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Washington Enacts a New Pay Transparency Law

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Currently, seven states require employers to provide (either proactively or upon request) a position's wage or salary information to applicants, and, in some cases, to employees. These states are California, Colorado, Connecticut, Maryland, Nevada, Rhode Island and Washington.

Washington first enacted its Equal Pay and Opportunities Act in 2019. That law requires employers with 15 or more employees to disclose the minimum wage or salary for a position upon an applicant's request once a conditional offer of employment is made.

Effective on January 1, 2023, however, the law requires that the employer proactively disclose "in *each* posting" for each job opening the wage scale or salary range and a general description of all of the benefits and other compensation to be offered to the applicant. A "posting" means any solicitation intended to recruit job applicants for a specific available position, including recruitment done directly by an employer or indirectly through a third party, and includes any postings done electronically or in hard copy that includes qualifications for desired applicants. And, as under current law, employers must disclose that information for internal transfers.

An applicant or employee may bring a civil action for violations of these provisions, and may recover the greater of actual damages or statutory damages of \$5,000, plus interest, costs, and reasonable attorney's fees.

The law does not define "wage scale or salary range" or "benefits and all other compensation." Nor does the law specify whether it applies only to jobs that may be performed physically in Washington or whether it also encompasses remote positions elsewhere. We expect that the Washington Department of Labor & Industries will issue further guidance on the law in the coming months.

Employers should begin to take steps to comply with the law's new proactive disclosure requirements. Contact your Vorys lawyer if you have questions about complying state pay transparency requirements.