

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3247

BY DELEGATES FLEISCHAUER, WALKER, ZUKOFF, YOUNG,
STORCH, SYPOLT, SKAFF, LOVEJOY, BROWN, FLUHARTY
AND STATLER

[Introduced March 16, 2021; Referred to the
Committee the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
 2 designated §21-5I-1, §21-5I-2, §21-5I-3, §21-5I-4 and §21-5I-5, relating to the rights of
 3 applicants and employees to inquire about wages, benefits, and other compensation; and
 4 providing for a cause of action for violations.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5G KATHERINE JOHNSON AND DOROTHY VAUGHAN FAIR PAY ACT

§21-5I-1. Title of article.

1 This article may be referred to as the Katherine Johnson and Dorothy Vaughan Fair Pay
 2 Act to honor and memorialize the contributions of these women with ties to West Virginia who
 3 were significant characters in the book and movie “Hidden Figures.” Both women contributed to
 4 our country’s efforts to explore space and land a person on the moon, and both suffered
 5 substantial pay discrimination. This Act is intended to allow employees a means of discovering
 6 whether they are receiving fair pay.

§21-5I-2. Definitions.

1 For the purposes of this article:
 2 (1) “Employee” means any person suffered or permitted to work by a person, firm or
 3 corporation; and
 4 (2) “Employer” means any person, firm or corporation employing any employee.

§21-5I-3. Range of wages, benefits, and other compensation to be provided.

1 (a) On request, an employer shall provide to an applicant for employment the range of
 2 wages, benefits, and other compensation to be provided for the position for which the applicant
 3 applied.
 4 (b) An employer may not retaliate against or refuse to interview, hire, or employ an
 5 applicant for employment because the applicant:
 6 (1) Did not provide a history of wages, benefits or other compensation earned in previous
 7 employment; or

8 (2) Requested the range of wages, benefits, and other compensation in accordance with
9 this section for the position for which the applicant applied.

10 (c) An employer may not inquire of the applicant about past wages, benefits, or other
11 compensation without complying with the provisions contained in subsection (d) of this section.

12 (d) After an employer makes an initial offer of employment with an offer of compensation
13 to an applicant for employment, an employer may:

14 (1) Rely on the wage history voluntarily provided by the applicant for employment to
15 support a wage offer higher than the initial wage offered by the employer: or

16 (2) Seek to confirm the wage history voluntarily provided by the applicant for employment
17 to support a wage offer higher than the initial wage offered by the employer.

18 (e) This section does not prohibit an applicant for employment from sharing wage history
19 with an employer voluntarily.

§21-5I-4. Pay Transparency.

1 (a) An employee may:

2 (1) Inquire about the wages, benefits or other compensation of another employee;

3 (2) Disclose, discuss or share information or refuse to disclose, discuss or share
4 information about the amount of the employee’s own wages, benefits or other compensation;

5 (3) Discuss another employee’s wages if those wages have been disclosed voluntarily;
6 and

7 (4) Aid or encourage another employee’s exercise of rights under this section.

8 (b) An employer may not:

9 (1) Prohibit an employee from inquiring about, discussing, or disclosing the wages of the
10 employee or another employee;

11 (2) Require an employee to sign a waiver or any other document that purports to deny the
12 employee the right to disclose or discuss the employee’s wages, benefits or other compensation;

13 or

14 (3) Take any adverse employment action against an employee for exercising rights
15 afforded by this section.

16 (c) Nothing in this section may be construed to permit an employee, without the written
17 consent of an employer, to disclose proprietary information, trade secret information, or
18 information that is otherwise subject to a legal privilege or protected by law; or permit an employee
19 to disclose wage information to a competitor of the employer.

§21-5I-5. Remedies.

1 Any person injured as a result of any violation or threatened violation of this article shall
2 have a cause of action, and, if proven in a court of competent jurisdiction, may be entitled to the
3 following relief against a person or persons violating or threatening to violate this article:

4 (1) Compensatory damages;

5 (2) Costs and reasonable attorney fees, which shall be awarded if the injured person
6 substantially prevails;

7 (3) Punitive damages in accordance with the provisions of section §55-7-29 of this code;

8 (4) Preliminary and permanent injunctive relief; and

9 (5) Any other appropriate equitable relief.

NOTE: The purpose of this bill is to state an employee’s right to inquire about wages under the Katherine Johnson and Dorothy Vaughan Fair Pay Act. It requires an employer to provide wage range to applicants; and provides for civil and criminal penalties for violations.

Underscoring indicates new language that would be added.