



# New Year, New Proposed Pay Equity Legislation

Insights

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As we discussed recently, the November midterm elections have resulted in a divided Congress that is unable to pass significant employment legislation. This means we are likely to see the drive for legislative changes pursued primarily at the state or local level in 2019. And if the first few weeks of the new year are any indication, issues related to pay equity will continue to be a hot topic of discussion across the country.

This attention to pay equity issues is nothing new, as there has been concerted activity around this issue for several years. Led by California several years ago, many states (and even local jurisdictions) have begun to enact or strengthen laws prohibiting unequal pay for equal or similar work, some based on categories beyond sex to include things like race or religion. Moreover, there has been a related trend of state and local laws prohibiting employers from basing pay on—or even asking questions about—an applicant's prior salary history. By last count, 11 states and nine cities/counties have banned employers from asking questions about or relying upon salary history. Fisher Phillips' Pay Equity Interactive Map is a helpful tool to ascertain existing state and local pay equity legislation. It appears that this recent trend will continue in 2019, as we have already seen a flurry of new bills aimed at addressing pay inequity. A number of states have introduced pending legislation that would run the gamut of pay equity proposals. These include the following:

- **New York** – Legislation introduced in New York would prohibit employers from seeking salary history from prospective employees. Separate legislative proposals seek to address pay equity involving public employees and the civil service system.
- **Pennsylvania** – A proposal would prohibit employers from seeking or relying on salary history, retaliating against employees, or prohibiting them from inquiring about or discussing wages.
- **Indiana** – Separate proposals in Indiana would prohibit unequal pay on the basis of sex or sex, race, and national origin.
- **Wyoming** – Proposed legislation in Wyoming would promote wage equality in state employment and require reporting and increase penalties for equal pay violations by all employers.
- **Virginia** – Proposed legislation would revamp Virginia's equal pay laws to prohibit pay disparities based on numerous protected categories, bar employers from seeking or relying on salary history and require pay transparency that permits employees to discuss wages.
- **South Carolina** – Separate proposals in South Carolina seek to revise and strengthen the equal pay laws applicable to private employers and state workers.

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- **Mississippi** – Proposed legislation in Mississippi would enact an equal pay act for the first time. Currently only a handful of states, including Mississippi, North Carolina and Alabama have no equal pay laws.
- **Texas** – A proposal in Texas would establish a Pay Equity Task Force to assess whether pay disparities on the basis of gender or race exist in state agencies, counties, and municipalities.

It's still early in the legislative process in most states, so this likely isn't the last we've heard on this issue from state houses around the country. While the #MeToo movement and legislation related to sexual harassment has garnered most attention over the last year or so, employers should be aware that public policy related to pay equity, especially gender, continues to be a hotbed of activity. While there could be federal discussion of this issue in Congress, based on the current political stalemate in Washington D.C., it is clear that most pay equity legislation will continue to come from the states.

For more information about how this and other proposed legislation could affect your workplace, contact any Fisher Phillips attorney or a member of the [Pay Equity Practice Group](#).

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