



Foster  
Garvey

Washington Labor  
Law Change

# / Overview

Beginning January 1, 2023, employers must disclose the wage scale/salary range for most job postings for Washington applicants. Additionally, employers must provide a general description of all benefits and other compensation that is offered. These new requirements were enacted as part of the [Equal Pay and Opportunities Act](#), as further explained by the [Washington State Department of Labor and Industries Administrative Policy](#).

The new requirements will impact employers throughout the state, as Washington joins a growing number of states that are adopting similar measures.

## Questions Employers Are Asking

### **WHAT NEEDS TO BE IN A JOB POSTING?**

In a job posting, an employer needs to include the wage scale/salary range, which is the current minimum and maximum compensation for the position, regardless of the qualifications and experience that a candidate may possess. Employers cannot have open-ended salary ranges in a job posting, such as “\$90,000 per year and up.” The employer also should describe other types of compensation, including bonuses, commissions, profit-sharing, stock options.

There also needs to be a general description of benefits, including insured benefits, retirement benefits, paid time off (as described below), and any other benefits that must be reported for federal tax purposes.

### **HOW IN-DEPTH MUST THE DESCRIPTION OF THE BENEFITS BE?**

Compared to other states that have adopted similar laws regarding job postings, Washington State requires more detail about benefits. For instance, with retirement plans, an employer should list the available options, such as 401k, deferred compensation, or employer-funded plans. If an employer offers vacation or paid time off, the posting should list the total number of days/hours an applicant should expect to receive. If insurance plans are included as part of the position's benefits, the employer should list the types of insurance plans such as medical or vision insurance. If an employer offers a paid sick leave policy that is more generous than required by state law or local ordinances, the posting should list the hours per month/days per year.





### **WHAT OTHER TYPES OF COMPENSATION MUST BE INCLUDED IN A JOB POSTING?**

Other types of compensation that should be included in a job posting include bonuses, commissions, profit-sharing, stock options, and other forms of compensation that would be offered to a hired applicant in addition to their salary range. Employers only need to describe the other compensation and do not need to include the total monetary value of the other compensation. If employers choose to include the total monetary value of other compensation in the job posting, they must still include the general description of benefits and other compensation in addition to the wage scale or salary range. On electronic job postings, employers may use a link to provide a more detailed description of benefits and other compensation; however, employers must ensure the link is functional, up-to-date, and the information provided to applicants applies to the specific job posting.

### **WHAT CANNOT BE IN A JOB POSTING?**

Employers cannot have open-ended salary ranges in a job posting, such as listing compensation as “\$90,000 per year and up.”

### **WHO DOES THE LAW APPLY TO?**

The law applies to all Washington employers that have 15 or more employees worldwide and engage in any business, industry, profession, or activity in Washington state. The law applies to employers that may not be physically located in Washington but have one or more Washington-based employees. The statute also covers employers that recruit for jobs that could be filled by a Washington-based employee. Employers cannot avoid duties under the law by stating in the job posting that that Washington-based applicants should not apply. The law covers every position, even part-time and temporary positions. Employers do not need to disclose wage and salary information for jobs to be performed entirely outside of Washington even if the job posting reaches applicants who would fill the position as a Washington-based employee. This out-of-state exception is narrowly applied, and on a case-by-case basis.

### **WHAT ARE THE PENALTIES FOR NONCOMPLIANCE?**

Job applicants or employees can file a complaint with the Washington State Department of Labor and Industries or file a lawsuit for noncompliance with the new law. If a claimant files a complaint with the Department, the employer may be ordered to pay actual damages or \$5,000, whichever is greater; interest of 1% per month on all compensation owed, and costs and reasonable attorneys' fees. Additionally, the Department of Labor and Industries may order a civil penalty for up to \$500 for the first violation. For subsequent violations, the Department may impose penalties up to \$1,000 or 10% of damages, whichever figure is higher. If claimants file a lawsuit, employers may be ordered to pay actual damages, statutory damages equal to actual damages or \$5,000.00, whichever is greater, interest of 1% per month on all compensation owed, and costs and reasonable attorneys' fees. Recovery of wages and interest will be calculated from the first date wages were owed to the employee.

# / At Foster Garvey, we encourage our clients to be proactive in order to avoid future penalties.

For **future job listings**, it is important to thoroughly review postings to ensure that they meet the requirements of the new guidelines.

- / Check whether or not the new guidelines apply to you and your organization.
- / Thoroughly examine a potential posting to ensure that the wage scale/salary range described is in accordance with Washington's new law, and that the benefits for the position have been adequately described as well.
- / Make sure than all types of compensation in addition to the described salary range have been included in a posting.
- / Our attorneys can advise in the review of job postings.



**Jared Van Kirk**

**Principal** / Seattle

206.816.1372 / [jared.vankirk@foster.com](mailto:jared.vankirk@foster.com)

**Bio:** [foster.com/people-jared-van-kirk](https://foster.com/people-jared-van-kirk)



**Mike Brunet**

**Principal** / Seattle

206.816.1480 / [mike.brunet@foster.com](mailto:mike.brunet@foster.com)

**Bio:** [foster.com/people-michael-brunet](https://foster.com/people-michael-brunet)