



Nevada Joins Other States in Creating Pay Equity Law

Insights

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Beginning October 1, 2021, private employers and certain public employers in Nevada will no longer be able to request or rely upon an applicant's wage history to determine the applicant's potential rate of pay. The new law, [Senate Bill 293](#), was enacted to promote pay equality within Nevada and may require you to make some immediate changes to your hiring practices. You will no longer be able to request an applicant's prior wage or salary history during the application process, and will be required to provide the wage or salary rate for the position following an interview. What else do you need to know about these impending changes?

How Will SB 293 Impact Private Employers?

Senate Bill 293 was enacted to prohibit private employers in Nevada from inquiring about an applicant's wage or salary history, or discriminating against an applicant that refuses to provide a wage or salary history. Proponents of the bill pointed to statistics that have found women, and particularly women of color, are being paid significantly less than their male counterparts due to hiring practices. Proponents further believe that the practice of asking for previous salary histories perpetuates pay inequality, making it more difficult for individuals to make pay equal to their respective peers. Critics of the bill, on the other hand, believe that the bill's enforcement provisions could be detrimental to small businesses that make minor, technical violations of the law during their hiring process.

Under the new law, the following conduct is prohibited beginning October 1:

- Seeking the wage or salary history of an applicant;
- Relying upon the wage or salary history of an applicant to determine whether to offer employment or the rate of pay for the applicant;
- Refusing to interview, hire, promote, or employ an applicant if the applicant does not provide a wage or salary history; and
- Discriminating against or retaliating against an applicant that does not provide a wage or salary history.

Employers are also required to provide applicants with the wage or salary for the position once an applicant has interviewed for a position. This includes employees that have applied for promotions

or to transfer within the company. Notably, the bill will not prohibit an employer or employment agency from asking an applicant for employment about wage or salary expectations for the position.

Employers that violate the new law may be subject to penalties, including civil actions by aggrieved applicants, civil penalties for violations of the law, actions by the Labor Commissioner, and administrative penalties for investigation costs and attorneys' fees. Aggrieved applicants who file a complaint with the Nevada Labor Commissioner may be issued a right-to-sue notice if 180 days has passed after the complaint was filed, and can only bring a civil action within 90 days of the date of the right-to-sue notice. The Labor Commissioner may also impose an administrative penalty of \$5,000 for each violation of this law, as well as investigative costs and attorneys' fees for the costs of the proceeding.

How Will SB 293 Impact Public Employers?

The new law will also impact certain public employers, including public employees of counties, cities, towns, unincorporated towns, and appointing authorities within the state personnel system. In particular, the new law amends certain chapters of the Nevada Revised Statutes, including Chapter 245 (governing county officers and employees), Chapter 268 (governing cities and towns), Chapter 269 (unincorporated towns), and Chapter 284 (governing the state personnel system).

Similar to the restrictions placed upon private employers, public employers are also prohibited from seeking wage or salary history; relying upon wage or salary history to determine an applicant's rate of pay; and discriminating against, retaliating against, or otherwise refusing to hire, interview, promote an applicant for not providing wage or salary history. Public employers are also required to provide the wage or salary range to applicants and current employees seeking a promotion or transfer after an interview has been conducted. Likewise, public employers are allowed to ask an applicant for his or her salary expectation for the position.

How Do You Prepare for SB 293?

You should consider taking the following steps to ensure compliance with the new law:

1. Modify company policies and practices as needed.
2. Train Human Resources personnel, managers, and supervisors regarding the new salary history requirements and restrictions.
3. Be sure to establish formal wage ranges for all positions and be prepared to provide the wage range for any open position to applicants upon request.
4. Partner with counsel in conducting a proactive pay equity audit of your workforce to ensure legal compliance with Nevada's Equal Pay for Equal Work law and other applicable laws.

We will continue to monitor developments related to this new law and its effect on Nevada employers. Make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-

employer. Make sure you are subscribed to [Fisher Phillips Insights](#), so you get the most up-to-date information. If you have questions about how to ensure that your pay practices comply with Nevada's Equal Pay for Equal Work law or other applicable laws, contact any attorney in our [Las Vegas office](#) or any attorney in our [Pay Equity Practice Group](#).

Related People



Lisa A. McClane

Partner

702.862.3811

[Email](#)

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