 applicable, if the employee is working during those hours only as an  
40 accommodation to his religious requirements. Nothing in this  
41 subsection q. shall be construed as reducing:

42 (a) The number of the hours worked by the employee which are  
43 counted towards the accruing of seniority, pension or other benefits;  
44 or

45 (b) Any premium wages or benefits provided to an employee  
46 pursuant to a collective bargaining agreement.

47 (2) For an employer to refuse to permit an employee to utilize  
48 leave, as provided for in this subsection q., which is solely used to

1 accommodate the employee's sincerely held religious observance or  
2 practice. Except where it would cause an employer to incur an  
3 undue hardship, no person shall be required to remain at his place  
4 of employment during any day or days or portion thereof that, as a  
5 requirement of his religion, he observes as his Sabbath or other holy  
6 day, including a reasonable time prior and subsequent thereto for  
7 travel between his place of employment and his home; provided that  
8 any such absence from work shall, wherever practicable in the  
9 reasonable judgment of the employer, be made up by an equivalent  
10 amount of time and work at some other mutually convenient time,  
11 or shall be charged against any leave with pay ordinarily granted,  
12 other than sick leave, and any such absence not so made up or  
13 charged, may be treated by the employer of that person as leave  
14 taken without pay.

15 (3) (a) For purposes of this subsection q., "undue hardship"  
16 means an accommodation requiring unreasonable expense or  
17 difficulty, unreasonable interference with the safe or efficient  
18 operation of the workplace or a violation of a bona fide seniority  
19 system or a violation of any provision of a bona fide collective  
20 bargaining agreement.

21 (b) In determining whether the accommodation constitutes an  
22 undue hardship, the factors considered shall include:

23 (i) The identifiable cost of the accommodation, including the  
24 costs of loss of productivity and of retaining or hiring employees or  
25 transferring employees from one facility to another, in relation to  
26 the size and operating cost of the employer.

27 (ii) The number of individuals who will need the particular  
28 accommodation for a sincerely held religious observance or  
29 practice.

30 (iii) For an employer with multiple facilities, the degree to which  
31 the geographic separateness or administrative or fiscal relationship  
32 of the facilities will make the accommodation more difficult or  
33 expensive.

34 (c) An accommodation shall be considered to constitute an undue  
35 hardship if it will result in the inability of an employee to perform  
36 the essential functions of the position in which he or she is  
37 employed.

38 (d) (i) The provisions of this subsection q. shall be applicable  
39 only to reasonable accommodations of religious observances and  
40 shall not supersede any definition of undue hardship or standards  
41 for reasonable accommodation of the disabilities of employees.

42 (ii) This subsection q. shall not apply where the uniform  
43 application of terms and conditions of attendance to employees is  
44 essential to prevent undue hardship to the employer. The burden of  
45 proof regarding the applicability of this subparagraph (d) shall be  
46 upon the employer.

47 r. For any employer to take reprisals against any employee for  
48 requesting from any other employee or former employee of the

1 employer information regarding the job title, occupational category,  
2 and rate of compensation, including benefits, of any employee or  
3 former employee of the employer, or the gender, race, ethnicity,  
4 military status, or national origin of any employee or former  
5 employee of the employer, regardless of whether the request was  
6 responded to, if the purpose of the request for the information was  
7 to assist in investigating the possibility of the occurrence of, or in  
8 taking of legal action regarding, potential discriminatory treatment  
9 concerning pay, compensation, bonuses, other compensation, or  
10 benefits. Nothing in this subsection shall be construed to require an  
11 employee to disclose such information about the employee herself  
12 to any other employee or former employee of the employer or to  
13 any authorized representative of the other employee or former  
14 employee.<sup>2</sup>

15 (cf: P.L.2007, c.325. s.2)

16

17 2. This act shall take effect immediately.

18

19

20

21

22 \_\_\_\_\_  
Concerns disclosure of certain employment information.

# ASSEMBLY, No. 2648

## STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED MARCH 5, 2012

**Sponsored by:**

**Assemblyman ANGEL FUENTES**

**District 5 (Camden and Gloucester)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblywoman CELESTE M. RILEY**

**District 3 (Cumberland, Gloucester and Salem)**

**Co-Sponsored by:**

**Assemblyman Johnson, Assemblywomen Mosquera and Watson Coleman**

**SYNOPSIS**

Concerns disclosure of certain employment information.

**CURRENT VERSION OF TEXT**

As introduced.





1 AN ACT concerning disclosure of certain employment information  
2 and amending P.L.1986, c.105.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 3 of P.L.1986, c.105 (C.34:19-3) is amended to read  
8 as follows:

9 3. An employer shall not take any retaliatory action against an  
10 employee because the employee does any of the following:

11 a. Discloses, or threatens to disclose to a supervisor or to a  
12 public body an activity, policy or practice of the employer, or  
13 another employer, with whom there is a business relationship, that  
14 the employee reasonably believes:

15 (1) is in violation of a law, or a rule or regulation promulgated  
16 pursuant to law, including any violation involving deception of, or  
17 misrepresentation to, any shareholder, investor, client, patient,  
18 customer, employee, former employee, retiree or pensioner of the  
19 employer or any governmental entity, or, in the case of an employee  
20 who is a licensed or certified health care professional, reasonably  
21 believes constitutes improper quality of patient care; or

22 (2) is fraudulent or criminal, including any activity, policy or  
23 practice of deception or misrepresentation which the employee  
24 reasonably believes may defraud any shareholder, investor, client,  
25 patient, customer, employee, former employee, retiree or pensioner  
26 of the employer or any governmental entity;

27 b. Provides information to, or testifies before, any public body  
28 conducting an investigation, hearing or inquiry into any violation of  
29 law, or a rule or regulation promulgated pursuant to law by the  
30 employer, or another employer, with whom there is a business  
31 relationship, including any violation involving deception of, or  
32 misrepresentation to, any shareholder, investor, client, patient,  
33 customer, employee, former employee, retiree or pensioner of the  
34 employer or any governmental entity, or, in the case of an employee  
35 who is a licensed or certified health care professional, provides  
36 information to, or testifies before, any public body conducting an  
37 investigation, hearing or inquiry into the quality of patient care; or

38 c. Objects to, or refuses to participate in any activity, policy or  
39 practice which the employee reasonably believes:

40 (1) is in violation of a law, or a rule or regulation promulgated  
41 pursuant to law, including any violation involving deception of, or  
42 misrepresentation to, any shareholder, investor, client, patient,  
43 customer, employee, former employee, retiree or pensioner of the  
44 employer or any governmental entity, or, if the employee is a

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 licensed or certified health care professional, constitutes improper  
2 quality of patient care;

3 (2) is fraudulent or criminal, including any activity, policy or  
4 practice of deception or misrepresentation which the employee  
5 reasonably believes may defraud any shareholder, investor, client,  
6 patient, customer, employee, former employee, retiree or pensioner  
7 of the employer or any governmental entity; or

8 (3) is incompatible with a clear mandate of public policy  
9 concerning the public health, safety or welfare or protection of the  
10 environment; or

11 d. Discloses to any other employee or former employee of the  
12 employer, or any authorized representative of the other employee or  
13 former employee, information regarding the job title, occupational  
14 category, and rate of compensation, including benefits, of any  
15 employee or former employee, or the gender, race or other  
16 characteristics of the employee or former employee for which it is a  
17 violation of law to discriminate against an individual.

18 (cf: P.L.2005, c.329, s.1)

19

20 2. This act shall take effect immediately.

21

22

23

#### STATEMENT

24

25 This bill prohibits employer retaliation against any employee  
26 who discloses, or threatens to disclose, to any other employee or  
27 former employee of the employer, or any authorized representative  
28 of the other employee or former employee, information regarding  
29 the job title, occupational category, and rate of compensation,  
30 including benefits, of any employee or former employee, or the  
31 gender, race or other characteristics of the employee or former  
32 employee for which it is a violation of law to discriminate against  
33 an individual.

ASSEMBLY WOMEN AND CHILDREN COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2648**

**STATE OF NEW JERSEY**

DATED: MARCH 8, 2012

The Assembly Women and Children Committee reports favorably Assembly Bill No. 2648.

This bill prohibits employer retaliation against any employee who discloses, or threatens to disclose, to any other employee or former employee of the employer, or any authorized representative of the other employee or former employee, information regarding the job title, occupational category, and rate of compensation, including benefits, of any employee or former employee, or the gender, race or other characteristics of the employee or former employee for which it is a violation of law to discriminate against an individual.

# ASSEMBLY LABOR COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 2648

with committee amendments

# STATE OF NEW JERSEY

DATED: MARCH 12, 2012

The Assembly Labor Committee reports favorably and with committee amendments Assembly Bill No. 2648.

This bill, as amended, prohibits employer retaliation against any employee who discloses to, or requests of, any other employee or former employee of the employer, or any authorized representative of the other employee or former employee, information regarding the job title, occupational category, and rate of compensation, including benefits, of any employee or former employee, or the gender, race, ethnicity, military status, or national origin of the employee or former employee, if the disclosure was made in a reasonable belief on the part of the requesting or disclosing employee that the purpose of the request or disclosure of the information was to assist in investigating the possibility of the occurrence of, or in taking of legal action regarding, potential discriminatory treatment concerning pay, compensation, bonuses, other compensation or benefits.

#### COMMITTEE AMENDMENTS

The committee amended the bill to:

1. Provide “whistle-blower” protection for employees who request, as well as provide, information relevant to employment discrimination;
2. Specify that the employee status which may be disclosed is limited to the gender, race, ethnicity, military status, or national origin of the employee, rather than permitting the disclosure of all characteristics of the employee for which it is a violation of law to discriminate against an individual; and
3. Provide whistle-blower protection only if the employee had a “reasonable belief” that the purpose of the request or disclosure of the information was to assist in investigating the possibility of the occurrence of, or in taking of legal action regarding, potential discriminatory treatment concerning pay, compensation, bonuses, other compensation or benefits.

# SENATE LABOR COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 2648**

# **STATE OF NEW JERSEY**

DATED: JUNE 7, 2012

The Senate Labor Committee reports favorably Assembly Bill No. 2648 (1R).

This bill prohibits employer retaliation against any employee who discloses to, or requests of, any other employee or former employee of the employer, or any authorized representative of the other employee or former employee, information regarding the job title, occupational category, and rate of compensation, including benefits, of any employee or former employee, or the gender, race, ethnicity, military status, or national origin of the employee or former employee, if the disclosure was made in a reasonable belief on the part of the requesting or disclosing employee that the purpose of the request or disclosure of the information was to assist in investigating the possibility of the occurrence of, or in taking of legal action regarding, potential discriminatory treatment concerning pay, compensation, bonuses, other compensation or benefits.

This bill is identical to Senate Bill No. 1935, also reported by the committee today.

# SENATE, No. 1935

## STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED MAY 14, 2012

**Sponsored by:**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

**Senators Codey, Gill and Turner**

**SYNOPSIS**

Concerns disclosure of certain employment information.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/22/2012)**

S1935 WEINBERG, GREENSTEIN

2

1 AN ACT concerning disclosure of certain employment information  
2 and amending P.L.1986, c.105.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 3 of P.L.1986, c.105 (C.34:19-3) is amended to read  
8 as follows:

9 3. An employer shall not take any retaliatory action against an  
10 employee because the employee does any of the following:

11 a. Discloses, or threatens to disclose to a supervisor or to a  
12 public body an activity, policy or practice of the employer, or  
13 another employer, with whom there is a business relationship, that  
14 the employee reasonably believes:

15 (1) is in violation of a law, or a rule or regulation promulgated  
16 pursuant to law, including any violation involving deception of, or  
17 misrepresentation to, any shareholder, investor, client, patient,  
18 customer, employee, former employee, retiree or pensioner of the  
19 employer or any governmental entity, or, in the case of an employee  
20 who is a licensed or certified health care professional, reasonably  
21 believes constitutes improper quality of patient care; or

22 (2) is fraudulent or criminal, including any activity, policy or  
23 practice of deception or misrepresentation which the employee  
24 reasonably believes may defraud any shareholder, investor, client,  
25 patient, customer, employee, former employee, retiree or pensioner  
26 of the employer or any governmental entity;

27 b. Provides information to, or testifies before, any public body  
28 conducting an investigation, hearing or inquiry into any violation of  
29 law, or a rule or regulation promulgated pursuant to law by the  
30 employer, or another employer, with whom there is a business  
31 relationship, including any violation involving deception of, or  
32 misrepresentation to, any shareholder, investor, client, patient,  
33 customer, employee, former employee, retiree or pensioner of the  
34 employer or any governmental entity, or, in the case of an employee  
35 who is a licensed or certified health care professional, provides  
36 information to, or testifies before, any public body conducting an  
37 investigation, hearing or inquiry into the quality of patient care; or

38 c. Objects to, or refuses to participate in any activity, policy or  
39 practice which the employee reasonably believes:

40 (1) is in violation of a law, or a rule or regulation promulgated  
41 pursuant to law, including any violation involving deception of, or  
42 misrepresentation to, any shareholder, investor, client, patient,  
43 customer, employee, former employee, retiree or pensioner of the  
44 employer or any governmental entity, or, if the employee is a

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 licensed or certified health care professional, constitutes improper  
2 quality of patient care;

3 (2) is fraudulent or criminal, including any activity, policy or  
4 practice of deception or misrepresentation which the employee  
5 reasonably believes may defraud any shareholder, investor, client,  
6 patient, customer, employee, former employee, retiree or pensioner  
7 of the employer or any governmental entity; or

8 (3) is incompatible with a clear mandate of public policy  
9 concerning the public health, safety or welfare or protection of the  
10 environment; or

11 d. Discloses to any other employee or former employee of the  
12 employer, or any authorized representative of the other employee or  
13 former employee, or requests, whether the request was responded to  
14 or not, information regarding the job title, occupational category,  
15 and rate of compensation, including benefits, of any employee or  
16 former employee, or the gender, race, ethnicity, military status, or  
17 national origin of the employee or former employee, if the  
18 disclosure was made in a reasonable belief on the part of the  
19 requesting or disclosing employee that the purpose of the request or  
20 disclosure of the information was to assist in investigating the  
21 possibility of the occurrence of, or in taking of legal action  
22 regarding, potential discriminatory treatment concerning pay,  
23 compensation, bonuses, other compensation or benefits.

24 (cf: P.L.2005, c.329, s.1)

25

26 2. This act shall take effect immediately.

27

28

29

#### STATEMENT

30

31 This bill prohibits employer retaliation against any employee  
32 who discloses to, or requests of, any other employee or former  
33 employee of the employer, or any authorized representative of the  
34 other employee or former employee, information regarding the job  
35 title, occupational category, and rate of compensation, including  
36 benefits, of any employee or former employee, or the gender, race,  
37 ethnicity, military status, or national origin of the employee or  
38 former employee, if the disclosure was made in a reasonable belief  
39 on the part of the requesting or disclosing employee that the  
40 purpose of the request or disclosure of the information was to assist  
41 in investigating the possibility of the occurrence of, or in taking of  
42 legal action regarding, potential discriminatory treatment  
43 concerning pay, compensation, bonuses, other compensation or  
44 benefits.



SENATE LABOR COMMITTEE

STATEMENT TO

**SENATE, No. 1935**

**STATE OF NEW JERSEY**

DATED: JUNE 7, 2012

The Senate Labor Committee reports favorably Senate Bill No. 1935.

This bill prohibits employer retaliation against any employee who discloses to, or requests of, any other employee or former employee of the employer, or any authorized representative of the other employee or former employee, information regarding the job title, occupational category, and rate of compensation, including benefits, of any employee or former employee, or the gender, race, ethnicity, military status, or national origin of the employee or former employee, if the disclosure was made in a reasonable belief on the part of the requesting or disclosing employee that the purpose of the request or disclosure of the information was to assist in investigating the possibility of the occurrence of, or in taking of legal action regarding, potential discriminatory treatment concerning pay, compensation, bonuses, other compensation or benefits.

This bill is identical to Senate Bill No. 1933, also reported by the committee today.

**ASSEMBLY BILL No. 2648**  
**(First Reprint)**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 2648 (First Reprint) with my recommendations for reconsideration.

For decades, New Jersey has led the Nation's fight against unlawful discrimination in its many forms, and defined our country's path towards inclusion and progress for all. Our leadership has produced a workforce proudly reflective of our State's rich cultural, ethnic, and gender diversity. While we celebrate the accomplishments that have enriched our communities, strengthened our families, and broadened our businesses, we must remain vigilant against efforts to derail our combined progress.

This bill is part of a patchwork of proposals that were passed together ostensibly to aid gaps in gender pay through increased reporting and notice requirements for employers, and through modifications to the many State laws that currently exist to combat discrimination in the workplace. I wholly support the efforts of the Legislature to remind all those who work in our State of the need to root out discrimination, and to vigorously enforce our strong commitments to equality. Too often in our past, women have seen their incalculable contributions to the workplace insufficiently compensated. We cannot allow that progress to succumb to ignorance. That is why I am signing Assembly Bill No. 2647, creating a sensible Statewide notice requirement, into law today. This new notice provision, which requires employers to prominently advise all employees of the right to be free from pay discrimination, will serve to educate our workforce by providing a clear and daily reminder of the protections set forth in our law.

I am also pleased to offer modest recommendations for improving two other bills pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution that will avoid problematic, unintended consequences in this important area of the law. These bills, as currently drafted, will serve to obfuscate current remedies and impose new and costly burdens upon the State's employers without genuinely enhancing the protections already provided to workers. Rather than creating uncertainty regarding the rights and obligations of employers and employees, the more thoughtful and constructive approach is to carefully revise State law where gaps exist. With these principles in mind, I am taking the following action:

First, Assembly Bill No. 2650 provides that a discriminatory compensation decision or other employment practice related to wages that is unlawful under the Law Against Discrimination ("LAD") occurs each occasion that compensation is paid, thus "restarting" the applicable statute of limitations, and effectively making each paycheck another instance of the discrimination. In this manner, the bill sensibly conforms to the present protections of federal law provided under the Lilly Ledbetter Fair Pay Act of 2009. Significantly, New Jersey law already matches the protections contained in the Ledbetter Act pursuant to a well-settled decision by the New Jersey Supreme Court. However, this bill departs from the Ledbetter Act and the guidance of the Supreme Court by omitting an explicit limitation on the amount of back pay an employee can recover. Therefore, I recommend that Assembly Bill No. 2650 be aligned to mirror the provisions of the Ledbetter Act, and the holding of the New Jersey Supreme Court, thus advancing my Administration's efforts to provide consistency with federal standards as outlined in my Executive Order No. 2 of 2010.

Second, Assembly Bill No. 2648 purports to stretch the terms of the existing Conscientious Employee Protection Act ("CEPA"), also known as the "whistleblower" law, to prohibit employer retaliation against any employee who discloses to, or requests of, any other employee or former employee, information regarding job title, occupational category, compensation, or other demographic information, based on a reasonable belief that there is a discriminatory pay practice occurring in the workplace. Because workplace discrimination claims in New Jersey are brought under LAD, this amendment of CEPA is inconsistent with the original intent of that law, and is more consistent with the underlying goals of LAD. Therefore, to avoid altering the well-settled parameters of these critically important protections, I return Assembly Bill No. 2648 with my recommendations to remove the proposed language from CEPA and instead incorporate it into LAD so as to protect an individual who is being discriminated against through unlawful retaliation for discussing certain matters with her or his colleagues.

Finally, Assembly Bill No. 2649 requires any employer that contracts with the State to continually report to the Department of Labor and Workforce Development information regarding the gender, race, job title, occupational category, and total compensation of every employee in connection with the contract. While the Prevailing Wage Act already requires information regarding an employee's job title and rate of compensation to be submitted to the State, this bill would expand those requirements to include gender and race information, and would also require such reporting by contractors who are not subject to the Prevailing Wage Act.

While the purported goal of Assembly Bill No. 2649 is to increase the transparency of certain businesses that are

receiving State funds and to require disclosure by companies that are working in the public arena to ensure that they are complying with the State's workplace gender parity laws, this bill will unfortunately do nothing to tangibly improve pay disparity. Instead, the bill will burden countless employers with onerous reporting requirements, thereby driving up the cost of public contracts, which are ultimately shouldered by the taxpayer. Government transparency has been a priority of this Administration, and I have set forth numerous proposals over the last two years to increase government transparency. Regrettably, many of these proposals remain stalled in the Legislature. However, as these new reporting requirements fail to advance sound policy over senseless bureaucracy, I must return Assembly Bill No. 2649 without my approval.

Our State, like our Nation, is, and must remain, a home of equal rights and equal opportunity. I am pleased to honor that promise by enacting Assembly Bill No. 2647 into law, and anticipate the Legislature's swift concurrence with my improvements to Assembly Bill Nos. 2648 and 2650 so that they may become the law of our State as well.

Therefore, I herewith return Assembly Bill No. 2648 (First Reprint) and recommend that it be amended as follows:

Page 2, Title, Line 2:

Delete "P.L.1986, c.105" and insert "P.L.1945. c.169"

Page 2, Line 6:

Insert new section:

"1. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to read as follows:

11. It shall be an unlawful employment practice, or, as the case may be, an unlawful discrimination:

a. For an employer, because of the race,

creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, sex, gender identity or expression, disability or atypical hereditary cellular or blood trait of any individual, or because of the liability for service in the Armed Forces of the United States or the nationality of any individual, or because of the refusal to submit to a genetic test or make available the results of a genetic test to an employer, to refuse to hire or employ or to bar or to discharge or require to retire, unless justified by lawful considerations other than age, from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment; provided, however, it shall not be an unlawful employment practice to refuse to accept for employment an applicant who has received a notice of induction or orders to report for active duty in the armed forces; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification, reasonably necessary to the normal operation of the particular business or enterprise; provided further that nothing herein contained shall be construed to bar an employer from refusing to accept for employment or to promote any person

over 70 years of age; provided further that it shall not be an unlawful employment practice for a club exclusively social or fraternal to use club membership as a uniform qualification for employment, or for a religious association or organization to utilize religious affiliation as a uniform qualification in the employment of clergy, religious teachers or other employees engaged in the religious activities of the association or organization, or in following the tenets of its religion in establishing and utilizing criteria for employment of an employee; provided further, that it shall not be an unlawful employment practice to require the retirement of any employee who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policy-making position, if that employee is entitled to an immediate non-forfeitable annual retirement benefit from a pension, profit sharing, savings or deferred retirement plan, or any combination of those plans, of the employer of that employee which equals in the aggregate at least \$27,000.00; and provided further that an employer may restrict employment to citizens of the United States where such restriction is required by federal law or is otherwise necessary to protect the national interest. The provisions of subsections a. and b. of section 57 of P.L.2003, c.246 (C.34:11A-20), and the provisions of section 58 of P.L.2003, c.246 (C.26:8A-11), shall not be deemed to be an unlawful discrimination under

P.L.1945, c.169 (C.10:5-1 et seq.).

For the purposes of this subsection, a "bona fide executive" is a top level employee who exercises substantial executive authority over a significant number of employees and a large volume of business. A "high policy-making position" is a position in which a person plays a significant role in developing policy and in recommending the implementation thereof.

b. For a labor organization, because of the race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, gender identity or expression, disability or sex of any individual, or because of the liability for service in the Armed Forces of the United States or nationality of any individual, to exclude or to expel from its membership such individual or to discriminate in any way against any of its members, against any applicant for, or individual included in, any apprentice or other training program or against any employer or any individual employed by an employer; provided, however, that nothing herein contained shall be construed to bar a labor organization from excluding from its apprentice or other training programs any person on the basis of sex in those certain circumstances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of the particular apprentice or other training program.



c. For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment, or to make an inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex or liability of any applicant for employment for service in the Armed Forces of the United States, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

d. For any person to take reprisals against any person because that person has opposed any practices or acts forbidden under this act or because that person has filed a complaint, testified or assisted in any proceeding under this act or to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this act.

e. For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the

doing of any of the acts forbidden under this act, or to attempt to do so.

f. (1) For any owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation directly or indirectly to refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any person in the furnishing thereof, or directly or indirectly to publish, circulate, issue, display, post or mail any written or printed communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, or privileges of any such place will be refused, withheld from, or denied to any person on account of the race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, disability or nationality of such person, or that the patronage or custom thereat of any person of any particular race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, disability or nationality is unwelcome, objectionable or not acceptable, desired or solicited, and the production of any such written or printed communication, notice or advertisement, purporting to relate to any such place and to be made by any owner,

lessee, proprietor, superintendent or manager thereof, shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained herein shall be construed to bar any place of public accommodation which is in its nature reasonably restricted exclusively to individuals of one sex, and which shall include but not be limited to any summer camp, day camp, or resort camp, bathhouse, dressing room, swimming pool, gymnasium, comfort station, dispensary, clinic or hospital, or school or educational institution which is restricted exclusively to individuals of one sex, provided individuals shall be admitted based on their gender identity or expression, from refusing, withholding from or denying to any individual of the opposite sex any of the accommodations, advantages, facilities or privileges thereof on the basis of sex; provided further, that the foregoing limitation shall not apply to any restaurant as defined in R.S.33:1-1 or place where alcoholic beverages are served.

(2) Notwithstanding the definition of "a place of public accommodation" as set forth in subsection 1. of section 5 of P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor, manager, superintendent, agent, or employee of any private club or association to directly or indirectly refuse, withhold from or deny to any individual who has been accepted as a club member and has contracted for or is otherwise entitled to

full club membership any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any member in the furnishing thereof on account of the race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity, or expression, affectional or sexual orientation, disability or nationality of such person. In addition to the penalties otherwise provided for a violation of P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2) of subsection f. of this section is the holder of an alcoholic beverage license issued under the provisions of R.S.33:1-12 for that private club or association, the matter shall be referred to the Director of the Division of Alcoholic Beverage Control who shall impose an appropriate penalty in accordance with the procedures set forth in R.S.33:1-31.

g. For any person, including but not limited to, any owner, lessee, sublessee, assignee or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or sublease any real property or part or portion thereof, or any agent or employee of any of these:

(1) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of race, creed, color, national origin,

ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, familial status, disability, nationality, or source of lawful income used for rental or mortgage payments;

(2) To discriminate against any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, familial status, disability, nationality or source of lawful income used for rental or mortgage payments in the terms, conditions or privileges of the sale, rental or lease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment or sublease of any real property or part or portion thereof, or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property, or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin,

ancestry, marital status, civil union status, domestic partnership status, sex, gender identity, or expression, affectional or sexual orientation, familial status, disability, nationality, or source of lawful income used for rental or mortgage payments, or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied by individuals of one sex to any individual of the exclusively opposite sex on the basis of sex provided individuals shall be qualified based on their gender identity or expression;

(4) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To refuse to rent or lease any real property to another person because that person's family includes children under 18 years of age, or to make an agreement, rental or lease of any real property which provides that the agreement, rental or lease shall be rendered null and void upon the birth of a child. This paragraph shall not apply to housing for older persons as defined in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

h. For any person, including but not limited to, any real estate broker, real estate salesperson, or employee or agent thereof:

(1) To refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease, assignment, or sublease any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any real property or part or portion thereof to any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments, or to represent that any real property or portion thereof is not available for inspection, sale, rental, lease, assignment, or sublease when in fact it is so available, or otherwise to deny or withhold any

real property or any part or portion of facilities thereof to or from any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability or nationality;

(2) To discriminate against any person because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments in the terms, conditions or privileges of the sale, rental, lease, assignment or sublease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post, or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof which expresses, directly or indirectly,



any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection h., shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied exclusively by individuals of one sex to any individual of the opposite sex on the basis of sex, provided individuals shall be qualified based on their gender identity or expression;

(4) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the source of any lawful income received by the person or the

source of any lawful rent payment to be paid for the real property; or

(5) To refuse to rent or lease any real property to another person because that person's family includes children under 18 years of age, or to make an agreement, rental or lease of any real property which provides that the agreement, rental or lease shall be rendered null and void upon the birth of a child. This paragraph shall not apply to housing for older persons as defined in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

i. For any person, bank, banking organization, mortgage company, insurance company or other financial institution, lender or credit institution involved in the making or purchasing of any loan or extension of credit, for whatever purpose, whether secured by residential real estate or not, including but not limited to financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any real property or part or portion thereof or any agent or employee thereof:

(1) To discriminate against any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, disability, familial status or nationality, in the granting, withholding, extending,

modifying, renewing, or purchasing, or in the fixing of the rates, terms, conditions or provisions of any such loan, extension of credit or financial assistance or purchase thereof or in the extension of services in connection therewith;

(2) To use any form of application for such loan, extension of credit or financial assistance or to make record or inquiry in connection with applications for any such loan, extension of credit or financial assistance which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, disability, familial status or nationality or any intent to make any such limitation, specification or discrimination; unless otherwise required by law or regulation to retain or use such information;

(3) (Deleted by amendment, P.L.2003, c.180).

(4) To discriminate against any person or group of persons because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To discriminate against any person or group of persons because that person's family includes children under 18 years of age, or to

make an agreement or mortgage which provides that the agreement or mortgage shall be rendered null and void upon the birth of a child. This paragraph shall not apply to housing for older persons as defined in subsection mm. of section 5 of P.L.1945, c.169 (C.10:5-5).

j. For any person whose activities are included within the scope of this act to refuse to post or display such notices concerning the rights or responsibilities of persons affected by this act as the Attorney General may by regulation require.

k. For any real estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation, partnership, or organization, for the purpose of inducing a transaction for the sale or rental of real property from which transaction such person or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable

consequences in the block, neighborhood or area in which the real property is located, including, but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

l. For any person to refuse to buy from, sell to, lease from or to, license, contract with, or trade with, provide goods, services or information to, or otherwise do business with any other person on the basis of the race, creed, color, national origin, ancestry, age, sex, gender identity or expression, affectional or sexual orientation, marital status, civil union status, domestic partnership status, liability for service in the Armed Forces of the United States, disability, nationality, or source of lawful income used for rental or mortgage payments of such other person or of such other person's spouse, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers. This subsection shall not prohibit refusals or other actions (1) pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or (2) made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

m. For any person to:  
 (1) Grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or

enter into any contract for the exchange of goods or services, where the letter of credit, contract, or other document contains any provisions requiring any person to discriminate against or to certify that he, she or it has not dealt with any other person on the basis of the race, creed, color, national origin, ancestry, age, sex, gender identity or expression, affectional or sexual orientation, marital status, civil union status, domestic partnership status, disability, liability for service in the Armed Forces of the United States, or nationality of such other person or of such other person's spouse, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers.

(2) Refuse to grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or refuse to enter into any contract for the exchange of goods or services, on the ground that it does not contain such a discriminatory provision or certification. The provisions of this subsection shall not apply to any letter of credit, contract, or other document which contains any provision pertaining to employee-employer collective bargaining, a labor dispute or an unfair labor practice, or made in connection with the protest of unlawful discrimination or an unlawful employment practice, if the other provisions of such letter of credit, contract, or other document do not

otherwise violate the provisions of this subsection.

n. For any person to aid, abet, incite, compel, coerce, or induce the doing of any act forbidden by subsections l. and m. of section 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so. Such prohibited conduct shall include, but not be limited to:

(1) Buying from, selling to, leasing from or to, licensing, contracting with, trading with, providing goods, services, or information to, or otherwise doing business with any person because that person does, or agrees or attempts to do, any such act or any act prohibited by this subsection; or

(2) Boycotting, commercially blacklisting or refusing to buy from, sell to, lease from or to, license, contract with, provide goods, services or information to, or otherwise do business with any person because that person has not done or refuses to do any such act or any act prohibited by this subsection; provided that this subsection shall not prohibit refusals or other actions either pertaining to employee-employer collective bargaining, labor disputes, or unfair labor practices, or made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

o. For any multiple listing service, real estate brokers' organization or other service, organization or facility related to the

business of selling or renting dwellings to deny any person access to or membership or participation in such organization, or to discriminate against such person in the terms or conditions of such access, membership, or participation, on account of race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, familial status, sex, gender identity or expression, affectional or sexual orientation, disability or nationality.

p. Nothing in the provisions of this section shall affect the ability of an employer to require employees to adhere to reasonable workplace appearance, grooming and dress standards not precluded by other provisions of State or federal law, except that an employer shall allow an employee to appear, groom and dress consistent with the employee's gender identity or expression.

q. (1) For any employer to impose upon a person as a condition of obtaining or retaining employment, including opportunities for promotion, advancement or transfers, any terms or conditions that would require a person to violate or forego a sincerely held religious practice or religious observance, including but not limited to the observance of any particular day or days or any portion thereof as a Sabbath or other holy day in accordance with the requirements of the religion or religious belief, unless, after engaging in a bona fide effort, the employer demonstrates that it is



unable to reasonably accommodate the employee's religious observance or practice without undue hardship on the conduct of the employer's business. Notwithstanding any other provision of law to the contrary, an employee shall not be entitled to premium wages or premium benefits for work performed during hours to which those premium wages or premium benefits would ordinarily be applicable, if the employee is working during those hours only as an accommodation to his religious requirements. Nothing in this subsection q. shall be construed as reducing:

(a) The number of the hours worked by the employee which are counted towards the accruing of seniority, pension or other benefits; or

(b) Any premium wages or benefits provided to an employee pursuant to a collective bargaining agreement.

(2) For an employer to refuse to permit an employee to utilize leave, as provided for in this subsection q., which is solely used to accommodate the employee's sincerely held religious observance or practice. Except where it would cause an employer to incur an undue hardship, no person shall be required to remain at his place of employment during any day or days or portion thereof that, as a requirement of his religion, he observes as his Sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between his place of employment and

his home; provided that any such absence from work shall, wherever practicable in the reasonable judgment of the employer, be made up by an equivalent amount of time and work at some other mutually convenient time, or shall be charged against any leave with pay ordinarily granted, other than sick leave, and any such absence not so made up or charged, may be treated by the employer of that person as leave taken without pay.

(3) (a) For purposes of this subsection q., "undue hardship" means an accommodation requiring unreasonable expense or difficulty, unreasonable interference with the safe or efficient operation of the workplace or a violation of a bona fide seniority system or a violation of any provision of a bona fide collective bargaining agreement.

(b) In determining whether the accommodation constitutes an undue hardship, the factors considered shall include:

(i) The identifiable cost of the accommodation, including the costs of loss of productivity and of retaining or hiring employees or transferring employees from one facility to another, in relation to the size and operating cost of the employer.

(ii) The number of individuals who will need the particular accommodation for a sincerely held religious observance or practice.

(iii) For an employer with multiple facilities, the degree

to which the geographic separateness or administrative or fiscal relationship of the facilities will make the accommodation more difficult or expensive.

(c) An accommodation shall be considered to constitute an undue hardship if it will result in the inability of an employee to perform the essential functions of the position in which he or she is employed.

(d) (i) The provisions of this subsection q. shall be applicable only to reasonable accommodations of religious observances and shall not supersede any definition of undue hardship or standards for reasonable accommodation of the disabilities of employees.

(ii) This subsection q. shall not apply where the uniform application of terms and conditions of attendance to employees is essential to prevent undue hardship to the employer. The burden of proof regarding the applicability of this subparagraph (d) shall be upon the employer.

r. For any employer to take reprisals against any employee for requesting from any other employee or former employee of the employer information regarding the job title, occupational category, and rate of compensation, including benefits, of any employee or former employee of the employer, or the gender, race, ethnicity, military status, or national origin of any employee or former

employee of the employer, regardless of whether the request was responded to, if the purpose of the request for the information was to assist in investigating the possibility of the occurrence of, or in taking of legal action regarding, potential discriminatory treatment concerning pay, compensation, bonuses, other compensation, or benefits. Nothing in this subsection shall be construed to require an employee to disclose such information about the employee herself to any other employee or former employee of the employer or to any authorized representative of the other employee or former employee."

Page 2, Section 1, Lines 7-44:

Delete in their entirety

Page 3, Section 1, Lines 1-26:

Delete in their entirety

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attest:

/s/ Charles B. McKenna

Chief Counsel to the Governor