

**SENATE . . . . . No. 2468**

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**The Commonwealth of Massachusetts**

—  
**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
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SENATE, October 16, 2023.

The committee on Senate Ways and Means to whom was referred the House Bill relative to salary range transparency (House, No. 4109); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2468.

For the committee,  
Michael J. Rodrigues

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Third General Court  
(2023-2024)**

1           SECTION 1. Chapter 9 of the General Laws is hereby amended by adding the following  
2 section:-

3           Section 32. (a) As used in this section, the words “annual report”, “covered employer”,  
4 “EEO-1 data report”, “EEO-3 data report”, “EEO-4 data report”, “EEO-5 data report” and “wage  
5 data report” shall have the same meanings as defined in section 105E of chapter 149 unless the  
6 context clearly requires otherwise.

7           (b)(1) Annually, not later than May 1, the state secretary shall provide to the executive  
8 office of labor and workforce development the EEO-1 data reports of each covered employer for  
9 the prior calendar year.

10           (2) Not later than May 1 of each even-numbered year, the state secretary shall provide to  
11 the executive office of labor and workforce development the EEO-3 data reports and EEO-5 data  
12 reports of each covered employer, as applicable, covering the prior 2 calendar years.

13           (3) Not later than May 1 of each odd-numbered year, the state secretary shall provide to  
14 the executive office of labor and workforce development the EEO-4 data reports of each covered  
15 employer, as applicable, covering the prior 2 calendar years.

16 (c)(1) The state secretary shall accept wage data reports filed by covered employers  
17 subject to the filing requirements of an EEO-1 data report as a supplement to their annual report,  
18 which shall be filed at the same time as the covered employer's annual report.

19 (2) The state secretary shall accept wage data reports filed by covered employers subject  
20 to the filing requirements of an EEO-3 data report, EEO-4 data report or EEO-5 data report  
21 through the least restrictive means available including, but not limited to, web portals, email  
22 submissions or paper forms and reports by covered employers may be submitted through a web  
23 portal, email submission or paper form.

24 (3) The state secretary may establish a web portal, sample email submission or paper  
25 form to facilitate the submission of the wage data reports by covered employers.

26 (d) Wage data reports in the custody of the state secretary shall not be considered public  
27 records as defined by clause Twenty-sixth of section 7 of chapter 4 and shall not be subject to  
28 chapter 66 or chapter 66A.

29 SECTION 2. Chapter 23 of the General Laws is hereby amended by adding the following  
30 section:-

31 Section 27. (a) As used in this section, the following words shall have the following  
32 meanings unless the context clearly requires otherwise:

33 "Aggregate wage data report", a report reflecting aggregate data from wage data reports,  
34 collected from covered employers pursuant to subsection (c) of section 32 of chapter 9 and  
35 provided to the executive office of labor and workforce development by the state secretary  
36 pursuant to subsection (b) of said section 32 of said chapter 9; provided, however, that an

37 “aggregate wage data report” shall be separated by the following industries consistent with the  
38 North American Industry Classification System:

39 (i) agriculture, forestry, fishing and hunting;

40 (ii) mining;

41 (iii) utilities;

42 (iv) construction;

43 (v) manufacturing;

44 (vi) wholesale trade;

45 (vii) retail trade;

46 (viii) transportation and warehousing;

47 (ix) information;

48 (x) finance and insurance;

49 (xi) real estate rental and leasing;

50 (xii) professional, scientific and technical services;

51 (xiii) management of companies and enterprises;

52 (xiv) administrative support and waste management and remediation services;

53 (xv) education services;

54 (xvi) health care and social assistance;

- 55 (xvii) arts, entertainment and recreation;
- 56 (xviii) accommodation and food services;
- 57 (xix) public administration; and
- 58 (xx) other services.

59 “EEO-1 data report”, as defined in section 105E of chapter 149.

60 “EEO-3 data report”, as defined in section 105E of chapter 149.

61 “EEO-4 data report”, as defined in section 105E of chapter 149.

62 “EEO-5 data report”, as defined in section 105E of chapter 149.

63 “Wage data report”, as defined in section 105E of chapter 149.

64 (b) The executive office of labor and workforce development shall publish on its website  
65 aggregate wage data reports consisting of data received pursuant to subsection (c) of section  
66 105E of chapter 149 as follows:

67 (i) annually, not later than July 31, an aggregate wage data report consisting of data from  
68 all EEO-1 data reports;

69 (ii) in every even-numbered calendar year, not later than July 31, an aggregate wage data  
70 report consisting of data from all EEO-3 data reports and EEO-5 data reports; and

71 (iii) in every odd-numbered calendar year, not later than July 31, an aggregate wage data  
72 report consisting of data from all EEO-4 data reports.

73 SECTION 3. Section 1 of chapter 149 of the General Laws, as appearing in the 2022  
74 Official Edition, is hereby amended by striking out, in lines 31 and 32, the words “one hundred  
75 and five A to one hundred and five C, inclusive” and inserting in place thereof the following  
76 words:- 105A to 105C, inclusive, 105E and 105F.

77 SECTION 4. Said section 1 of said chapter 149, as so appearing, is hereby further  
78 amended by striking out, in lines 39 and 40, the words “one hundred and five A to one hundred  
79 and five C, inclusive” and inserting in place thereof the following words:- 105A to 105C,  
80 inclusive, 105E and 105F.

81 SECTION 5. Said chapter 149 is hereby further amended by inserting after section 105D  
82 the following 2 sections:-

83 Section 105E. (a) As used in this section, the following words shall have the following  
84 meanings unless the context clearly requires otherwise:

85 “Annual report”, an annual report to be filed by a covered employer with the state  
86 secretary pursuant to section 45 of chapter 108A, section 63 of chapter 109, sections 12 and 48  
87 of chapter 156C, section 16.22 of chapter 156D or any other applicable law or regulation.

88 “Covered employer”, an employer: (i) with not less than 100 full-time employees in the  
89 commonwealth at any time during the prior calendar year; and (ii) subject to the federal filing  
90 requirements of a wage data report.

91 “EEO-1 data report”, a completed copy of all required components of an employer’s  
92 Employer Information Report, as issued by the United States Equal Employment Opportunity

93 Commission, including any successor report containing the same or substantially similar  
94 workforce demographic and pay data categorized by race, ethnicity, sex and job category.

95 “EEO-3 data report”, a completed copy of all required components of a local union’s  
96 Local Union Report, as issued by the United States Equal Employment Opportunity  
97 Commission, including any successor report containing the same or substantially similar  
98 workforce demographic and pay data categorized by race, ethnicity, sex and job category.

99 “EEO-4 data report”, a completed copy of a State and Local Governmental Information  
100 Report, as issued by the United States Equal Employment Opportunity Commission, including  
101 any successor report containing the same or substantially similar workforce demographic and  
102 pay data categorized by race, ethnicity, sex and job category.

103 “EEO-5 data report”, a completed copy of an Elementary-Secondary Staff Information  
104 Report, as issued by the United States Equal Employment Opportunity Commission, including  
105 any successor report containing the same or substantially similar workforce demographic and  
106 pay data categorized by race, ethnicity, sex and job category.

107 “State secretary”, as defined in chapter 9.

108 “Wage data report”, an EEO-1, EEO-3, EEO-4 or EEO-5 data report.

109 (b)(1) At the time of filing its annual report, a covered employer, subject to federal EEO-  
110 1 data report filing requirements, shall submit to the state secretary a copy of its EEO-1 data  
111 report covering the prior calendar year as a supplement to its annual report pursuant to section 32  
112 of chapter 9.

113 (2) In each even-numbered year, a covered employer, subject to federal EEO-3 or EEO-5  
114 data report filing requirements, shall submit to the state secretary a copy of its EEO-3 data report  
115 or EEO-5 data report, as applicable, covering the prior 2 calendar years pursuant to section 32 of  
116 chapter 9.

117 (3) In each odd-numbered year, a covered employer, subject to federal EEO-4 data report  
118 filing requirements, shall submit to the state secretary a copy of its EEO-4 data report covering  
119 the prior 2 calendar years pursuant to section 32 of chapter 9.

120 (c) Annually, not later than May 1, the state secretary shall submit to the executive office  
121 of labor and workforce development the wage data reports of each covered employer for the  
122 prior calendar year pursuant to section 32 of chapter 9.

123 (d) Wage data reports in the custody of the secretary of labor and workforce development  
124 shall not be considered public records as defined by clause Twenty-sixth of section 7 of chapter 4  
125 and shall not be subject to chapter 66 or chapter 66A; provided, however, that the publishing of  
126 aggregate wage data reports, as defined in section 27 of chapter 23, by the executive office of  
127 labor and workforce development on its website pursuant to said section 27 of said chapter 23  
128 shall be considered public records as defined by said clause Twenty-sixth of said section 7 of  
129 said chapter 4.

130 (e)(1) The attorney general shall have the exclusive jurisdiction to enforce this section  
131 and may obtain injunctive or declaratory relief for this purpose. Any covered employer who  
132 violates this section shall be punished by a warning for the first offense, by a fine of not more  
133 than \$500 for the second offense and by a fine of not more than \$1,000 for the third offense. A



134 fourth or subsequent offense shall be subject to paragraphs (1) and (2) of subsection (b) of  
135 section 27C.

136 (2) No violation of this section shall be construed to carry treble damages pursuant to  
137 section 150.

138 Section 105F. (a) As used in this section, the following words shall have the following  
139 meanings unless the context clearly requires otherwise:

140 “Covered employer”, any employer, public or private, that employs 25 or more  
141 employees in the commonwealth.

142 “Pay range”, the annual salary range or hourly wage range that the covered employer  
143 reasonably and in good faith expects to pay for a particular and specific employment position at  
144 that time.

145 “Posting”, any advertisement or job posting intended to recruit job applicants for a  
146 particular and specific employment position, including, but not limited to, recruitment done  
147 directly by a covered employer or indirectly through a third party.

148 (b) A covered employer or its agent shall disclose the pay range for a particular and  
149 specific employment position in the posting of the position.

150 (c) A covered employer or its agent shall provide the pay range for a particular and  
151 specific employment position to an employee who is offered a promotion or transfer to a new  
152 position with different job responsibilities.

153 (d) A covered employer or its agent shall provide the pay range for a particular and  
154 specific employment position to an employee holding such position or to an applicant for such  
155 position upon request.

156 (e) It shall be unlawful for a covered employer to discharge or in any other manner  
157 retaliate or discriminate against any employee or applicant because the employee or applicant  
158 has: (i) taken action to enforce their rights pursuant to this section; (ii) made a complaint to their  
159 employer, an agent of their employer or the attorney general regarding an alleged violation of  
160 this section; (iii) instituted, or caused to be instituted, any proceeding under this section; or (iv)  
161 testified or is about to testify in any such proceeding.

162 (f)(1) The attorney general shall have the exclusive jurisdiction to enforce subsections (b)  
163 to (d), inclusive, and may obtain injunctive or declaratory relief for this purpose. Any covered  
164 employer who violates this section shall be punished by a warning for the first offense, by a fine  
165 of not more than \$500 for the second offense and by a fine of not more than \$1,000 for the third  
166 offense. A fourth or subsequent offense shall be subject to paragraphs (1) and (2) of subsection  
167 (b) of section 27C.

168 (2) For enforcement pursuant to paragraph (1), multiple violations within a 48-hour  
169 period of subsections (b) to (d), inclusive, shall have a rebuttable presumption that such offenses  
170 constitute a single offense attributed to a single act or set of related actions.

171 (3) No violation of this section shall be construed to carry treble damages pursuant to  
172 section 150.

173 SECTION 6. Not later than 6 months after the effective date of this act, the attorney  
174 general shall conduct a public awareness campaign to provide information to covered employers

175 regarding the requirements of sections 105E and 105F of chapter 149 of the General Laws,  
176 which shall include, but not be limited to, making information available on the attorney general's  
177 website and otherwise informing covered employers of said sections 105E and 105F of said  
178 chapter 149.

179 SECTION 7. (a)(1) Not later than May 1, 2024, the state secretary shall provide the  
180 executive office of labor and workforce development with initial EEO-1, EEO-3 and EEO-5 data  
181 reports pursuant to paragraphs (1) and (2) of subsection (b) of section 32 of chapter 9 of the  
182 General Laws, as inserted by section 1.

183 (2) Not later than May 1, 2025, the state secretary shall provide the executive office of  
184 labor and workforce development with initial EEO-4 data reports pursuant to paragraph (3) of  
185 subsection (b) of section 32 of chapter 9 of the General Laws, as inserted by section 1.

186 (b)(1) Not later than July 31, 2024, the executive office of labor and workforce  
187 development shall publish the first aggregate wage data reports pursuant to clauses (i) and (ii) of  
188 subsection (b) of section 27 of chapter 23 of the General Laws, as inserted by section 2.

189 (2) Not later than July 31, 2025, the executive office of labor and workforce development  
190 shall publish the first aggregate wage data report pursuant to clause (iii) of subsection (b) of  
191 section 27 of chapter 23 of the General Laws, as inserted by section 2.

192 (c)(1) Beginning in calendar year 2024, covered employers subject to EEO-1, EEO-3 and  
193 EEO-5 data report requirements shall submit the first reports to the state secretary pursuant to  
194 paragraphs (1) and (2) of subsection (b) of section 105E of chapter 149 of the General Laws, as  
195 inserted by section 5.

196 (2) Beginning in calendar year 2025, covered employers subject to EEO-4 data report  
197 requirements shall submit the first report to the state secretary pursuant to paragraph (3) of  
198 subsection (b) of section 105E of chapter 149 of the General Laws, as inserted by section 5.

199 SECTION 8. For the first 2 years after the effective date of sections 105E and 105F of  
200 chapter 149 of the General Laws, as inserted by section 5, a covered employer shall have 2  
201 business days after notice of a violation to cure any defect before a fine is imposed.

202 SECTION 9. Section 105F of chapter 149 of the General Laws, as inserted by section 5,  
203 shall take effect 1 year after the effective date of this act.