

# SENATE BILL 400

P4

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CF HB 417

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By: **Senators Kagan, Lee, Beidle, Benson, Carter, Eckardt, Elfreth, Ellis, Feldman, Guzzone, Hester, King, Kramer, Lam, McCray, Patterson, Pinsky, Reilly, Smith, Waldstreicher, Washington, West, Young, and Zucker**

Introduced and read first time: January 27, 2020

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Employment – Wage History and Wage Range**

3 FOR the purpose of prohibiting an appointing authority from taking certain actions against  
4 an applicant for employment under certain circumstances; prohibiting an appointing  
5 authority from relying on an applicant’s wage history for certain purposes and from  
6 seeking the applicant’s wage history by certain methods and from certain persons;  
7 authorizing an appointing authority, after making a certain initial offer of  
8 employment, to rely on the applicant’s wage history to support a certain wage offer  
9 under certain circumstances; permitting an appointing authority to verify certain  
10 information under certain circumstances; permitting an appointing authority to rely  
11 on certain wage history information only if it does not create an unlawful pay  
12 differential based on gender; requiring the Department of Budget and Management  
13 to conduct certain studies and make certain reports to the Governor and the General  
14 Assembly; providing for the application and construction of this Act; and generally  
15 relating to wage history information disclosures by applicants for State employment.

16 BY adding to

17 Article – State Personnel and Pensions

18 Section 2–311

19 Annotated Code of Maryland

20 (2015 Replacement Volume and 2019 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
22 That the Laws of Maryland read as follows:

23 **Article – State Personnel and Pensions**

24 **2–311.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(A) THIS SECTION APPLIES TO ALL APPLICANTS FOR EMPLOYMENT IN ALL**  
2 **UNITS OF THE JUDICIAL, LEGISLATIVE, AND EXECUTIVE BRANCHES OF STATE**  
3 **GOVERNMENT, INCLUDING ANY UNIT WITH AN INDEPENDENT PERSONNEL SYSTEM,**  
4 **EXCEPT AN APPLICANT WHO IS A STATE EMPLOYEE SEEKING A NEW POSITION IN**  
5 **STATE GOVERNMENT.**

6           **(B) (1) AN APPOINTING AUTHORITY MAY NOT:**

7                   **(I) RETALIATE AGAINST OR REFUSE TO INTERVIEW, HIRE, OR**  
8 **EMPLOY AN APPLICANT BECAUSE THE APPLICANT DID NOT PROVIDE THE**  
9 **APPLICANT'S WAGE HISTORY; OR**

10                   **(II) 1. RELY ON THE APPLICANT'S WAGE HISTORY IN**  
11 **SCREENING OR CONSIDERING THE APPLICANT FOR EMPLOYMENT OR IN**  
12 **DETERMINING THE WAGES FOR THE APPLICANT; OR**

13                               **2. SEEK THE APPLICANT'S WAGE HISTORY ORALLY, IN**  
14 **WRITING, OR THROUGH AN EMPLOYEE OR AN AGENT FROM A CURRENT OR FORMER**  
15 **EMPLOYER.**

16           **(2) AFTER AN APPOINTING AUTHORITY MAKES AN INITIAL OFFER OF**  
17 **EMPLOYMENT WITH AN OFFER OF COMPENSATION TO AN APPLICANT, THE**  
18 **APPOINTING AUTHORITY MAY:**

19                   **(I) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, RELY ON**  
20 **THE WAGE HISTORY VOLUNTARILY PROVIDED BY THE APPLICANT, WITHOUT**  
21 **PROMPTING FROM THE APPOINTING AUTHORITY, TO SUPPORT A WAGE OFFER**  
22 **HIGHER THAN THE INITIAL WAGE OFFERED BY THE APPOINTING AUTHORITY; OR**

23                   **(II) SEEK TO VERIFY INFORMATION OTHER THAN WAGE**  
24 **HISTORY DISCLOSED BY THE APPLICANT OR RECEIVED FROM A BACKGROUND**  
25 **CHECK IF ANY WAGE HISTORY DISCLOSED BY THE BACKGROUND CHECK IS NOT USED**  
26 **TO REFUSE TO HIRE OR DETERMINE THE WAGE OF THE APPLICANT.**

27           **(3) AN APPOINTING AUTHORITY MAY RELY ON AN APPLICANT'S WAGE**  
28 **HISTORY UNDER PARAGRAPH (2) OF THIS SUBSECTION ONLY IF THE HIGHER WAGE**  
29 **DOES NOT CREATE AN UNLAWFUL PAY DIFFERENTIAL BASED ON GENDER.**

30           **(C) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT:**

31                   **(1) AN APPLICANT FROM SHARING THE APPLICANT'S WAGE HISTORY**  
32 **WITH AN APPOINTING AUTHORITY VOLUNTARILY AND WITHOUT PROMPTING FROM**

1 THE APPOINTING AUTHORITY; OR

2 (2) AN APPOINTING AUTHORITY FROM DISCUSSING AN APPLICANT'S  
3 EXPECTATIONS WITH RESPECT TO WAGES WITHOUT INQUIRING ABOUT THE  
4 APPLICANT'S WAGE HISTORY.

5 (D) AN APPLICANT FOR EMPLOYMENT MAY NOT BRING AN ACTION AGAINST  
6 AN APPOINTING AUTHORITY THAT SEEKS THE APPLICANT'S WAGE HISTORY IN  
7 VIOLATION OF SUBSECTION (B) OF THIS SECTION.

8 (E) (1) ON OR BEFORE DECEMBER 1, 2020, THE DEPARTMENT SHALL:

9 (I) STUDY THE EFFECT OF LAWS IN OTHER JURISDICTIONS  
10 PROHIBITING AN EMPLOYER FROM CONSIDERING AN APPLICANT'S WAGE HISTORY  
11 ON WAGE DISPARITY BASED ON GENDER; AND

12 (II) REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE  
13 GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT  
14 ARTICLE, THE GENERAL ASSEMBLY.

15 (2) ON OR BEFORE DECEMBER 1, 2022, AND BIENNIALY  
16 THEREAFTER, THE DEPARTMENT SHALL:

17 (I) STUDY SALARY EQUITY BY GENDER AMONG STATE  
18 EMPLOYEES; AND

19 (II) REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE  
20 GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT  
21 ARTICLE, THE GENERAL ASSEMBLY.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
23 1, 2020.