

S.5990-A (Ramos)/ A.5906-B (Bores)

STAFF CONTACT : Frank Kerbein | Director, Center for Human Resources | 5184557180

BILL S.5990-A (Ramos)/ A.5906-B (Bores)
SUBJECT Relates to mandatory employer disclosures regarding employee compensation and benefits
DATE May 28, 2025
OPPOSE

Businesses across the state recognize that pay equity is a real concern for certain protected classes. Business Council members are leaders in creating equitable pay structures across all industries. While this bill is intended to address the issue of pay inequity in the workplace, The Business Council, on behalf of its 3,500 members, opposes this bill as being unnecessary considering existing protections, excessively burdensome on employers, contributing to the state's reputation as being "anti-business", and as having consequences more likely to harm New York's workers rather than help them.

This bill is unnecessary. There is currently a myriad of existing laws both at the state and federal level making discrimination in pay unlawful. In fact, New York State has the strongest protections in the nation against discrimination in pay. Recent prohibitions on pre-offer salary inquiries and pay transparency have only added to those already strong protections. Social and market pressures have also been successful in reducing pay inequities. While striving for the goal of total equity, the trend is already quickly advancing in that direction.

The legislation would be burdensome and costly to implement for employers. And may, in fact, subject employers to ERISA and ACA violations regarding notifications to employees and applicants. Generally, employers rely on summary plan descriptions to convey the full and complete description of these benefits. In no way can an employer summarize these documents in another format without exposing themselves to liability.

Regarding the mandate to provide employees certain salary information upon request including "...any other positions requiring equal or substantially similar skill, effort, and responsibility that are performed under similar working conditions", such a mandate would require all employers to engage in a "comparable worth" analysis of all their positions. Adopting a comparable worth standard of pay equity would disrupt the free market, negatively impact salary decisions based on supply and demand, and make New York an outlier that would contribute to the state's reputation of being hostile to business.

Finally, many small employers, the majority of all New York employers, do not have the resources to develop legally compliant job descriptions and therefore do not rely on them. This bill requires job descriptions be developed and included in all employment advertising. This would be a costly administrative burden for most small employers.

This bill will disadvantage many of the employees it purports to help. Employers who currently face intense competition for workers – especially highly specialized workers, will not recruit those workers from New York. Colorado has implemented a similar pay transparency law. Colorado workers find themselves excluded from opportunities because of this law. Having learned during the pandemic that many workers can work from anywhere, companies not wishing to disclose pay and benefits will simply locate these workers in other states.

This bill will contribute to the perception that New York State is unfriendly to business, harm New Yorkers who will be denied employment opportunities, and is impractical and burdensome to implement. For those reasons, The Business Council opposes this bill.