



Massachusetts Poised to Be Next State to Require Pay Transparency and Pay Data Reporting

Insights

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The Massachusetts Legislature has recently considered several bills to address pay transparency and pay data reporting in the state. These bills have now been combined and similar versions have been passed by both the Massachusetts House and Senate as of October 19. The Senate's bill encompasses some notable changes to the initial versions, which still must be reconciled between the chambers. But given the near-unanimous support for a version of this bill in each chamber, a finalized version is poised to be sent to Governor Maura Healey in the coming days or weeks — which means employers should start preparing for new obligations. Here's what Massachusetts employers need to know about the proposed legislation.

Pay Data Reporting

Under the Senate's bill — [the Frances Perkins Workplace Equity Act](#) — the pay data reporting component would require employers with at least 100 employees who are subject to either EEO-1, EEO-3, EEO-4, or EEO-5 reporting requirements to file a wage data report. Those who are subject to EEO-1 reporting would be required to file the wage data report annually with their EEO-1 report, while all others will only be required to file every two years. The reports would require the disclosure of workplace demographics and pay data categorized by race, ethnicity, sex, and job category. These aggregated reports will be published by the Massachusetts Executive Office of Labor and Workforce Development on its website.

Pay Transparency

If the bill is signed by the Governor, businesses with 25 or more employees in Massachusetts would be required to disclose the pay range for a particular position in the following instances:

- In a job posting for the specific position;
- To an employee who is offered a promotion or transfer to a new position with different responsibilities; and
- To an employee or applicant upon request.

Employers would also be prohibited from discriminating or retaliating against an employee or applicant who exercises their rights under this law. Notably, however, this bill does not create a

private right of action for employees to enforce their rights or sue for violations. Instead, it directs the Attorney General to enforce the law.

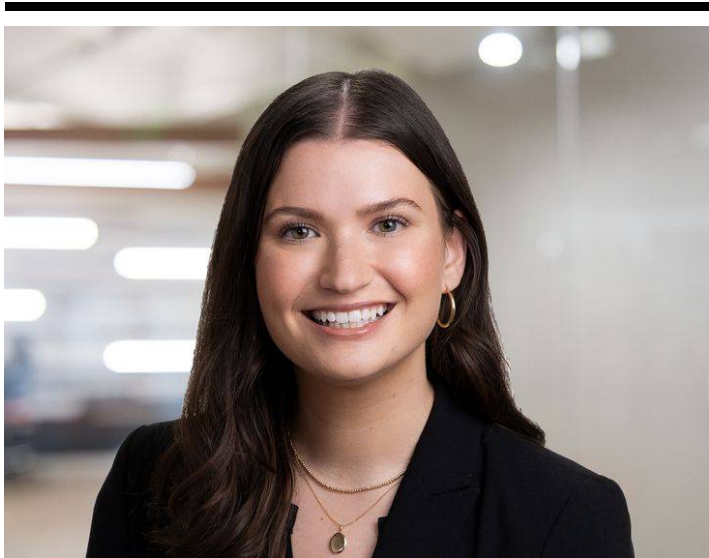
Next Steps

Since Massachusetts is not the first state to enact this type of law, many employers are already familiar with requirements like these. Nevertheless, employers should continue to monitor [Fisher Phillips' Pay Equity Interactive Map](#) to track similar laws across the country and the obligations under each, which may vary. Employers should also consider reaching out to their Fisher Phillips attorney to conduct a pay equity audit to ensure compliance with the new pay equity laws popping up around the country. Working with an attorney on an audit also preserves the attorney-client privilege, which may foreclose certain information from being discoverable in litigation.

Conclusion

We will continue to monitor developments in Massachusetts and throughout the country on pay transparency and pay data reporting. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have questions about the proposed legislation, please contact your Fisher Phillips attorney, the authors of this Insight, any member of our [Pay Equity Practice Group](#), or any attorney in our [Boston office](#).

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