Massachusetts Joins Growing List of Jurisdictions to Require Pay Transparency and Pay Data Reporting

Insights

8.01.24

Employers with more than 25 employees in Massachusetts will soon need to disclose salary range information on job postings and provide certain pay range information to current employees. Thanks to the sweeping bill signed into effect yesterday by Governor Healey, Massachusetts will become the 11th state to mandate pay transparency by requiring employers to disclose salary ranges. Here's what Massachusetts employers need to know about the new law that will take effect next year – and a few steps you can take to prepare for the new requirements.

Pay Data Reporting

Employers with at least 100 employees who are subject to either EEO-1, EEO-3, EEO-4, or EEO-5 reporting requirements will need to file a wage data report with the Commonwealth.

- EEO-1 employers have to file these reports annually, while other employers are only required to file every two years.
- These reports require the disclosure of workplace demographics and pay data by race, ethnicity, sex, and job category.
- The Massachusetts Executive Office of Labor and Workforce Development will publish the aggregated reports on its website.

Employers have until February 1, 2025, to submit their first round of EEO and pay data to the Commonwealth.

Pay Transparency

Businesses with 25 or more employees in Massachusetts will soon be required to:

- Include the pay range for a position on all job postings;
- Disclose the pay range for a position to existing employees who receive a promotion or a transfer to a new position with different responsibilities; and
- Provide pay range information for a particular position to an employee who holds the position or to an applicant upon receipt of a request.

The law defines "pay range" as the annual salary range or hourly wage range that the employer reasonably and in good faith expects to pay for such position at the time of posting or request. Employers are not required to include bonus or commission information in posts.

This portion of the new law takes effect on July 31, 2025.

Some Legal Details

Employers are also prohibited from retaliating against an employee or applicant who exercises their rights under this law. Notably, however, this bill does not create a private right of action and is enforceable only by the Attorney General.

In enforcing the law, the Attorney General's Office can seek injunctive or declaratory relief and impose fines for non-compliance. A first offense is subject only to a warning, while second violations can result in penalties of up to $500, third violations in penalties up to $1,000, and further violations in penalties between $7,500 and $25,000.

Your Next Steps

While salary disclosure requirements do not take effect until July 31, 2025, employers should not wait to start developing a strategy for compliance with the new law.

- We recommend you create a wage scale or salary range for all positions and develop a process for consistently publishing information in external job postings.
- You should also consider conducting a pay equity audit. Working with an attorney on such an audit preserves the attorney-client privilege, which may foreclose certain information from being discoverable in litigation.
- Continue to monitor Fisher Phillips' Pay Equity Interactive Map to track similar laws across the country and the obligations under each, which may vary.

Conclusion

We will monitor developments related to this new law, so make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information. If you have questions about the proposed legislation, please contact your Fisher Phillips attorney, the authors of this Insight, any member of our Pay Equity Practice Group, or any attorney in our Boston office.

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