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Closing the Gender Pay Gap: State and Local Legislative Efforts to Increase Wage Equity

The first bill signed into law by President Barack Obama was the [Lilly Ledbetter Fair Pay Act of 2009](#), which amended Title VII of the Civil Rights Act and other federal statutes to make it easier for employees to file equal-pay lawsuits regarding gender discrimination. The law was hailed by gender pay equity activists as a milestone in federal legislation that would bolster worker protections against pay discrimination.

But more than a decade later, efforts to close the gender pay gap have stalled. A [January 2022 report](#) from the National Partnership for Women & Families found that women in the United States are paid 83 cents for every dollar paid to men, amounting to an annual gender wage gap of \$10,435 on the median pay for full-time workers. The gap is even more pronounced for women of color, with Black women earning 64 cents on the dollar, Latinas just 57 cents, and Asian American and Pacific Islander women just 52 cents. Moreover, the wage gap persists regardless of industry, within various occupations and across all education levels.

Push for More Equity and Transparency

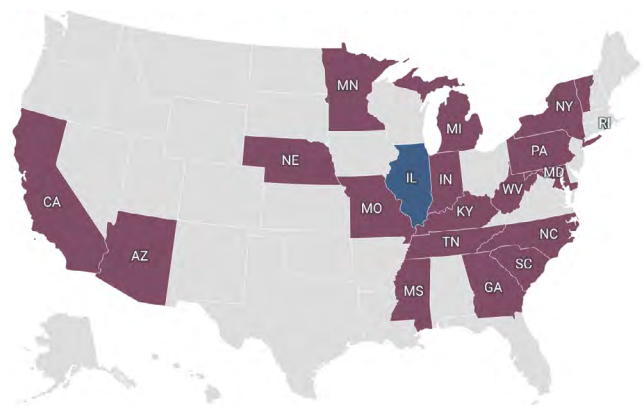
Legislators at the state and local levels have sought to tackle this intransigent problem by proposing new approaches that emphasize increased employer disclosures of what they are willing to pay new workers.

“States have in recent years adopted a wide range of policies aimed at closing the pay gap the rest of the way, including greater emphasis on pay transparency, data collection and efforts to encourage employers to voluntarily implement gender wage equity,” said Richard Ehisen, managing editor of State Net Capitol Journal.



For example, Michigan, Maine, Hawaii, Vermont and Minnesota are among the states that have enacted laws barring employers from preventing employees from sharing their salary information — or from retaliating against them if they discuss their pay package with co-workers. States such as Nevada, Alabama, Washington, Maryland and Oregon have adopted laws and regulations that prohibit employers from [requesting salary information](#) from job applicants. And numerous states have introduced similar wage disclosure legislation in the 2021-2022 biennium.

- Enacted wage disclosure bill(s) in 2021-2022
- Introduced wage disclosure bill(s) in 2021-2022



But the legislative spotlight on gender pay equity has ratcheted up to new heights in three particular jurisdictions:

California

The first sweeping state law to be passed in this recent flurry of activity took place in California back in 2015. Authored by Former State Sen. Hannah-Beth Jackson, the “[California Fair Pay Act](#)” amended state law to eliminate loopholes that had been used for decades by employers to justify inequalities in gender pay.

“California has had an equal pay law since 1949, but it emphasized ‘equal pay for equal work’ and that vague standard allowed employers to pay women much less than their male counterparts,” explained [Ms. Jackson](#). “Our legislation established a new standard of ‘equal pay for substantially similar work’ and places the burden on employers to demonstrate that any differences in pay have no basis in gender bias. It also prohibits retaliation against employees who raise objections to pay discrepancies or who choose to discuss their pay with co-workers.”

Then in 2021, California [became the first state](#) to require companies with 100 or more employees to report wage data by race and gender across 11 pay bands. The goal is to reduce gender pay gaps and make it easier to enforce equal pay laws already on the books.

“We’ve made a lot of progress on the gender pay gap in California, but we still have a ways to go to achieve true pay equity,” said Ms. Jackson.

New York City

The New York City Council [approved](#) an ordinance in December 2021 that requires employers in the nation’s largest city to list minimum and maximum salaries on all job openings in New York City. The law, which applies to any employer with four or more employees, goes into effect in May 2022.

“Forcing employers to disclose salary ranges for available positions will help us more readily identify systemic pay inequities in New York City,” said [Helen Rosenthal](#), former New York City Councilwoman and the sponsor of the bill. “Every New Yorker should have the right to determine whether they will be able to support themselves and their family when they apply for a job.”

The New York City law goes above and beyond the State of New York’s [Pay Equity Law](#), which was adopted

in 2019 and applied the “substantially similar work” standard to equal pay requirements in the state.

Ms. Rosenthal noted that, while the legislation attaches large fines to employers that violate the law, the City is working to educate companies well in advance of its implementation so they have plenty of time to comply, and she does not expect significant financial penalties to be imposed in the immediate term.

“The more light we can direct onto salary disclosure, the better,” she said. “This transparency right up-front is not only fairer for workers but it also saves employers time when recruiting candidates.”

Colorado

Another landmark piece of state legislation on gender pay equity was Colorado’s 2019 “[Equal Pay for Equal Work Act](#),” which went into effect at the beginning of 2021. The law requires employers to post the compensation range and a general description of all employment benefits in their job postings and prohibits employers from paying any employee a wage rate that is less than the rate paid to an employee of a different sex for substantially similar work (absent legally justified reasons). The law imposes fines of up to \$10,000 per violation.

“The first reaction we had as a company to this law was, ‘holy cow, we just outdid New York and California here in Colorado,’” said [Marisa Daspit](#), chief people officer at Ibotta. “We decided to just sit with it for a bit and wait for guidance on some of the details, such as how we were required to handle postings of job promotions. We ultimately decided to focus on the intent of the law, which was basically to provide greater transparency on pay ranges for all jobs so that employees can have the information needed to advance their careers.”

Ms. Daspit explained that Ibotta chose to be a first mover in their space and use the Colorado law as the driver for all job listings in every market, regardless of whether the open position is in Colorado or not. “Quite frankly, we’re now using this commitment to pay transparency and pay equity as a differentiator for our company when recruiting new talent,” said Ms. Daspit.

It remains to be seen how effective the Colorado law will be without greater enforcement — as many employers routinely skirt the disclosure requirements

in their job postings – but Ms. Daspit and others are optimistic that it is an important step.

“Sunshine can be a great disinfectant to clean out dark corners,” she said. “The Colorado law is designed to create more transparency around pay equity and the early indicators are that it might be doing what it was intended to do, which is force employers to think more carefully about compensation policies and conversations with their employees regarding pay.”

The Road Ahead

With new laws now on the books in various state and local jurisdictions, gender pay equity advocates are now looking down the road to the next phase of activity.

Ms. Rosenthal suggests two possible approaches: (1) including all forms of compensation (e.g., bonuses, stock awards, etc.) in the calculation of how employees are paid for purposes of pay equity assessments; and (2) requiring annual conversations with employees to evaluate compensation and discuss the factors determining their pay.

“These things may be uncomfortable for employers and hard to implement at first, but we need to confront this issue head-on and get past these conversations in

order to achieve real progress on pay equity,” she said. Ms. Daspit posits that the free market may soon kick in to drive forward the progress that is at the heart of the new state and local legislation.

“It will be interesting to see how these laws in California, New York City and Colorado might force changes on a national level through market forces,” she said. “The reality is that most companies like ours are national recruiters now, so it’s possible that some of these early state and municipal laws will drive national change among employers. What is clear is that we need to try various things and find out what really moves the needle on closing the gender pay gap.”

Key takeaway: Legislative activity on gender pay equity is likely to heat up in state and local jurisdictions nationwide, so it is crucial for company executives to stay apprised of the latest regulatory developments and key legislative details. Learn more about how [State Net](#) monitors legislative activity in all 50 states to keep you updated on individual bills as they progress through committee as well as new laws that are enacted in each jurisdiction.

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