



THE “WAGE HISTORY AND WAGE RANGE” BILL: KEY TO CLOSING THE WAGE GAP AND STRENGTHENING MARYLAND BUSINESSES AND ECONOMY

The Wage History and Wage Range bill (HB 634/SB 738) addresses a practice that Marylanders recognize as unfair and unnecessary: relying on job applicants' salary history in hiring and setting pay. It also requires employers to provide a job applicant the wage range for a position upon request. This bill will help ensure that employees are paid based on factors like their experience, skills, and the responsibilities they are assuming, instead of their salary history—a factor that perpetuates gender and racial pay disparities and harms Maryland families, businesses, and the state economy. And it will ensure employees have the information they need in salary negotiations.

“What is your current salary?” is a question that many job applicants dread, with good reason

Relying on applicants' salary history in setting pay or in screening and evaluating applicants:

- forces women and people of color, who face bias in the workplace and are typically paid less than white, non-Hispanic men, to carry lower earnings and pay discrimination from job to job;
- penalizes individuals who reduced their hours or left their prior job to care for children or other family members, and whose prior salary, consequently, doesn't reflect their qualifications or current market conditions;
- depresses wages for individuals who have previously worked in the public sector or in nonprofits and are moving into the private sector;

- deprives older individuals with higher salaries who are looking to change jobs or re-enter the workforce the opportunity to be considered for lower paying jobs they might seek.

Employers are increasingly recognizing that salary history is not a neutral, objective factor by which to set pay or determine an applicant's interest in or qualification for a position; it is often influenced by discriminatory forces and is not an accurate measure of a candidate's skill, knowledge, experience, or fit for the job. When employers rely on salary history in hiring or setting pay, it can block qualified talent from employment opportunities and perpetuates gender and racial wage disparities throughout Marylanders' careers, Maryland workplaces, and the broader Maryland economy.

When salary range information is secret, women lose out

Women often ask for less when they negotiate than men, even when they are otherwise equally qualified.¹ That may be because it is a common practice for job applicants to ask for an amount that is a 10 to 20 percent increase over their prior salary.² Given that women and people of color are typically paid less than white, non-Hispanic men in the same occupations, they would have to request a particularly large percentage increase over their current pay for their request to be on par with their white, non-Hispanic male counterparts. Fortunately, studies show that when job applicants are clearly informed about the context for negotiations, including the range and types of compensation and benefits available, women are more successful at negotiation, reducing gender wage gaps.³

Many employers already recognize that relying on salary history is neither a necessary nor a good business practice

This legislation will end a practice that a growing number of businesses are choosing to discard as bad for business. Amazon, American Express, Bank of America, Cisco Systems,



Facebook, Google, GoDaddy, Progressive, Starbucks, and Wells Fargo have all announced that they are no longer asking applicants to provide their salary history. In ending this practice, many of these companies acknowledge that asking for salary history perpetuates race and gender wage gaps, and that employees should be paid based on their experience, skills, track record, and the responsibilities they will be assuming, not on what they happened to be paid in their past job. State agencies in New Jersey, New York, Pennsylvania, Michigan, and the District of Columbia have also stopped seeking salary histories from job applicants.

Ending reliance on salary history can also help businesses attract and retain diverse and qualified talent. As a human resources professional stated in Forbes, the practice of seeking salary history from job applicants is “*intrusive and heavy-handed . . . It’s a Worst Practice . . . It hurts an employer’s brand and drives the best candidates away.*”⁴ Moreover, a recent study showed that employers are limiting their talent pools when they rely on salary history. When salary history information was taken out of the equation, the employers studied ended up widening the pool of applicants under consideration and interviewing and ultimately hiring individuals who had made less money in the past.⁵

“As a headhunter, I was trained to ask every candidate for their current salary. What I’ve learned is that this practice perpetuates gender bias in hiring and salary decisions that disproportionately hurts women, especially women of color, and contributes to the continuing pay gap women face. I no longer ask the question. Querying a candidate about what their salary expectations are provides the information an employer needs to make sure the candidate and the position’s salary are a fit.”

- Diana Rubin, Commissioner, Montgomery County Commission for Women and managing director of a national legal recruiting and staffing firm

The “Wage History and Wage Range” bill will stop practices that are harming Maryland employees and businesses

The “Wage History and Wage Range” bill is a simple, straightforward measure that:

- 1) prohibits employers from seeking and relying on job applicants’ salary history in screening and considering applicants for employment and in setting their pay, and
- 2) requires employers to provide the salary range for a position if the applicant applying to the position requests it.

Under the bill, a job applicant can still volunteer her salary history—in a salary negotiation, for example—and an employer can rely on that information to offer the applicant a higher salary. Moreover, nothing in the bill prevents an employer from asking applicants for their salary requirements or expectations.

This bill will help ensure that job applicants are evaluated and compensated based on their experience and skills, not their gender, race, or other factors that may have been relevant to a previous employer but are unrelated to an applicant’s fit for the new job. It ensures that employers pay employees for their new job, not their old one. And it will help level the playing field for negotiating pay to ensure that women and people of color are paid a fair salary based on what the job is worth.

A rapidly growing number of states and localities have enacted similar legislation

Since 2016, there has been a groundswell of support across the country for legislation prohibiting reliance on salary history. Legislation has passed in Massachusetts, Connecticut, Delaware, Vermont, Oregon, Hawaii, and California—all with bipartisan support—and in many localities, including Kansas City, Missouri; Louisville, Kentucky; New York City, Pittsburgh, and San Francisco. In addition, in 2017, California passed a bill requiring employers to provide the salary range for a position upon an applicant’s reasonable request. This year, legislatures across the country are poised to consider similar legislation because lawmakers and the public understand these are commonsense, simple, yet high-impact steps toward fairness. **As a leader on equal pay, Maryland should join the movement.**

- 1 See Linda Babcock & Sara Laschever, WOMEN DON’T ASK: NEGOTIATION AND THE GENDER DIVIDE (2003); Jenny Save-Soderbergh, Are Women Asking for Low Wages? Gender Differences in Wage Bargaining Strategies and Ensuring Bargaining Success, Swedish Inst. Soc. Res. Working Paper Series 7/2007 10 (2007), available at https://ideas.repec.org/p/hhs/sofiwp/2007_007.html.
- 2 See Jacquelyn Smith, How Much Money to Ask for in a Salary Negotiation (May 22, 2015), <http://www.businessinsider.com/how-much-money-to-ask-for-in-a-salary-negotiation-2015-5>; Melissa Phips, Interview Questions about Your Salary Expectations (Nov. 11, 2016), <https://www.thebalance.com/interview-questions-about-your-salary-expectations-2061235>.
- 3 See, e.g., Hannah Riley Bowles, Linda Babcock & Kathleen L. McGinn, Constraints and Triggers: Situational Mechanics of Gender in Negotiations, 89 J. PERSONALITY & SOC. PSYCH. 951, 955-56 (2005).
- 4 Liz Ryan, When Someone Demands Your Salary History, Give Your Salary Requirements Instead, forbes (Jan. 16, 2017), <https://www.forbes.com/sites/lizryan/2017/01/16/when-they-demand-your-salary-history-give-your-salary-requirement-instead/#944ba255a8bb>.
- 5 Moshe A. Barach & John J. Horton, How do Employers Use Compensation History: Evidence From a Field Experiment (CESifo, Working Paper No. 6559, 2017), <http://moshebarach.com/wp-content/uploads/2017/06/WageHistory.pdf>.

