

SENATE BILL REPORT

SB 5090

As Reported by Senate Committee On:
Labor & Commerce, February 20, 2019

Title: An act relating to wage and salary information.

Brief Description: Addressing wage and salary information.

Sponsors: Senators Wellman, Kuderer, Nguyen, Hasegawa, Randall and Saldaña.

Brief History:

Committee Activity: Labor & Commerce: 2/15/19, 2/20/19 [DPS].

Brief Summary of First Substitute Bill

- Prohibits an employer from seeking an applicant's wage or salary history or requiring that the wage or salary history meet certain criteria with limited exceptions.
- Provides for Department of Labor & Industries investigations and enforcement, damages, and penalties.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5090 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Saldaña, Walsh and Wellman.

Staff: Susan Jones (786-7404)

Background: Current law does not address an employer's requests for an applicant's wage or salary history or specification that wage or salary history meet certain criteria. Private employers also generally have no legal obligation to provide applicants or employees with wage scales or salary ranges. Information about state public employer wages and salaries is generally public and available.

Summary of Bill (First Substitute): An employer may not seek the wage or salary history of an applicant from the applicant or a current or former employer or require that an

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applicant's prior wage or salary history meet certain criteria, except to confirm an applicant's wage or salary history:

- if the applicant has voluntarily disclosed the applicant's wage or salary history; or
- after an offer of employment with compensation has been negotiated and made.

Upon complaint by an employee, the Department of Labor & Industries (L&I) must investigate to determine compliance with these laws and the rules adopted by L&I. L&I may also initiate an investigation on behalf of one or more employees for a violation and may require the testimony of witnesses and production of documents.

If the L&I determines that a violation occurred, it may order the employer to pay to the complainant actual damages; statutory damages equal to the actual damages or \$5,000, whichever is greater; attorneys' fees; costs; and interest of one percent per month on all compensation owed. A violation as to each affected employee constitutes a separate violation. Any wages and interest owed must be calculated from the first date wages were owed to the employee. An employee may bring a civil action against an employer. A court may also order reinstatement and injunctive relief. If an employee brings a civil action, the director's processing of the complaint terminates.

L&I may also order payment to L&I of a civil penalty of not more than \$200 for a first violation and not more than \$1,000 for a repeat violation, the costs of investigation and enforcement, and any other appropriate relief. L&I must deposit civil penalties in the supplemental pension fund.

Definitions are provided for the term employee and employer. L&I may adopt rules to implement this section.

EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute):

- Removes requirements for employers to provide certain wage scales and salary ranges to employees and applicants.
- Provides that an employee filing a civil action terminates the director's processing of the complaint.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill has been around a while. It is a small bill, but impacts people in the low end of the spectrum. An example is a woman who lost her job during the recession. She got another job paying less. When she applied for a new job, the potential employer asked her current salary, well below her pre-recession job.

She never recovers her salary. When a person has to say what they currently earn, it does not reflect what the job is worth. There is a large fiscal note because of the investigations. With \$5,000 in damages, there will be less bad actors.

Studies show men receive greater salaries. Asking perpetuates the salary disparities. This disparity impacts women and people of color. Some have to go through a lot just to get the offer and do not want to have to ask for more money. Negotiating for a higher salary is perceived differently for men and women. Twenty-five cities and states have this law.

Employers have access to salary information regarding their jobs; candidates do not. Employers may not intend to discriminate, but that is the result.

CON: We are not concerned about bill language about asking for salaries. The concern is about having to give salary ranges and competitors having this information.

Persons Testifying: PRO: Senator Lisa Wellman, Prime Sponsor; Andrew Kashyap, Legal Voice; Marilyn Watkins, Economic Opportunity Institute; Julia Buck, citizen.

CON: Bob Battles, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: No one.