

TO: Vermont Senate Committee on Economic Development, Housing, & General Affairs
FROM: Cary Brown, Executive Director of the Vermont Commission on Women

RE: H704, an act relating to disclosure of compensation in job advertisements
April 23, 2024

Thank you for considering advancing Vermont's efforts towards pay equity with H704, an act relating to disclosure of compensation in job advertisements. The Vermont Commission on Women is supportive of the bill in its current form, and also has some suggestions for possible edits that may provide additional clarity.

Some of the concerns raised in this committee's discussion on April 12, 2024 were a possible need for:

- **additional clarity around the kinds of information that would be required in different kinds of job postings**
- **additional clarity around the meaning of "good faith" in the bill**

ADDITIONAL CLARITY AROUND THE KINDS OF INFORMATION THAT WOULD BE REQUIRED IN DIFFERENT KINDS OF JOB POSTINGS

The intent of the bill is to provide greater information on compensation during the job application process, in order to address some causes of pay inequity based on gender and race. Research shows that when job applicants are clearly informed about the context for negotiations, including the types of compensation, benefits, or conditions that are negotiable, or the typical pay for the position, gender differences in negotiation outcomes lessen¹ and suggests that initiatives which improve transparency are likely to help equalize opportunities for women and people of color at the bargaining table.²

In order to maintain the focus clearly on compensation transparency, and to increase clarity around the kind of information that needs to be provided in different kinds of job postings, **we propose the following changes to the language in the bill:**

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7 (a)(1) An employer shall ensure that any advertisement of a Vermont job

8 opening shall include the following information:

9 (A) the compensation or range of compensation for the job opening;

~~10 and~~

~~11 (B) the job description, if any, for the job opening.~~

¹ [NWLC-Pay-Range-Transparency-Factsheet_2023-1.pdf](#)

² Recalde, Maria & Vesterlund, Lise, "Gender Differences in Negotiation and Policies for Improvement," National Bureau of Economic Research, Working Paper 28183, December 2020

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1 (1) “Advertisement” means written notice, in any format, of a specific
2 job opening that is made available to potential applicants. “Advertisement”
3 does not include:
4 (A) general announcements that notify potential applicants that
5 employment opportunities may exist with the employer but do not identify any
6 specific job openings; or
7 (B) verbal announcements of employment opportunities that are
8 made in person or on the radio, television, or other **digital or** electronic
9 mediums.

These proposed changes would make it easier for employers to comply with the requirements. They would not need to include the job description (which is a requirement that generally does not show up in other states’ equivalent laws), which would make posting easier. For example:

- a handwritten sign in the window of a general store could say “now hiring – inquire within” without including any compensation information, because it is a general announcement that employment opportunities may exist, but doesn’t identify any specific job opening
- a handwritten sign in the window of a general store that says “cashier wanted – inquire within” would need to include the wage range, since it’s a written posting, but it would not need to include any additional job description information
- an announcement in a radio ad, even if it’s for a specific job opening, would not need to include any compensation information
- an online posting, such as Seven Days VT, or a Facebook ad, or a print ad in a newspaper, would not need to include a job description, which makes posting easier because the post can be shorter and simpler

ADDITIONAL CLARITY AROUND THE MEANING OF “GOOD FAITH” IN THE BILL

A concern emerging in recent years of this law being in effect in some states is that some employers may post overly broad ranges that end up not being helpful. Netflix did this in California, posting a pay range of \$60,000 - \$290,000 for a job in consumer products.³ But Colorado amended its law in 2023 to require employers to disclose in good faith the range and benefits, hoping to avoid this problem.

Colorado considered the possibility that conditions might change during the course of the hiring process, leading an employer to feel the need to offer a different range of compensation than was initially posted. They crafted guidance that would allow this kind of change, allowing employers to adjust the compensation offered – as long as the initial offering was accurate at the time of the posting.

The language from Colorado’s regulations on their law⁴ provides some guidance that we may be able to use in H704 to offer similar clarification and flexibility to employers.

In order to be more explicit and clearer about how this would work, we propose the following change to the language in the bill:

³ [How Pay Transparency Laws Help and Limit Job Seekers - The New York Times \(nytimes.com\)](https://www.nytimes.com/2023/07/27/us/politics/netflix-pay-transparency.html)

⁴ [Rule 7 CCR 1103-13-4 - Posting and Notice Requirements, 7 Colo. Code Regs. § 1103-13-4 | Casetext Search + Citor](#)

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14 (4) "Range of compensation" means the minimum and maximum annual
15 salary or hourly wage for a job opening that the employer believes in good
16 faith to be accurate at the time the employer creates the advertisement.

(4) "Range of compensation" means the lowest and the highest annual salary or hourly wage the employer in good faith believes it might pay for the particular job, depending on the circumstances. An employer may ultimately pay more or less than the posted range, if the posted range was the employer's good-faith and reasonable estimate of the range of possible compensation at the time of the posting.

Additionally, we would like to take this opportunity to suggest that the proposed law apply to all employers, and not only to those with five or more employees. The changes to the bill would lessen the burden on employers and provide additional protections to more Vermonters.