

2022 Regular Session

SENATE BILL NO. 410

BY SENATOR JACKSON

EMPLOYMENT. Prohibits certain employment practices related to wage history, wage disclosure, and retaliation. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 23:664(D) and to enact R.S. 23:333 and 664(F), relative to
3 employment discrimination; to prohibit certain employment practices; to prohibit the
4 use of wage history under certain circumstances; to provide for wage disclosure; to
5 provide limitations on protections; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 23:664(D) is hereby amended and reenacted and R.S. 23:333 and
8 664(F) are hereby enacted to read as follows:

9 **§333. Unlawful employment practices by employers; wage history, wage**
10 **disclosure, and retaliation**

11 **A. It is an unlawful employment practice for an employer to inquire**
12 **about or rely on the wage history of an applicant for an offer of employment by**
13 **doing any of the following:**

14 **(1) Screening job applicants based on their current or prior wages,**
15 **benefits or other compensation, or salary histories, including requiring that an**
16 **applicant's prior wages, benefits or other compensation, or salary history satisfy**
17 **minimum or maximum criteria.**

1 **(2) Relying on the wage history of an applicant in deciding whether to**
 2 **offer employment to an applicant, or in determining the salary, benefits, or**
 3 **other compensation for such applicant during the hiring process, including the**
 4 **negotiation of an employment contract.**

5 **(3) Refusing to hire or otherwise disfavor, injure, or retaliate against an**
 6 **applicant for not disclosing his wage history to an employer.**

7 **B.(1) Except as provided in Paragraph (2) of this Subsection, an**
 8 **employer shall not discriminate, retaliate, or take any adverse employment**
 9 **action, including but not limited to termination or any other manner of**
 10 **discrimination against any employee for inquiring about, disclosing, comparing,**
 11 **or otherwise discussing the employee's wages or the wages of any other**
 12 **employee, or aiding or encouraging any other employee to exercise the same**
 13 **actions.**

14 **(2) The protections provided for in this Subsection shall not be applicable**
 15 **if an employee who has access to the wage information of other employees as a**
 16 **part of the employee's essential job function discloses the wages of other**
 17 **employees to individuals who do not otherwise have access to such information,**
 18 **unless the disclosure is required under law.**

19 * * *

20 §664. Prohibited acts

21 * * *

22 **D.(1) Except as provided in Paragraph (2) of this Subsection, it shall**
 23 be unlawful for an employer to interfere with, restrain, or deny the exercise of, or
 24 attempt to exercise, any right provided pursuant to this Chapter. It shall be unlawful
 25 for any employer to discriminate, retaliate, or take any adverse employment action,
 26 including but not limited to termination or in any other manner discriminate against
 27 any employee for inquiring about, disclosing, comparing, or otherwise discussing the
 28 employee's wages or the wages of any other employee, or aiding or encouraging any
 29 other employee to exercise his or her rights under this Chapter.

1 **(2) The protections provided in this Subsection shall not be applicable**
2 **if an employee who has access to the wage information of other employees as a**
3 **part of the employee's essential job function discloses the wage of other**
4 **employees to individuals who do not otherwise have access to such information,**
5 **unless the disclosure is required under law.**

6 * * *

7 **F. It is an unlawful employment practice for an employer to inquire**
8 **about or rely on the wage history of an applicant for an offer of employment by**
9 **doing any of the following:**

10 **(1) Screening job applicants based on their current or prior wages,**
11 **benefits or other compensation, or salary histories, including requiring that an**
12 **applicant's prior wages, benefits or other compensation, or salary history satisfy**
13 **minimum or maximum criteria.**

14 **(2) Relying on the wage history of an applicant in deciding whether to**
15 **offer employment to an applicant, or in determining the salary, benefits, or**
16 **other compensation for such applicant during the hiring process, including the**
17 **negotiation of an employment contract.**

18 **(3) Refusing to hire or otherwise disfavor, injure, or retaliate against an**
19 **applicant for not disclosing his wage history to an employer.**

20 Section 2. This Act shall become effective upon signature by the governor or, if not
21 signed by the governor, upon expiration of the time for bills to become law without signature
22 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
23 vetoed by the governor and subsequently approved by the legislature, this Act shall become
24 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Yoursheka Butler.

SB 410 Original DIGEST 2022 Regular Session Jackson

Proposed law provides that it is an unlawful employment practice for any employer to inquire about or rely on the wage history of an applicant for an offer of employment by doing any of the following:

- (1) Screening job applicants based on the applicant's current or prior wages, benefits or other compensation, or salary histories.
- (2) Relying on the applicant's wage history in deciding whether to offer employment to an applicant or to determine the applicant's salary, benefits, or other compensation.
- (3) Refusing to hire or otherwise disfavor, injure, or retaliate against an applicant for not disclosing his wage history.

Proposed law prohibits discrimination, retaliation, or any other adverse employment action, including but not limited to termination or other forms of discrimination, by an employer against any employee for inquiring, disclosing, comparing, or discussing the employee's wages or any other employee's wages, or aiding or encouraging any other employee to exercise the same actions.

Proposed law provides that proposed law protections do not apply to an employee who already has access to the wage information of other employees because it is an essential part of the employee's job function.

Present law provides that it is unlawful for an employer to interfere with, restrain, or deny the exercise of, or attempt to exercise, any right provided under present law. Further, present law provides that it is unlawful for any employer to discriminate, retaliate, or take any adverse employment action, including but not limited to termination or other forms of discrimination, against any employee for inquiring, disclosing, comparing, or discussing the employee's wages or another employee's wages, or aiding or encouraging any other employee to exercise his or her rights under present law.

Proposed law retains present law and provides that protections do not apply to an employee who already has access to the wage information of other employees because it is an essential part of the employee's job function.

Effective upon the signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 23:664(D); adds R.S. 23:333 and 664(F))