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What Happens When Salaries Stop Being Secret? We're About to Find Out as Wage Transparency Laws Spread

"I think it's going to force more companies to take a closer, more active look and engage themselves with pay equity more. And it will also give people a chance to say 'I don't think my pay is fair,' and engage on that issue," said attorney David Rapuano.

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Gender Diversity

Charles Toutant

What You Need to Know

- A growing number of jurisdictions is adopting laws that require employers to disclose information about their employees' wage ranges.
- The next step in the wage transparency movement could be the adoption of laws requiring employers to submit salary data to a government agency that will search for evidence of discrimination.
- Some observers said young workers embrace wage transparency and associate it with fairness and job satisfaction.

Lawmakers across the nation are adopting a crop of wage transparency laws, imposing new obligations on employers in an effort to stamp out inequities in compensation. But it remains to be seen whether more information about other people's earnings will make pay more equitable, or reduce the number of salary-discrimination lawsuits.

State and local governments have been adopting increasingly far-reaching measures in the name of making compensation more equitable. And while those measures are far from universal, large corporations doing business in all 50 states are turning the laws passed in states like New York and California into a default national standard, some observers said.

States with wage transparency laws include California, Colorado, Connecticut, Maryland, Nevada, Rhode Island and Washington.

Jersey City, New Jersey and New York City, Ithaca and Westchester County, New York also have enacted such measures, as have Cincinnati and Toledo, Ohio.

And a wage transparency law for the State of New York is awaiting the signature of Gov. Kathy Hochul.

Those laws require employers to disclose a wage range for each job, although laws vary as to whom is entitled to disclosure and under what circumstances.

"More information about the pay range will give employees more bargaining power and leverage as they're negotiating starting pay. As starting pay is far and away the most impactful pay decision, getting started right means that you have a good grounding for equity going forward," said Christine Hedrickson, vice president of strategic initiatives for Syndio, a Seattle company offering software for analyzing wage equity.

What's more, since employees will soon know where their salary falls in the wage range for their job, companies will need to be ready to explain why a particular employee falls in the bottom, top or middle of the range, said Hendrickson, a former Big Law attorney whose practice focused on pay equity.

Multimillion-Dollar Settlements

It's too soon to know if wage transparency laws serve to reduce gender- or race-based wage disparities, but a [Harvard Business Review](#) article said such laws make it easier to attract talented workers and have a positive impact on employees' feelings of trust, fairness and job satisfaction and have been found to boost individual performance.

Laws intended to ensure pay equity got a big boost in 2016, when states such as California, New York, Nebraska, Maryland and Massachusetts enacted new laws, and courts saw an uptick in wage discrimination class actions.

At first, Hendrickson said, pay equity class action settlements reached \$3 million to \$4 million, at most, but before long there were settlements of \$100 million with Riot Games, a video game company; \$118 million against Google and \$175 million against Signet Jewelers.

The first jurisdiction to adopt a wage transparency law was Colorado, said Maria Papasevastos, an attorney at Seyfarth Shaw in New York who focuses on wage equity. The Colorado law, adopted in January 2021, required employers to put the wage range on job postings and also required that current employees receive notice about wage ranges.

"The big turning point was Colorado. From there, we had Connecticut and Nevada and other states apply this to applicants and employees as well," Papasevastos said.

Remote Work Among Complications

Observers of the wage transparency trend expect more jurisdictions will adopt similar laws. The next phase of the transparency movement appears to be embodied in a bill awaiting the signature of California Governor Gavin Newsom.

That bill would require employers to submit data about the gender, race and ethnicity of their workers to a government agency along with median and median pay gaps, and state bureaucrats will crunch the numbers to look for signs of wage discrimination.

Under the California law, information submitted in such reports would not be available to the public, Hendrickson said. "They are using it to go after employers for wage discrimination, so while it's not public, it's not toothless," she said.

Illinois has a similar law, and another such measure has been proposed in Massachusetts.

Complying with wage transparency laws means getting help from lawyers, especially for companies that operate in multiple jurisdictions, said Papasevastos.

"Companies have seen these laws pop up across the country, and they are looking to get guidance on how to comply. A lot of companies reach out to me to guide them on how to comply," Papasevastos said.

The new laws are particularly vexing for employers who hire remote workers who can perform their jobs anywhere, she said.

"If we have one single employee working remotely in Colorado, does that mean we have to include the salary range on every single job opportunity that can be performed remotely in that jurisdiction?" Papasevastos asked.

'Easy to Run Afoul'

Some of the laws are less than clear about their reach.

For example, the Jersey City ordinance, which took effect April 13, applies to companies with their principal base of business in Jersey City or who use print or digital media circulating in that city. But the term 'principal place of business' is not defined in the ordinance, and it's hard to know just which employers are covered, she said.

"Maybe Jersey City will come out with some guidance for us, but beyond that, we're not left with much," Papasevastos said.

Some of the new laws are expansive in scope.

For example, a company in Nevada hiring remote workers who can be in any location would appear to be subject to the wage posting laws drafted by the New York City and the State of New York, said David Rapuano, a labor and employment lawyer at Archer in Voorhees, New Jersey.

“It makes the process for employers extremely difficult to know what laws they have to apply where, and if you have to apply simultaneously the laws of all 50 states,” said Rapuano. He adds that the New York laws apply to businesses as small as four employees, and such small operations don’t have the funds to hire lawyers for advice on compliance. “It becomes incredibly burdensome and incredibly easy to run afoul of them despite every good intention,” he said.

Rapuano finds merit in the new laws, but also wonders if they will “create as many problems as they may solve.”

“The question is, is the cost worth the benefit? And I don’t know the answer to that. I think it’s going to force more companies to take a closer, more active look and engage themselves with pay equity more. And it will also give people more of a chance to say ‘I don’t think my pay is fair,’ and engage on that issue. Overall, I think it will help, but I’m not sure if the burden won’t offset the gain,” Rapuano said.

Followers of TikTok might have noticed that videos of random people discussing how much they earn are a popular theme. Hendrickson says the videos are a sign of a generational divide on how wage transparency is viewed.

“I do think that I do think Gen X and to a lesser extent Millennials have a real interest in transparency and it becomes a litmus test for organizations that they want to work for,” Hendrickson said.

“it’s funny, because there’s always been a bit of secrecy around what you’re making and not wanting to tell other people,” Papasevastos said. “I think its something that the public appears to be getting more comfortable with, taking about their own wages. As far as knowing what other people make, I’m not sure if were going to be quite there with having complete transparency with what everybody’s making, but its definitely interesting to see this trend towards the desire for more transparency.”

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