

SENATE BILL REPORT

ESHB 1696

As Reported by Senate Committee On:
Labor & Commerce, March 28, 2019

Title: An act relating to wage and salary information.

Brief Description: Concerning wage and salary information.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Dolan, Senn, Davis, Macri, Robinson, Jinkins, Kilduff, Wylie, Frame, Appleton, Ortiz-Self, Stanford, Goodman, Chapman, Peterson, Doglio, Pollet, Leavitt, Valdez and Gregerson).

Brief History: Passed House: 3/09/19, 56-40.

Committee Activity: Labor & Commerce: 3/25/19, 3/28/19 [DPA, DNP, w/oRec].

Brief Summary of Amended 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.
- Requires employers to provide certain wage scales and salary ranges to employees and applicants.
- Allows an employee to bring a civil action for actual damages; statutory damages equal to the actual damages or \$5,000, whichever is greater; interest, costs, and reasonable attorneys' fees.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass as amended.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña and Wellman.

Minority Report: Do not pass.

Signed by Senators Braun and Walsh.

Minority Report: That it be referred without recommendation.

Signed by Senator King, Ranking Member.

Staff: Susan Jones (786-7404)

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

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 Amended Bill: 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 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 the employer has negotiated and made an offer of employment with compensation to the applicant.

After the employer has initially determined that the applicant is otherwise qualified for the position, upon the request of the applicant for employment, an employer must provide the wage scale or salary range for the job title for the position for which the applicant is applying. An employer must provide to each employee a wage scale or salary range for the employee's job title upon receipt of a new job title or promotion. These requirements only applies to employers with fifteen or more employees.

An employee may bring a civil action against an employer for violation for:

- actual damages;
- statutory damages equal to the actual damages or \$5,000, whichever is greater;
- interest of 1 percent per month on all compensation owed; and
- costs and reasonable attorneys' fees.

The court may also order reinstatement and injunctive relief. Any wages and interest owed must be calculated from the first date wages were owed to the employee.

Legislative findings are made. "Employee" means a worker who is employed in the business of an employer and includes workers performing in an executive, administrative, professional, or outside sales capacity. "Employer" means any person or business entity that engages in any business, industry, profession, or activity in this state and employs one or more employees and includes the state, any state institution, any state agency, political subdivisions of the state, and any municipal corporation or quasi-municipal corporation.

EFFECT OF LABOR & COMMERCE COMMITTEE AMENDMENT(S):

- Requires an employer to provide the wage scale and salary range to an applicant after the employer has initially determined that the applicant is otherwise qualified for the position.
- Removes the requirement for the employer to provide a wage scale and salary range to an employee upon hire.
- Removes the provision that an employer satisfies the provisions for providing the wage scale and salary range by making it available on a web site.
- Limits the requirements to provide wage scales and salary ranges to employers with fifteen or more employees.

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 Engrossed Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: It will give a unique tool in our toolbox to help give Washington women equal pay. The wage gap runs deep in Washington state and across the nation wrapped in centuries of racism and sexism. Women make less money in the workplace. That damages the women and their families. Chances are when a woman goes in for a new job, one of the first questions will be how much does she make. This makes her salary less likely to go to a new higher level. Some woman make leave the workplace to take care of children or family. Many men will not answer the question, which makes them strong. Women who do not answer are seen as uppity. This bill is used in a number of other states and there is pending legislation in 18 other states. Washington is a progressive place and we want our women to make more money. When women make better salaries, families are better in Washington state.

Coaching women to negotiate like men can backfire. Women who are outspoken about their accomplishments and pay are seen as pushy and uncooperative. Men are seen as natural leaders and are rewarded with promotions and more pay. The simple act of providing a pay range levels the playing field. Most HR websites recommend establishing a pay range for all jobs. Forward looking employers are already implementing pay transparency. Many old style employers still ask about pay. It is time Washington state set a new standard. The change is also needed to achieve racial equity. No law will end pay disparity but this bill will get us closer to equal pay for equal work.

An employee's salary was reduced \$7,000 once the employer learned her pay history. Her male colleague was paid \$7,000 more despite having zero years of relevant experience and the woman having seven years. There were similar stories. This has lifetime impacts.

CON: We support the intent of the bill. We have long banned the practice of seeking salary information. We are concerned about disclosure of pay scales and salary ranges. This violates security and privacy for business and employees. This is public disclosure of the employees' private information for them to disclose at their discretion. We supported the changes in the Senate bill. This creates privacy concerns and unfair advantages to business competitors. Small businesses would have to create pay ranges that they do not already have available.

Persons Testifying: PRO: Representative Laurie Dolan, Prime Sponsor; Marilyn Watkins , Economic Opportunity Institute; Andrew Kashyap, Legal Voice; Kristin Rowe-Finkbeiner, Mom's Rising; Michelle Gonzalez, Washington State Women's Commission.

CON: Bruce Beckett, Washington Retail Association; Bob Battles, AWB; Kelly Fukai, Schweitzer Engineering Laboratories.

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