

An Act Relative to Salary Range Transparency

On July 31, 2024, Governor Maura Healey signed into law, “An Act Relative to Salary Range Transparency” (“Act”), codified as Chapter 141 of the Acts of 2024 and found [here](#). The Act requires employers in the Commonwealth to disclose salary ranges and affirmatively protect an employee’s right to request information about salary ranges. As will be discussed in further detail below, the Act imposes significant new requirements and obligations on public and private employers.

Pay Range Posting and Disclosure Requirements

The pay range posting and disclosure requirements found in the Act will be applicable to Massachusetts public and private sector employers with 25 or more employees beginning on July 31, 2025. Specifically, the Act requires these employers to disclose the pay range for any position in both internal and external job postings. The term “pay range” is defined as “the salary range or hourly range that the covered employer reasonably and in good faith expects to pay” for the position at the time of posting the opening. Notably, this definition does not encompass other forms of compensation such as benefits, commissions, or bonuses.

The Act defines the term “job posting” as, “any advertisement or job posting intended to recruit job applicants for a particular and specific employment position” and includes postings facilitated by recruiters or third parties. Although the Act does not specifically address particular types of job postings, such as, for example, postings made on a job board, local government’s website, or social media, to strictly comply with the Act all job postings must comply with the pay range posting requirements.

The Act also requires employers with 25 or more employees to disclose the pay range for a “particular and specific employment” to an employee who is offered a promotion or transfer to a new position with different job-related duties. An employer must also, upon request, disclose the pay range for a “particular and specific employment” to an employee currently holding, or to an applicant for, such position. While the Act does not address the timeframe for, or manner in which, the pay range must be disclosed during the promotion or transfer process, employers may wish to avoid potential challenges by providing such information at the start of, or early in, the process.

Reporting Obligations

For local government employers with 100 or more employees, the Act imposes additional reporting requirements; public sector employers with less than 100 employees are not subject to these requirements. The reporting requirements parallel those required by federal law, to include workforce demographics and pay data categorized by race, ethnicity, sex and job category. These reports, known as “Employer Information Reports,” are submitted to the U.S. Equal Employment Opportunity Commission (“EEOC”) on a periodic basis, and are referred to

numerically, depending upon the entity involved, i.e., state and local governments (“EEO-4”), and elementary-secondary school staff (“EEO-5”). The Act mandates that government employers subject to the reporting requirements of the Act to provide the Secretary of the Commonwealth with the same information on a biennial basis, with the EEO-5 elementary-secondary school reporting beginning February 1, 2025, and the EEO-4 state and local government reporting beginning February 1, 2026. The Act anticipates that the Secretary will establish a digital portal for submission of the required reports.

The Act requires the Secretary to submit the filed reports to the Executive Office of Labor and Workforce Development (“EOLWD”) by April 1, and the EOLWD thereafter will publish on its website by June 1 aggregated data reports. Notably, the Act exempts from the definition of a “public record” the individual employer reports submitted to the Secretary.

Retaliation Prevention and Enforcement

It is unlawful for covered employers to discriminate or retaliate against any employee or applicant because the employee or applicant: (1) acted to enforce their rights under the Act; (2) complained to their employer, an agent of their employer, or the Attorney General regarding an alleged violation of the Act; (3) initiated a proceeding under the Act; or (4) testified or is going to testify at any proceeding regarding the Act.

The Act vests the Attorney General with sole authority to enforce the Act through injunctive or declaratory relief or imposition of fines. The Act defines a violation to include, “1 or more job postings for positions made by the same employer during a 48-hour period” that fail to include the required pay range information and failure to comply with the Act’s reporting requirements. Violators will be subject to escalating fines, with a warning for the first offense, and then fines of no more than \$500 for a second offense, no more than \$1,000 for a third offense, and ranging from \$7,500 to \$25,000 for fourth and subsequent offenses. The Act does not include a private right of action for enforcement by individuals. Fines issued under the Act will not be subject to treble damages under the Massachusetts Wage Act.

Next Steps for Employers

To prepare for compliance with the new salary range posting, and, if applicable, reporting requirements, local government employers may take the following steps: (1) review and revise existing policies and procedures to require pay ranges to appear in all job postings; (2) ascertain pay ranges for all positions to be posted; and (3) familiarize and train personnel involved in employment recruitment concerning the Act’s requirements.

If you have any questions concerning the Act, please contact any of the firm’s Labor and Employment attorneys at 617.556.0007. Visit our website at www.k-plaw.com to find this eUpdate and other important resources, or, go directly to the eUpdate page, found [here](#).

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