



In 2019, Employers Can Expect To See A Continued Increase In The Regulation Of Pay Equity Issues

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If the flurry of pay equity legislative activity in 2018 is any indication, it should be no surprise to employers if additional states and localities attempt to regulate pay equity issues in 2019. In 2018 alone, no less than eight states (California, Connecticut, Hawaii, Kentucky, Massachusetts, New Jersey, Pennsylvania, and Vermont) and five localities (Chicago, Kansas City, Philadelphia, San Francisco, and Westchester County) enacted laws prohibiting employers from asking applicants for prior salary information.

To the contrary, only two states, Michigan and Wisconsin, passed state laws prohibiting local jurisdictions from imposing such bans. Furthermore, Washington State amended its equal pay law to prohibit employers from relying on previous wage or salary history to defend against pay bias allegations, and the Ninth Circuit similarly held that employers may not rely on past salary to justify a wage differential between male and female employees.

Such laws seek to curb pay inequities among the genders that may occur if prior salary is used as a means of setting compensation. In light of this increased regulatory activity, employers would be well advised heading into 2019 to review their salary administration policies and conduct internal reviews to identify and remediate inequitable pay disparities.

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