

HOUSE BILL REPORT

ESSB 5761

As Passed House - Amended:

March 1, 2022

Title: An act relating to employer requirements for providing wage and salary information to applicants for employment.

Brief Description: Concerning employer requirements for providing wage and salary information to applicants for employment.

Sponsors: Senate Committee on Labor, Commerce & Tribal Affairs (originally sponsored by Senators Randall, Keiser, Nguyen, Nobles, Saldaña, Stanford, Wellman and Wilson, C.).

Brief History:

Committee Activity:

Labor & Workplace Standards: 2/16/22, 2/22/22 [DP].

Floor Activity:

Passed House: 3/1/22, 51-46.

Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Requires employers with 15 or more employees to disclose salary information and a description of expected benefits in job postings.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: Do pass. Signed by 4 members: Representatives Sells, Chair; Berry, Vice Chair; Bronoske and Ortiz-Self.

Minority Report: Do not pass. Signed by 3 members: Representatives Hoff, Ranking Minority Member; Mosbrucker, Assistant Ranking Minority Member; Harris.

Staff: Trudes Tango (786-7384).

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:

Employers with 15 or more employees must follow certain requirements with respect to providing wage and salary information. The employer must provide an applicant the minimum wage or salary for the position upon request after the employer initially offers the position to the applicant. Upon request of an employee offered a promotion or internal transfer, the employer must provide the wage scale or salary for the new position. If no wage scale or salary range exists, the employer must provide the minimum wage or salary expectation set by the employer. If an employer violates a wage disclosure provision, a person may pursue administrative remedies or a civil action for damages.

Summary of Amended Bill:

The requirement for an employer to provide salary information after an initial job offer, upon request of the applicant, is removed. Instead, beginning January 1, 2023, the employer must disclose in each posting for each job opening the wage scale or salary range and a general description of all benefits and other compensation to be offered to the hired applicant.

"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.

Clarifying language is added to specify that an applicant or employee, rather than "an individual," is entitled to remedies.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2023.

Staff Summary of Public Testimony:

(In support) Pay transparency is a pay equity issue that impacts women and minorities the most. Some folks do not have the networks or ability to negotiate for salaries. Salaries vary wildly in companies within the same industry and applicants do not have the ability to know what the value of the positions is. This allows a discussion at the start of the process instead of after an offer has been made, which will increase the ability to negotiate pay.

(Opposed) The law already allows for disclosure of information at the time of the offer and applicants can still negotiate salary at that time. Requiring disclosure earlier is cumbersome and is more difficult for smaller employers. The original bill was carefully crafted in 2019

and part of larger negotiations. This bill does not create more discussion on salaries and such disclosures could infringe on existing employee's privacy rights. For some employers it is not realistic for them to know what the salary range will be since it depends on the qualifications of the applicants. The employer threshold size should be increased.

(Other) This will impact small businesses. The bill needs to be clarified.

Persons Testifying: (In support) Senator Emily Randall, prime sponsor; Cher Scarlett; and Andrew Kashyap, Legal Voice.

(Opposed) Robert Battles, Association of Washington Business; and Bruce Beckett, Washington Retail Association.

(Other) Jim King, Independent Business Association.

Persons Signed In To Testify But Not Testifying: Tammy Fellin, Department of Labor and Industries.