

Amendment - 1st Reading-white - Requested by: Mark Noland - (S) Business, Labor, and Economic Affairs

- 2023

68th Legislature 2023

Drafter: Erin Sullivan, 406-444-3594

SB0146.001.003

1 SENATE BILL NO. 146
2 INTRODUCED BY S. MORIGEAU, F. SMITH, E. MCCLAFFERTY, J. WINDY BOY, J. COHENOUR, R.
3 LYNCH, A. OLSEN, W. CURDY, M. DUNWELL, J. ELLIS, D. HAYMAN, K. KELKER, C. POPE, S. WEBBER,
4 K. ABBOTT, E. BOLDMAN, J. GROSS, L. BISHOP, D. HARVEY, M. WEATHERWAX, T. RUNNING WOLF, M.
5 MARLER, P. FLOWERS, M. FOX, M. STROMSWOLD, E. STAFMAN, D. HAWK, T. FRANCE, M. THANE, S.
6 O'BRIEN, D. BAUM, J. LYNCH, M. ROMANO, S. HOWELL, J. KARLEN, B. CARTER, Z. ZEPHYR

7
8 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LABOR LAWS; CREATING THE WAGE
9 OPPORTUNITY AND TRANSPARENCY ACT; PROHIBITING WAGE DISCRIMINATION BY EMPLOYERS;
10 PROVIDING EXCEPTIONS; REQUIRING THE LISTING OF WAGE INFORMATION IN JOB POSTINGS;
11 PROVIDING DEFINITIONS; AND PROVIDING RULEMAKING AUTHORITY."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 NEW SECTION. **Section 1. Short title.** [Sections 1 through 8] may be cited as the "Wage
16 Opportunity and Transparency Act".

17
18 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 8], unless the context clearly
19 indicates otherwise, the following definitions apply:

- 20 (1) "Commissioner" has the same meaning as provided in 39-1-101.
21 (2) "Employee" means a person employed by an employer.
22 (3) "Employer" means the state or any political subdivision, commission, department, institution, or
23 school district, and every other person employing a person in the state.
24 (4) "Liquidated damages" means damages to compensate an employee for the delay in receiving
25 amounts due because of an employer's violation of [sections 1 through 8]. The term does not constitute a
26 penalty to the employer.
27 (5) "Posting" means any solicitation intended to recruit job applicants for a specific available

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1 position that includes qualifications for desired applicants, including recruitment done directly by an employer or
2 indirectly through a third party, and includes any postings done electronically or with a printed hard copy.

3 ~~(6) "Sex" means an employee's gender identity.~~

4 ~~(7)(6)~~ "Wage rate" means:

5 (a) for an employee paid on an hourly basis, the hourly compensation paid to the employee plus
6 the value per hour of all other compensation and benefits received by the employee from the employer; and

7 (b) for an employee paid on a salary basis, the total of all compensation and benefits received by
8 the employee from the employer.

9
10 **NEW SECTION. Section 3. Wage discrimination prohibited.** (1) An employer may not discriminate
11 between employees on the basis of sex, or on the basis of sex in combination with another protected status as
12 described in 49-2-303(1)(a), by paying an employee of one sex a wage rate less than the wage rate paid to an
13 employee of a different sex for substantially similar work, regardless of job title, based on a composite of skill;
14 effort, which may include consideration of shift work; and responsibility, except if the employer demonstrates
15 each of the following:

16 (a) that the wage rate differential is based on:

17 (i) a seniority system;

18 (ii) a merit system;

19 (iii) a system that measures earnings by quantity or quality of production;

20 (iv) the geographic location where the work is performed;

21 (v) education, training, or experience to the extent that they are reasonably related to the work in
22 question; or

23 (vi) travel, if the travel is a regular and necessary condition of the work performed;

24 (b) that each factor relied on in subsection (1)(a) is applied reasonably;

25 (c) that the factors relied on in subsection (1)(a) account for the entire wage rate differential; and

26 (d) that prior wage rate history was not relied on to justify a disparity in current wage rates.

27 (2) An employer may not: