

A Bill for an Act Relating to Employment Earnings.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that requiring employers to include pay or salary as part of a job advertisement helps to increase pay transparency and equal pay for all employees. California, Colorado, and New York City have recently enacted laws requiring job advertisements to include pay, and initial experiences have benefited employers, current employees, and prospective employees. Employers and prospective employees spend less time interviewing because prospective employees will not apply to jobs with a pay level that they feel is too low, and current employees have benefited from seeing the salaries of new employees and have used that information to seek higher wages, thereby helping to reduce pay inequalities.

The purpose of this Act is to reduce pay inequalities by:

- (1) Requiring certain job listings to disclose the hourly rate or salary range that reasonably reflects the actual expected compensation; and
- (2) Prohibiting an employer from discriminating between employees because of any protected category by paying wages to employees in an establishment at a rate less than the rate at which the employer pays wages to other employees in the establishment for substantially similar work.

SECTION 2. Chapter 378, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**“§378- Job listing; disclosures.** (a) Job listings shall disclose an hourly rate or salary range that reasonably reflects the actual expected compensation.

- (b) This section shall not apply to job listings for:
  - (1) Positions that are internal transfers or promotions within a current employer;
  - (2) Public employee positions for which salary, benefits, or other compensation are determined pursuant to collective bargaining; or
  - (3) Positions with employers having fewer than fifty employees.”

SECTION 3. Section 378-2.3, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

**“§378-2.3 Equal pay[; sex discrimination].** (a) No employer shall discriminate between employees because of [~~sex;~~] any protected category listed in section 378-2(a)(1) by paying wages to employees in an establishment at a rate less than the rate at which the employer pays wages to other employees [~~of the opposite sex~~] in the establishment for [~~equal work~~] substantially similar work on jobs the performance of which requires equal skill, effort, and responsibility, and that are performed under similar working conditions. Payment differentials resulting from:

- (1) A seniority system;
- (2) A merit system;
- (3) A system that measures earnings by quantity or quality of production;
- (4) A bona fide occupational qualification; or

(5) A differential based on any other permissible factor other than ~~[sex;]~~ any of the protected categories listed in section 378-2(a)(1), do not violate this section.”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on January 1, 2024.

(Approved July 3, 2023.)

**Note**

1. Edited pursuant to HRS §23G-16.5.