

IS MASSACHUSETTS NEXT TO JUMP ON THE PAY TRANSPARENCY AND PAY DATA REPORTING BANDWAGON?

Insights
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Several bills addressing pay transparency and pay data reporting are currently under consideration in the Massachusetts legislature, and employers there may soon be required to take specific steps during the hiring process and periodically thereafter in order to come into compliance. What are the most significant proposed laws you need to monitor – and what do you need to do in order to prepare for these potential new obligations?

Pay Data Reporting

One proposed [bill](#) would require employers with 100 or more employees in Massachusetts subject to EEO-1 filing requirements to provide an industry-based “aggregate wage data report” by race, gender identity, and employment category as a supplement to their EEO-1 report, beginning in 2024. Public employers with 100 or more employees subject to EEO-4 reporting obligations would be subject to similar requirements, beginning in 2025. The resulting data would then be published by the Executive Office of Labor and Workforce Development on its website.

Pay Transparency

Another noteworthy [bill](#) would require businesses that employ 15 or more employees (full or part-time) in Massachusetts to disclose the pay range of a particular position in any job advertisement or posting to:

- an employee offered a promotion or transfer,

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- an employee in a specific position upon request, and
- an applicant upon request.

Pay range is defined as “the annual salary range or hourly wage range or other compensation that the employer reasonably and in good faith expects to pay for such position at that time.” The bill is silent as to whether other forms of compensation include bonuses, commissions, or other forms of equity or benefits, among other things.

The bill also does not include a private right of action for employees. Rather, the Massachusetts Attorney General would be tasked with enforcing the law through warnings, financial penalties, and other sanctions.

What’s Next?

The 2023-2034 legislative session is in mid-swing right now. As the legislative trend toward pay equity and transparency continues, it is widely anticipated that these bills, or at least a modified version of them, will pass muster. Given that many states have already adopted similar laws, businesses are at least familiar with the concept of pay transparency and are in a better position to comply with legislative requirements to that effect.

What Should You Do?

Given the recent trend towards pay transparency and pay data reporting across the country, coupled with Massachusetts’s previous efforts on pay equity, employers should keep a close eye on this proposed legislation. Check out the Fisher Phillips’ [Pay Equity Interactive Map](#) to track similar laws around the country.

You may want to consider partnering with your legal counsel to conduct a proactive pay equity audit of your workforce to get a jump on your compliance efforts and confirm you are offering equitable wages to your workers. Working with counsel will ensure that the work is conducted under attorney-client privilege and thus not discoverable in litigation.

Conclusion

We will monitor developments related to these proposed bills, so make sure you are subscribed to [Fisher Phillips’ Insight System](#) to get the most up-to-date information

directly to your inbox. If you have questions about the proposed legislation referenced in this article, contact your Fisher Phillips attorney, the author of this Insight, any member of our [Pay Equity Practice Group](#), or any attorney in [our Boston office](#).