

## Amendments to Washington's Equal Pay and Opportunity Act

by [Lucinda J. Luke](#)

Amendments to Washington's Equal Pay and Opportunity Act (EPOA) go into effect January 1, 2023 (with no grace period) and require most employers who engage in business in Washington state to include pay ranges and benefits information in their job postings.

The Washington Department of Labor and Industries has recently released its administrative guidance on the amendments. The following are a few of L&I's guidance points:

- **Definition of “Employer” and “Applicant”.** The law covers any employer that “engages in any business, industry, profession, or activity” in Washington. The salary disclosure requirements apply to employers who have 15 or more employees (only 1 needs to be a Washington-based employee). Employers are covered if they (1) engage in business in Washington or (2) recruit for jobs that could be filled by a Washington-based employee. An applicant is anyone, including a current employee, who applies for a posted position.
- **“Posting” defined.** A posting is defined as “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 with a printed hard copy, that includes qualifications for desired applicants.”
- **Wage scale or salary range.** The salary range should be clear and without open-ended phrases such as “\$10,000/per month and up.” L&I’s guidance also clarifies that “wage scale or salary range” is the “reasonable and genuinely expected range of compensation.” Job listings that can be filled with varying job titles should list a range for each job title.
- **Commissions or piece rate jobs.** Jobs that pay commissions or piece rate “should include the rate or rate range that would be offered to the hired applicant,”
- **“Benefits” defined.** L&I’s guidance lists of the benefit that should ordinarily be listed: healthcare benefits, retirement benefits, any benefits permitting paid days off, and any other benefits that must be reported for federal tax purposes, such as fringe benefits.” Employers need not assign a monetary value to their benefits.
- **Other compensation.** Employers need not assign a value to compensation that is not a wage or salary such as stock options or bonuses. L&I suggests that a compliant reference

to bonuses and stock could be: *"Hired applicant will be able to purchase company stock, receive annual bonuses, and can participate in profit-sharing."*

**Penalties, damages, private right of action.** Applicants may sue for "actual damages; statutory damages equal to the actual damages or five thousand dollars, whichever is greater; interest of one percent per month on all compensation owed; and costs and reasonable attorneys' fees."

Employers are encouraged to seek the advice of counsel as they prepare to revise or rework their Washington job postings and hiring practices.