

# Third State This Month Passes Pay Equity Legislation

MAY 31, 2019

Authors: [Margo Wolf O'Donnell](#)

On May 30, 2019, the Alabama state legislature passed a bill that would prohibit wage differentials for similar work on the basis of sex or race. The legislation must still be signed into law by Governor Kay Ivey (R). If enacted, Alabama will leave Mississippi as the only state in the nation that does not have a wage discrimination law on the books.

While most states already prohibit wage discrimination in some fashion, a string of recent legislation has aimed to place additional restriction on employers, focusing primarily on wage and salary history information. As with Washington and Colorado, the Alabama legislation would prohibit employers from discriminating or retaliating against job applicants who refuse to provide their wage and salary history. Unlike Washington and Colorado, however, the Alabama legislation does not include an outright prohibition on employer inquiries about salary histories. Instead, the bill only prohibits employers from refusing to interview, hire, promote, or employ an applicant who refuses to provide such information.

For current employees, the law prohibits employers from paying different wages for similar work based on race or sex. Most employers will also be required to keep records of wages, wage rates, job classifications, and other terms and conditions of employment for all employees for a period of three years.

The legislation authorizes employees and applicants to sue employers in state court for lost wages and interest, but requires employee-plaintiffs to specifically plead that they were paid less than someone else for equal work despite possessing equal skill, effort, education, experience, and responsibility, and that the wage disparity is not attributable to any of the following: (1) a seniority system; (2) a merit system; (3) a system that measures earnings by quantity or quality of production; or (4) any factor other than sex or race. The legislation is silent regarding the pleading requirements for applicants alleging violations of the salary history provisions.

If signed by the Governor, the legislation will take effect on the first day of the third month after its signing. In the interim, employers should consider reviewing job applications and applicable pay scales for compliance with the legislation.

**For more information on this topic, please contact a member of the firm's [Labor & Employment Practice Group](#).**

[Margo Wolf O'Donnell](#) at [modonnell@beneschlaw.com](mailto:modonnell@beneschlaw.com) or 312.212.4982.