WEST virginia legislature

2021 regular session

Introduced

Senate Bill 288

By Senators Beach, Lindsay, Caputo, Ihlenfeld, Jeffries, and Unger

[Introduced February 13, 2021; referred  
to the Committee on the Workforce; and then to the Committee on the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-11-9b, relating to the Katherine Johnson and Dorothy Vaughan Fair Pay Act of 2021; honoring Katherine Johnson and Dorothy Vaughan; making it unlawful for an employer to require, as a condition of employment, that an employee refrain from disclosing information about his or her wages, benefits, or other compensation, or sharing information about another employee’s wages, benefits, or other compensation; making it unlawful for an employer to require a waiver of employees’ rights to disclose information about his or her wages, benefits, or other compensation, or to share information about another employee’s wages, benefits, or other compensation; and limiting employer’s inquiry into applicant’s wage and salary history.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. HUMAN RIGHTS ACT.

§5-11-9b. The Katherine Johnson and Dorothy Vaughan Fair Pay Act of 2021.

(a)(1) This section may be cited as the “Katherine Johnson and Dorothy Vaughn Fair Pay Act of 2021,” in honor of both Katherine Coleman Gobel Johnson and Dorothy Johnson Vaughan, two African American mathematicians with close ties to Morgantown and White Sulphur Springs, West Virginia.

(2) Dorothy Johnson Vaughn was born in Kansas City, Missouri, and moved with her family to Morgantown, West Virginia when she was seven. Selected as valedictorian, Ms. Vaughan graduated from Beechurst High School in Morgantown in 1925 and received a B.S. degree in 1929 from Wilberforce University in Zenia, Ohio. In 1943 she took a position at NACA, the National Advisory Committee for Aeronautics (the predecessor agency to NASA) in Hampton, Virginia. Ms. Vaughan was among the first group of African Americans to be hired as mathematicians and scientists following an Executive Order from President Roosevelt prohibiting discrimination in the defense industry. State law requiring “colored” employees to work separately from their white counterparts was followed despite the Order. In 1949 Ms. Vaughan became the first Black supervisor at NACA when she was promoted to manager of the West Area Computers. This workgroup was composed entirely of African-American female mathematicians. Ms. Vaughan led the West Area Computing program for a decade. In 1958, NACA became NASA and abolished the segregated working environment. Ms. Vaughan joined the new Analysis and Computation Division, becoming an expert FORTRAN programmer. Sadly, after desegregation, Ms. Vaughan sought but never received another management position at NASA. Ms. Vaughan died on November 10, 2008. Her legacy and the story of the other women of West Computing lives on in the 2016 film *Hidden Figures.*

(3) Katherine Coleman Gobel Johnson was born on August 26, 1918 in White Sulphur Springs. and educated in West Virginia. Later awarded the Presidential Medal of Freedom, America's highest civilian honor, Ms. Johnson’s brilliance with numbers landed her on the campus of historically Black West Virginia State College at age 13. In 1939, she was one of three Black students chosen to help integrate the graduate program at West Virginia University. Although her complex analyses were used in America’s first human space flight and landing on the moon, she and the Black female crew with whom she worked were degraded by having to use a segregated bathroom a long distance from their worksite. The women in her unit suffered economically as well, by being paid far less than the white male engineers at Langley who performed similar work. This legislation is intended to prevent future wage discrimination like that endured by Ms. Johnson and her Black female coworkers, by providing greater transparency about pay rates and banning practices that may perpetuate the effects of past wage discrimination.

(b) It is an unlawful discriminatory practice, unless based on a bona fide occupational qualification, or except where based on applicable security regulations established by the United States or the State of West Virginia or its agencies or political subdivisions, for any employer to:

(1) Require, as a condition of employment, that an employee refrains from disclosing, discussing, or sharing information about the amount of his or her wages, benefits or other compensation or from inquiring, discussing or sharing information about any other employee’s wages, benefits, or other compensation;

(2) Require an employee to sign a waiver or other document that denies the employee the right to disclose the amount of his or her wages, benefits, or other compensation or to inquire about, discuss, or share information about any other employee’s wages, benefits, or other compensation; or

(3) Inquire, or direct a third party to inquire, as to a job applicant’s wage and salary history from the applicant or a current or former employer. If an applicant voluntarily and without prompting discloses information about his or her compensation, the employer may seek to confirm that information after extending an offer of employment with compensation to that person.

NOTE: The purpose of this bill is to establish the “Katherine Johnson and Dorothy Vaughn Fair Pay Act of 2021”. The bill makes it an unlawful discriminatory practice for an employer to make a condition of employment, or to prohibit an employee from disclosing information about his or her wages, benefits, or other compensation, or sharing information regarding any other employee’s wages, benefits, or other compensation. The bill also limits employers’ inquiry into a job applicant’s wage and salary history.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.