



David Rodwin, Attorney
Public Justice Center
1 North Charles Street, Suite 200
Baltimore, Maryland 21201
410-625-9409, ext. 249
rodwind@publicjustice.org

HB 14: Equal Pay for Equal Work – Inquiring About Wages – Prohibition on Adverse Action

Hearing before the Economic Matters Committee, Feb. 4, 2020

Position: SUPPORT

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project works to expand and enforce the right of low-wage workers to an honest day’s pay for an honest day’s work. The PJC supports HB 14, which would correct a technical oversight in Maryland’s Equal Pay for Equal Work law by protecting an employee who asks about her own wages in the same ways that the law already protects an employee who asks about a coworker’s wages.

The Equal Pay for Equal Work Law seeks to protect employees who ask about their wages, but as written it does not do so. Under the Equal Pay for Equal Work law, an employer may not prohibit an employee from inquiring about either (i) her wages or (ii) another employee’s wages.¹ However, the law protects that employee from adverse employment action (i.e., retaliation) only if she asked about *another* employee’s wages—not if she asked about her own. This chart shows the problem in the current version of the law:

Employee’s action	Can the employer prohibit it?	Can the employer retaliate against an employee who does it?
Asks about <i>a coworker’s</i> wages	No	No
Asks about <i>her own</i> wages	No	Yes – <i>this is the problem HB 14 will fix</i>

The law is intended to protect employees who ask about their own wages, as shown by the fact that it bars employers from prohibiting an employee from inquiring about her wages. As written, though, it does not do so.

HB 14 provides a technical fix to this gap in employee protection and would help employees determine whether they are receiving equal pay for equal work. The bill would correct the problem by inserting “the employee’s wages or” in section 3-401.1(a)(3)(i). That way, the law would prevent an employer from retaliating against an employee for “inquiring about *the employee’s wages or another employee’s wages.*” This amendment,

¹ Compare Md. Code Ann., Lab. & Empl. § 3-304.1(a)(1)(i) (“An employer may not . . . prohibit an employee from . . . inquiring about, discussing, or disclosing the wages of the employee or another employee”) with Md. Code Ann., Lab. & Empl. § 3-304.1(a)(3)(i) (“An employer may not . . . take any adverse employment action against an employee for . . . inquiring about another employee’s wages”) (emphasis added).

while technical, is important to ensure that employees can inquire about both their own wages and a colleague's wages without fear of retribution.

While employees generally know their hourly pay rate or annual salary, they may have other questions about their own wages. Questions about "wages" include when an employee asks (i) for a raise in her wage rate so that her pay matches that of her male colleagues, (ii) whether she is receiving compensation for time she works on weekends or after hours, (iii) what her overtime pay rate or bonus pay is, so that she can determine whether her rate or bonus is equivalent to male colleagues, or (iv) any one of a number of other questions an employee might ask to determine whether she is receiving equal pay for equal work.

Employers remain able to keep other employees' wages confidential. Neither the current version of the Equal Pay for Equal Work law nor HB 14 requires an employer to inform an employee of a coworker's wages. The law provides that an employer may not prohibit an employee from asking about other employees' wages, but does not require an employer to disclose other employees' wages.

For the foregoing reasons, the PJC **SUPPORTS HB 14** and urges a **FAVORABLE** report. Should you have any questions, please call David Rodwin at 410-625-9409 ext. 249.