

# SENATE BILL REPORT

## ESSB 5761

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As Amended by House, 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, Commerce & Tribal Affairs: 1/17/22, 1/27/22 [DPS, DNP].

**Floor Activity:** Passed Senate: 2/9/22, 27-21.

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

### Brief Summary of Engrossed First Substitute Bill

- Modifies the requirements to provide wage information to require employers to provide the wage scale or salary range in job postings and to include a general description of all benefits and other compensation, rather than providing wage scale or salary information only upon request of an applicant after the initial job offer.
- Removes the requirement that if no wage scale or salary range exists, the employer must provide the minimum wage or salary expectation prior to posting the position, making a position transfer, or making the promotion.
- Limits the persons who are entitled to remedies to a job applicant or an employee.

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### SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

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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.*

**Majority Report:** That Substitute Senate Bill No. 5761 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair, Labor; Stanford, Vice Chair, Commerce & Tribal Affairs; Robinson and Saldaña.

**Minority Report:** Do not pass.

Signed by Senators King, Ranking Member; Braun, Rivers and Schoesler.

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

**Background:** Upon request of an applicant for employment after the employer has initially offered the applicant the position, the employer must provide the minimum wage or salary for the position for which the applicant is applying. 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. If no wage scale or salary range exists, the employer must provide the minimum wage or salary expectation set by the employer prior to posting the position, making a position transfer, or making the promotion.

There are remedies provided for violations of these provisions.

These provisions only apply to employers with 15 or more employees.

**Summary of Engrossed First Substitute Bill:** An employer must disclose in each posting for each job opening the wage scale or salary range, and a general description of all of the benefits and other compensation to be offered to the hired applicant.

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

"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.

**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 committee values a strong and just economy, in which people can choose the career pathway that they want and can support themselves and their families and no one is held back. We have already taken great strides in passing pay disclosure laws. This bill is a continuation of our work in pay equity. It follows other states and municipalities, including New York city and Colorado, in requiring pay transparency to applicants even before they apply. The bill will make Washington more competitive for job seekers at a time when our employers are struggling to recruit and retain workers who keep our economy moving. It will help prospective employees make decisions.

Many candidates spend hours going through rounds of interviews only to find out they can't live on the offered pay. It is also an equity issue, punishing women and people of color because they get punished for negotiating where white men are rewarded for the same thing. Fourteen other states have passed laws requiring this salary disclosure.

The committee should do research on what it takes to post this information. Many employers post thousands of positions a year. They will have to come up with systems to post the information. This will require employee hours and maintenance to keep the information up to date. It would be difficult to manage the benefit requirement but posting a link may be easier since most employers have links.

CON: HB 1696 was carefully negotiated, including negotiating the solution that the applicant gets the information when they get the offer. This bill goes way beyond the current requirements. It may require information to be public that is proprietary or confidential and unique for an employers. Smaller businesses may not be able to compete in a bidding war. It infringes on an employee's privacy rights, particularly if they are in the process of leaving a job and their old job salary is being posted. There have been articles written on the Colorado law and the ability to recruit remote workers. There could be some unintended consequences. There should be further work on this bill.

This is a burden on small businesses. Nothing defines postings. Many small businesses hang help wanted signs in the window. There are tremendous penalties. There would be a cost to L&I to notify small businesses of the requirements. Many small businesses are at 50 or fewer employees, not 15 employees. This is a big burden even for large employers. It's not just a switch that you can turn on.

OTHER: L&I identifies some costs with this bill, including for investigating complaints. Under the bill, anyone may file a complaint, not just applicants or employees. L&I suggests changing the term individual to job applicant and regarding the salary language.

**Persons Testifying:** PRO: Senator Emily Randall, Prime Sponsor; kara aley; Vu Le.

CON: Bruce Beckett, Washington Retail Association; Jim King, Independent Business

Association; Robert Battles, Association of Washington Business (AWB).

OTHER: Tammy Fellin.

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

**EFFECT OF HOUSE AMENDMENT(S):**

- Provides a delayed effective date of January 1, 2023.