

# SENATE BILL REPORT

## SB 5408

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As Reported by Senate Committee On:  
Labor & Commerce, February 7, 2025

**Title:** An act relating to allowing for corrections to wage and salary disclosures.

**Brief Description:** Allowing for corrections to wage and salary disclosures.

**Sponsors:** Senator King.

**Brief History:**

**Committee Activity:** Labor & Commerce: 1/28/25, 2/07/25 [DPS, DNP].

**Brief Summary of First Substitute Bill**

- Allows any individual to provide written notice to an employer alleging that the job posting does not comply with disclosure of wage scale or salary range requirements.
- Provides that if the employer corrects the posting within 14 calendar days of receiving the written notice, no penalties, damages, or other relief may be assessed to the employer.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Majority Report:** That Substitute Senate Bill No. 5408 be substituted therefor, and the substitute bill do pass.

Signed by Senators Saldaña, Chair; Conway, Vice Chair; King, Ranking Member; Braun, MacEwen and Schoesler.

**Minority Report:** Do not pass.

Signed by Senators Alvarado, Ramos and Stanford.

**Staff:** Susan Jones (786-7404)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Background:** An employer, with 15 or more employees, must disclose in each job opening posting the wage scale or salary range, and a general description of all of the benefits and other compensation. Posting means any solicitation intended to recruit job applicants for a specific available position, including recruitment done directly by an employer or indirectly through a third party, and includes any postings done electronically, or with a printed hard copy, that includes qualifications for desired applicants.

Upon request of an employee offered an internal transfer to a new position or promotion, the employer must provide the wage scale or salary range for the employee's new position.

A job applicant or an employee is entitled to the specified remedies in the Washington Equal Pay and Opportunities Act for disclosure violations.

The Department of Labor and Industries (L&I) investigates complaints, and must attempt to resolve the violation by conference and conciliation. If no agreement is reached, L&I may issue a citation and notice of assessment and order the employer to pay:

- to the complainant actual damages; statutory damages equal to the actual damages or \$5,000, whichever is greater; and interest of one percent per month on all compensation owed;
- L&I's costs of investigation and enforcement;
- any other appropriate relief; and
- a civil penalty to L&I to be deposited in the supplemental pension fund of up to \$500 for the first violation, and up to \$1,000 for repeat violations, or ten percent of the damages.

A civil action may be brought against an employer for a violation for the remedies described above and the court may also order reinstatement and injunctive relief. Filing a civil action terminates L&I's processing of the complaint.

**Summary of Bill (First Substitute):** Any individual may provide written notice to an employer alleging that the employer's job posting does not comply with disclosure of wage scale or salary range requirements. This written notice must be provided prior to a job applicant seeking remedies. Once the employer receives notice from any individual as to a particular job posting, this constitutes adequate notice for the duration of that job posting for any job applicant to seek remedies.

If the employer corrects the posting within 14 calendar days of receiving the written notice, and where applicable, contacts the third-party job posting entity with a demand to correct the insufficient job posting, no penalties, damages, or other relief may be assessed to the employer.

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

- Modifies the written notice to an employer for noncompliance with the requirement to provide the wage scale or salary range in job postings.
- Provides that any individual, rather than L&I or the job applicant, may provide the notice and that the notice must be provided prior to a job applicant seeking remedies.
- Provides that the notice constitutes adequate notice for the duration of that job posting for any job applicant to seek remedies.
- Allows the employer to correct the posting within 14 calendar days of receiving the notice, and, where applicable, contact the third-party job posting entity with a demand to correct the insufficient job posting, and no penalties, damages, or other relief may be assessed to the employer, rather than ten business days of the notice.

**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 is a simple bill that is needed. A couple years ago, we passed a bill that required job postings to include wage ranges or salary ranges. The bill provided for a private right of action. Now people are applying for jobs and looking for someone making a mistake and suing them. Thousands of dollars are being collected from these companies and they don't have a chance to correct the mistake. There is a possibility of these PRAs turning into millions of dollars in lawsuits. That is not the intent of the law. We need to give these companies a chance if there is an oversight. Businesses are getting sued and being afraid of losing their business or their home.

We have concerns with PRAs. This policy was intended to give job applicants the information they need to apply. The PRA has cost businesses hundreds of millions of dollars and provided very little back to workers. More than 200 lawsuits have been filed. This has created a cottage industry by a small number of law firms. One firm filed about 150 of these lawsuits. Most of the money goes to the law firms.

Employers want to comply but they cannot control what third parties post. Companies scrape what they want from job postings. Small businesses are impacted.

We prefer providing education rather than enforcement. Employers strive to comply and understand the purpose of transparency in the law. This law is fostering litigation instead of cooperation. Errors should be corrected and the right to cure is effective.

CON: Since Washington passed the pay transparency, more companies are posting salary ranges. This is very helpful in guiding job applications. Companies that have been sued still

fail to post the salaries. The penalties are not sufficient.

This will end enforcement of the law when it is most needed. Companies will go out of their way not to comply. A testifier gave an example of the challenging legal process. Companies make the choice to not to comply. There will be no incentive to comply. No job applicant is going to use the mechanism with their would-be boss if they want a job. The bill gives a pass to an employer if a job applicant complains. It allows employers to remain ignorant of the law.

OTHER: We should preserve the intent of the original law. We should not shift the burden to the workers to enforce employment laws.

**Persons Testifying:** PRO: Senator Curtis King, Prime Sponsor; Amber Carter, WA Retail Association; Kevin Wallis, HND Holdings Co.; Katie Beeson, Washington Food Industry Association (WFIA); Lindsey Hueer, Association of Washington Business; Gabriel Neuman, GSBA, Washington's LGBTQ+ Chamber of Commerce; Kris Tefft, Washington Liability Reform Coalition; Julia Gorton, Washington Hospitality Association.

CON: Vanessa Herold; Kyle Mitchell.

OTHER: Kelli Carson, Washington State Association for Justice; Ellicott Dandy, Washington Employment Lawyers Association.

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