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Washington, D.C., Set To Enact Wage Transparency Law



On January 12, 2024, Washington, D.C., joined the growing list of jurisdictions to enact wage transparency legislation when Mayor Muriel Bowser signed the [Wage Transparency Omnibus Amendment Act of 2023](#) (the Act), formerly known as the Pay Scale and Benefits Disclosure Amendment Act.

If the Act survives the 30-day congressional review period, during which Congress can vote to overrule it, the law will take effect June 30, 2024.

The new law applies to all employers with at least one employee in Washington, D.C. and requires employers to include pay ranges in job listings and disclose healthcare benefits information to applicants. The Act also prohibits employers from inquiring about an applicant's salary history.

### **Pay Ranges in Job Listings**

The law requires employers to include in all job listings the salary or hourly wage range that the employer believes it would pay, in good faith, for the position. This requirement applies to both external listings for new positions and internal listings for promotion or transfer. The listing must also include the job description for the position. The law does not expressly state whether these requirements apply to positions located solely in the District of Columbia or positions that can be performed remotely as well.

### **Healthcare Benefit Disclosure**

Although not required in job listings, the law also requires employers to "disclose the existence of healthcare benefits" to an applicant "before the first interview." The law does not define how much detail an employer must provide about its healthcare benefits.

### **Wage History Inquiries Prohibited**

The law also prohibits employers from screening applicants based on their wage history. "Wage history" is defined as "information related to compensation an employee has received from other or previous employment." Specifically, an employer cannot: (1) require that an applicant's wage history satisfy the salary or hourly range for the job listing; (2) ask the applicant to disclose their wage history; or (3) seek information about the applicant's wage history from the individual's former employer.

### **Required Notice**

Covered employers are required to notify employees of their rights under the law by posting a notice of these rights "in a conspicuous place in at least one location where employees congregate." Accordingly, employers should post this notice in the same place where they currently display other mandatory workplace notices.

### **Enforcement and Penalties**

There is no private right of action under the law, and the D.C. attorney general has the exclusive authority to investigate and enforce the law. The attorney general may bring a civil action for restitution or for injunctive, compensatory, or other authorized relief for any individual or for the public at large. If an employer is found to have violated the Act, the attorney general is entitled to recover reasonable attorneys' fees and costs, and the employer could be liable for statutory penalties.

### **Next Steps**

Although the Act must pass the 30-day congressional review period, D.C. employers should take proactive steps to ensure compliance with the law. Specifically, employers should update their job postings and ensure that each position has an adequate job description. They should also develop a method for determining appropriate wage ranges for positions and consider conducting a privileged audit of employee pay prior to publishing to determine whether there are inconsistencies in pay among similar positions. Employers should also consider providing training for human resources professionals and anyone else involved in the hiring process, such as hiring managers, to ensure disclosure of healthcare benefits prior to a first interview and compliance with the restrictions on inquiring about or using wage history.

### **Authors**

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