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## New York City Council Passes Landmark Bill Protecting Unemployed from Hiring Discrimination

*Amidst continuing national crisis of long-term unemployment, strongest-in-the-nation legislation prohibits employers from refusing to hire qualified job applicants simply because they are unemployed*

NEW YORKCITY—The New York City Council overwhelmingly passed a bill Wednesday that prohibits discrimination in hiring against the unemployed, the strongest measure of its kind in the nation.

The bill, which passed by a veto-proof margin of 44 to 4, forbids employers from basing hiring decisions on applicants' unemployment status and from posting job advertisements that require applicants to be employed. The measure passed as the city grapples with a long-term unemployment crisis of record proportions. (See [fact sheet](#) for more about the bill.)

In the wake of the most severe economic downturn since the Great Depression, bias on the part of employers and employment agencies against hiring the unemployed persists. [Researchers at the UCLA Anderson School of Management documented](#) the "pervasive" practice in a recent study, and a 2011 [report](#) by the National Employment Law Project detailed the prevalence of job postings expressly limiting consideration to the "currently employed."

"Refusing to consider qualified job-seekers for employment opportunities because they are unemployed is simply wrong-headed and unfair," said Christine L. Owens, NELP's executive director. "The practice deepens the hardship of those struggling to return to the workforce, and exacerbates the crisis levels of long-term unemployment that New Yorkers—and Americans across the country—continue to face. We commend Speaker Quinn and the City Council for taking this important step to ensure that the doors of employment opportunity are open to those who are trying so hard to secure new work."

The bill passed by the Council amends the city's anti-discrimination laws to make it unlawful to exclude the unemployed who are "available for work, and seeking work" from consideration for employment and prohibits discriminatory job postings that contain exclusionary language. Workers have the right in appropriate situations to file a complaint alleging a violation of the law with the New York City Commission on Human Rights and to pursue remedies in court. In addition, the bill instructs the Commission to educate employers, employment agencies and job seekers about their rights under the new law.

The measure permits employers to consider an individual's unemployment in the hiring process where there is a "substantially job-related reason" for doing so, thus maintaining employer flexibility to consider unemployment status in appropriate situations. It also protects employers' ability to inquire into the circumstances surrounding an applicant's separation from employment and to impose other necessary job requirements, such as professional, educational, or occupational licensing standards.

The mayor has vowed to veto the bill, but the overwhelming vote in the Council means there is more than enough support to override his opposition.

"Imagine spending every day and night for months upon months upon months looking for a job - only to be told 'don't even bother, unemployed need not apply,'" said City Council Speaker Christine Quinn. "We cannot - and will not - allow New Yorkers who are qualified and ready to work have the door of opportunity slammed in their faces. The long-term unemployed face some of the greatest challenges in their job searches. Today, we voted to remove one obstacle they simply should not have to face."

In New York City, where the unemployment rate averaged 9.4 percent in 2012, large numbers of residents are still struggling to find work. Because of limited job growth, record numbers of workers in the city are unemployed for prolonged periods of time, which makes them even more vulnerable to discrimination in hiring. According to the Fiscal Policy Institute, in 2012 51 percent of unemployed New York City residents were actively seeking work for more than six months (compared to 39 percent nationally and 45 percent in New York State). While long-term unemployment has taken a heavy toll on all New York City residents, women, middle-aged workers, African Americans, and the least educated were the most severely affected.

"Let's not fool ourselves—when encountering an unemployed job applicant, many hiring managers' first thought is, 'Why's this person jobless; what's wrong with them?'" said Jon Picoult, founder of Watermark Consulting, which helps businesses expand their talent pools. "Unfortunately, it's almost a natural human response, given the stigma that's attached to unemployment. But just as it would be unreasonable to assume that every employed individual is a model employee, it's also unfair to view all unemployed workers as damaged goods, especially since we're still standing in the shadow of the worst recession in a generation."

In October 2011, Manhattan Borough President Scott Stringer conducted a review of job postings that uncovered dozens of examples of New York City companies that required job candidates to be employed.

"It is clear that New York's hopes for economic recovery are undermined when a person can't find work for reasons outside their control," Stringer said.

The New York City legislation is the strongest in the nation. New Jersey and Oregon have passed laws regulating the exclusionary job postings, and Washington DC passed one that provides the city's Office of Human Rights with the authority to investigate employers and impose up to \$20,000 in civil penalties. In 2011, President Obama proposed the Fair Employment Opportunity Act, which sought to prohibit discrimination against the unemployed nationally, as part of his proposed American Jobs Act.

**See NELP's [fact sheet](#) for more information about the City Council bill.**

*The National Employment Law Project is a non-partisan, not-for-profit organization that conducts research, education and advocacy on issues affecting low-wage and unemployed workers. For more about NELP, visit [www.nelp.org](http://www.nelp.org).*

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