



House of Representatives

General Assembly

File No. 26

January Session, 2021

House Bill No. 6380

House of Representatives, March 9, 2021

The Committee on Labor and Public Employees reported through REP. PORTER of the 94th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE DISCLOSURE OF SALARY RANGE FOR A VACANT POSITION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-40z of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2021*):

3 (a) As used in this section:

4 (1) "Employer" means any individual, corporation, limited liability
5 company, firm, partnership, voluntary association, joint stock
6 association, the state and any political subdivision thereof and any
7 public corporation within the state using the services of one or more
8 employees for pay;

9 (2) "Employee" means any individual employed or permitted to work
10 by an employer; [and]

11 (3) "Wages" means compensation for labor or services rendered by an
12 employee, whether the amount is determined on a time, task, piece,
13 commission or other basis of calculation; [.] and

14 (4) "Wage range" means the range of wages an employer anticipates
15 relying on when setting wages for a position, and may include reference
16 to any applicable pay scale, previously determined range of wages for
17 the position, actual range of wages for those employees currently
18 holding comparable positions or the employer's budgeted amount for
19 the position.

20 (b) No employer shall:

21 (1) Prohibit an employee from disclosing or discussing the amount of
22 his or her wages or the wages of another employee of such employer
23 that have been disclosed voluntarily by such other employee;

24 (2) Prohibit an employee from inquiring about the wages of another
25 employee of such employer;

26 (3) Require an employee to sign a waiver or other document that
27 denies the employee his or her right to disclose or discuss the amount
28 of his or her wages or the wages of another employee of such employer
29 that have been disclosed voluntarily by such other employee;

30 (4) Require an employee to sign a waiver or other document that
31 denies the employee his or her right to inquire about the wages of
32 another employee of such employer;

33 (5) Inquire or direct a third party to inquire about a prospective
34 employee's wage and salary history unless a prospective employee has
35 voluntarily disclosed such information, except that this subdivision
36 shall not apply to any actions taken by an employer, employment
37 agency or employee or agent thereof pursuant to any federal or state law
38 that specifically authorizes the disclosure or verification of salary
39 history for employment purposes. Nothing in this section shall prohibit
40 an employer from inquiring about other elements of a prospective
41 employee's compensation structure, as long as such employer does not
42 inquire about the value of the elements of such compensation structure;

43 (6) Discharge, discipline, discriminate against, retaliate against or
44 otherwise penalize any employee who discloses or discusses the

45 amount of his or her wages or the wages of another employee of such
46 employer that have been disclosed voluntarily by such other employee;
47 [or]

48 (7) Discharge, discipline, discriminate against, retaliate against or
49 otherwise penalize any employee who inquires about the wages of
50 another employee of such employer; [.]

51 (8) Fail or refuse to provide an applicant for employment the wage
52 range for a position for which the applicant is applying, upon the
53 earliest of (A) the applicant's request, or (B) prior to or at the time the
54 applicant is made an offer of compensation; or

55 (9) Fail or refuse to provide an employee the wage range for the
56 employee's position upon the hiring of the employee and not less than
57 annually thereafter and upon the employee's request.

58 (c) Nothing in this section shall be construed to require any employer
59 or employee to disclose the amount of wages paid to any employee.

60 (d) An action to redress a violation of subsection (b) of this section
61 may be maintained in any court of competent jurisdiction by any one or
62 more employees or prospective employees. An employer who violates
63 subsection (b) of this section may be found liable for compensatory
64 damages, attorney's fees and costs, punitive damages and such legal and
65 equitable relief as the court deems just and proper.

66 (e) No action shall be brought for any violation of subsection (b) of
67 this section except within two years after such violation.

68 Sec. 2. Section 31-75 of the general statutes is repealed and the
69 following is substituted in lieu thereof (*Effective October 1, 2021*):

70 (a) No employer shall discriminate in the amount of compensation
71 paid to any employee on the basis of sex. Any difference in pay based
72 on sex shall be deemed a discrimination within the meaning of this
73 section.

74 (b) If an employee can demonstrate that his or her employer
 75 discriminates on the basis of sex by paying wages to employees at the
 76 employer's business at a rate less than the rate at which the employer
 77 pays wages to employees of the opposite sex at such business for [equal]
 78 comparable work on a job, [the performance of which requires equal]
 79 when viewed as a composite of skill, effort and responsibility [,] and
 80 [which are] performed under similar working conditions, such
 81 employer must demonstrate that such differential in pay is made
 82 pursuant to (1) a seniority system; (2) a merit system; (3) a system which
 83 measures earnings by quantity or quality of production; or (4) a
 84 differential system based upon a bona fide factor other than sex, such as
 85 education, training or experience. Said bona fide factor defense shall
 86 apply only if the employer demonstrates that such factor (A) is not
 87 based upon or derived from a sex-based differential in compensation,
 88 and (B) is job-related and consistent with business necessity. Such
 89 defense shall not exist where the employee demonstrates that an
 90 alternative employment practice exists that would serve the same
 91 business purpose without producing such differential and that the
 92 employer has refused to adopt such alternative practice.

93 (c) No employer shall discharge, expel or otherwise discriminate
 94 against any person because such person has opposed any
 95 discriminatory compensation practice or because such person has filed
 96 a complaint or testified or assisted in any proceeding pursuant to section
 97 31-76.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	31-40z
Sec. 2	October 1, 2021	31-75

LAB *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which establishes requirements for employers to provide wage ranges for certain positions and adjusts the standard for determining gender wage discrimination, does not result in any fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 6380*****AN ACT CONCERNING THE DISCLOSURE OF SALARY RANGE FOR A VACANT POSITION.*****SUMMARY**

This bill requires employers to provide job applicants and employees with the wage range of the positions for which they are applying or that they currently hold. Under the bill, a “wage range” is the range of wages the employer anticipates relying on when setting wages for a position, such as an applicable pay scale; previously determined wage ranges for the position; actual wage ranges for current employees; or the employer’s budgeted amount for the position.

The bill also broadens the standard used to determine whether an employer is discriminating in the amount of compensation it pays to an employee based on sex (i.e., gender wage discrimination). Generally, it requires employers to provide equal pay for comparable (rather than equal) work.

EFFECTIVE DATE: October 1, 2021

WAGE RANGE DISCLOSURE

The bill prohibits employers from failing or refusing to provide a job applicant with the wage range of the position for which the applicant is applying. The employer must provide the wage range when the applicant requests it or when the applicant is offered the job, whichever is earlier.

The bill also prohibits employers from failing to provide their employees with their wage ranges when they are hired, at least once annually after being hired, and upon an employee’s request.

The bill allows job applicants and employees to bring a lawsuit to

redress violations within two years. Employers may be found liable for compensatory damages, attorney's fees and costs, punitive damages, and legal and equitable relief as the court deems just and proper.

GENDER WAGE DISCRIMINATION

The law prohibits employers from practicing gender wage discrimination. It requires an employee who alleges gender wage discrimination to demonstrate certain facts in order to show that the discrimination exists.

Under current law, the employee must demonstrate that the employer pays employees of one sex a lower wage rate than it pays to employees of the opposite sex for equal work that requires equal skill, effort, and responsibility and is performed under similar working conditions. Under the bill, the employee must instead demonstrate that an employer pays employees of one sex a lower wage for comparable work when viewed as a composite of skill, effort, and responsibility and performed under similar working conditions.

As under existing law, an employee who alleges gender wage discrimination may file a complaint with the labor commissioner, or the commissioner may investigate on his own motion. If the complaint is not investigated by the commissioner, the employee may bring an action in court (CGS § 31-76).

Existing law, unchanged by the bill, allows an employer accused of gender wage discrimination to defend itself by showing that a difference in pay is based on a (1) seniority system; (2) merit system; (3) system that measures earnings by quantity or quality of production; or (4) differential system based upon a bona fide factor other than sex, such as education; training; or experience.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable
Yea 9 Nay 4 (02/18/2021)