

National Pay Transparency Bill Proposed

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With states and municipalities across the country enacting pay transparency laws, a bill was recently introduced in Congress that would require disclosure of pay ranges to address concerns with pay equity nationwide. On March 14, 2023, United States Representative Eleanor Holmes Norton (D-DC) introduced the “[Salary Transparency Act](#),” or H.R. 1599, which would amend the Fair Labor Standards Act (FLSA) to require covered employers to disclose the “wage range” for open positions in job postings made publicly and internally.

‘Fail or Refuse to Disclose’

The bill would make it unlawful for employers to “fail or refuse to disclose” the “wage or wage range” for employment opportunities in public or internal postings. In situations in which a posting has not been made available to an applicant, employers would be required to disclose the wage range for the job “prior to discussing compensation with the applicant and at any time upon the applicant’s request.”

Employees would have the right to know the wage or wage range for their positions “upon hire” and at least once a year thereafter. It would further be a violation for an employer to “refuse to interview, hire, promote, or employ” an employee or applicant or otherwise retaliate against such an individual for seeking disclosure of pay ranges.

‘Wage Range’

The bill would define “wage range” to mean the “range of wages, or salaries and other forms of compensation” that an employer “anticipates in good faith relying on in setting the pay” for the job. In setting the range, employers would be able to reference applicable pay scales, a previously determined pay range, the pay range of those currently in equivalent positions, or the “budgeted amount for the position.”

Penalties

Violations could result in civil penalties of \$5,000 for a first violation, increased by \$1,000 for each subsequent violations up to \$10,000. Employers violating the act may also “be liable to each employee or applicant for employment who was the subject of the violation” for statutory damages of between \$1,000 and \$10,000 or actual damages, in addition to, attorneys’ fees and potential injunctive relief. The bill would further provide a right of action for employees or applicants allegedly aggrieved by violations and would allow them to pursue claims on behalf of themselves and others similarly situated.

Key Takeaways

The Salary Transparency Act comes amid a wave of similar state and local pay transparency laws — including [California](#), [Colorado](#), [New York State](#), [Washington](#), and [New York City](#) — that require employers to disclose wage ranges in job postings. However, the bill is in its early stages and the likelihood of passage is unclear at this point.

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