

D.C. to require pay transparency, prohibit inquiry into wage history

By Holly H. Williamson, Esq., and Libby King, Esq., Hunton Andrews Kurth*

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Washington, D.C. is the latest in a growing list of jurisdictions to require employers to have “pay transparency” in job postings. Starting in June of 2024, Washington, D.C. will require all employers with at least one employee in the District to post the minimum and maximum projected salary in all job listings or advertisements. The salary projections must be the lowest and highest salary or hourly pay the employer “in good faith believes” it would pay for the role.

In addition to requiring the posting of salary ranges, the law will prohibit employers from requesting a potential employee’s wage history from either the potential employee, or their previous employers.

D.C. Mayor Muriel Bowser signed the Wage Transparency Omnibus Amendment Act of 2023 on January 12, 2024. The legislation is currently in a 30-day congressional review period in which Congress may vote to overrule it. The legislation is drafted to go into effect on June 30, 2024.

In addition to requiring the posting of salary ranges, the law will prohibit employers from requesting a potential employee’s wage history from either the potential employee, or their previous employers. The bill further requires employers disclose available healthcare benefits to candidates before the first interview.

The law does not contain a private right of action, but states that a prospective employee is permitted to inquire about the disclosures. Also, the Attorney General is given enforcement power to investigate or bring civil actions regarding violations of this law.

Jurisdictions including Colorado, California, Washington state, and New York City have already implemented pay transparency laws. Virginia may be next to join the list as bills are currently pending in the General Assembly that would require the posting of salary ranges and prohibit inquiries into wage history.

Empirical evidence has shown that pay transparency laws are successful in achieving their stated goal of reducing pay inequalities across gender, ethnicity, sexual orientation, and other protected characteristics.¹ Where pay transparency merely exposes existing disparities, however, employee morale can be negatively impacted.

In preparing for this law, D.C. employers should conduct a review of current employee compensation to determine any discrepancies in pay that may be apparent to current employees once salary ranges are included on job postings. Employers should review the updated requirements with employees that conduct interviews, and review job applications to ensure they do not ask for wage history.

Lastly, employers should plan ahead and determine what objective level of experience justifies what level of pay. Prospective employees may anticipate receiving the higher end of a posted salary range and could request an explanation if an offer does not match their expectations.

Notes

¹ <https://bit.ly/3Uf3f9v>

About the authors



Holly H. Williamson (L), a partner with **Hunton Andrews Kurth** in Houston, represents management in labor and employment law litigation, contract negotiations, drug testing, trials, and arbitrations before administrative agencies such as the Labor Department, the Justice Department, the Equal Employment Opportunity Commission, the Texas Commission on Human Rights and the Texas Workforce Commission. She serves as primary regional employment counsel to companies in the oil and gas, restaurant, retail, financial, chemical, health care, drug testing and administration, transportation, and telecommunications industries. She can be reached at hwilliamson@HuntonAK.com. **Libby King** (R), an associate in the firm's Richmond, Virginia, office, represents employers in litigation before federal and state courts, including wage and hour class and collective actions and employment discrimination claims. She also provides strategic advice to employers on their rights and obligations under federal, state and local labor and employment laws. She can be reached at eking@HuntonAK.com. This article was originally published Jan. 23, 2024, on the firm's website. Republished with permission.

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