

# FYI<sup>®</sup>

## For Your Information<sup>®</sup>

### District of Columbia enacts new pay transparency law

On January 12, Mayor Muriel Bowser signed the Wage Transparency Omnibus Amendment Act of 2023 into law, making D.C. the latest jurisdiction to require pay disclosures in job postings. Provided the law passes congressional review, D.C. employers will face new compliance obligations beginning June 30, 2024.

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**Authors**

Nancy Vary, JD

Abe Dubin, JD

#### Background

An ever growing number of states across the country — including, among others, California, Colorado, Illinois, and New York — have enacted or are currently considering laws targeting pay inequities through greater pay transparency in job postings and advertisements. (See, for example, our [August 28, 2023 FYI](#).) Depending on the law, employers may have to make salary information more accessible in external or internal job postings, at a specified point during the hiring or promotion process, or upon request.

#### New pay transparency requirements

On January 12, D.C. Mayor Muriel Bowser signed into law the Wage Transparency Omnibus Amendment Act of 2023 ([D.C. Act 25-367](#)), which amends the Wage Transparency Act of 2014 ([2014 act](#)) to: clarify the definition of employer; prohibit employers from seeking or screening prospective employees based on salary history; require employers to include a pay range in all job advertisements or job postings and to disclose the existence of healthcare benefits associated with the position before the first interview. The new law, which is subject to congressional review under the District of Columbia Home Rule Act, is slated to take effect on June 30, 2024.

#### Covered employers

Private employers with at least one employee in D.C. are covered under the new law. The term “employer” does not include the District or the federal government.

### Prohibited wage history inquiries

The new law prohibits employers from screening applicants based on their “wage history,” defined as “information related to compensation an employee has received from other or previous employment.” It prohibits requiring that an applicant’s wage history “satisfy minimum or maximum criteria” or requiring that an applicant disclose their wage history as either a condition of being interviewed or as a condition of being considered for an offer of employment. Additionally, employers are prohibited from seeking an applicant’s wage history from a prior employer.

### Expanded protections

The new law expands the 2014 act’s protections to prohibit employers from retaliating against employees who discuss “compensation.” For these purposes, compensation is broadly defined as “all forms of monetary and nonmonetary benefits an employer provides or promises to provide an employee in exchange for the employee’s services to the employer” — including healthcare benefits.

The 2014 act prohibited employers from discharging, disciplining, interfering with, or otherwise retaliating against an employee who inquires about, discloses, or discusses their own or another employee’s wages. The new law adds “negatively affect[ing] the terms and conditions of employment” to the list of prohibited employer actions.

### Disclosure requirement

The new law will require employers to disclose the pay range in all job listings and position descriptions advertised. The requirement extends to postings for new hires, promotion and transfer opportunities. The pay range must “extend from the lowest to the highest salary or hourly pay” the employer believes in good faith it would pay for the advertised position. Employers will also be required to inform prospective applicants, before their first interview, of healthcare benefits they may receive.

### Notice requirement

Employers will be required to post a workplace notice informing employee of their rights under the new law in a “conspicuous place in at least one location where employees congregate.”

### Enforcement

While the new law does not provide a private right of action, it authorizes the Attorney General to investigate and bring a civil suit on behalf of an individual or the public-at-large against an employer for any violation of the Act. Remedies may include restitution, injunctive, compensatory, or “other authorized relief” as well as statutory penalties ranging between \$1,000 and \$20,000 per violation.

## In closing

Employers with employees in D.C. should begin to review their job posting protocols to ensure that their hiring managers and any third parties they use in the recruiting process will be prepared to comply with the new pay transparency requirements by June 30, 2024.

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