

Solidarity Law

TESTIMONY OF MAINE EMPLOYMENT LAWYERS ASSOCIATION IN SUPPORT OF LD 54, "AN ACT TO REQUIRE EMPLOYERS TO DISCLOSE PAY RANGES AND MAINTAIN RECORDS OF EMPLOYEES' PAY HISTORIES"

My name is Jeffrey Neil Young. I am an attorney with Solidarity Law and practice in Cumberland, Maine. I serve as an executive Board member of the National Employment Lawyers Association (NELA), and as vice-president of the Maine Employment Lawyers Association (MELA). NELA is the largest organization of civil rights lawyers in the country with about 4,000 national and affiliate attorney members. MELA is the largest organization of civil rights lawyers in Maine with about 75 member attorneys who represent employees in labor and employment matters across the state as at least 2/3 of their practice. I have been practicing labor and employment law for over 40 years, the last 35 years here in Maine.

MELA supports LD 54, An Act to Require Employers To Disclose Pay Ranges and Maintain Records of Employees' Pay Histories" We see this bill as a companion bill to legislation enacted in 2018 and now embodied in 26 MRSA § 628-A, which prohibits inquiries into the salary history of employees until after a job offer has been made to an applicant, and also as a means to strengthen the Maine Equal Pay Act, 26 MRSA § 628.

For too many years, employers have been able to discriminate against female job applicants and employees, with respect to their wages by relying upon prior pay history and encouraging if not requiring employees to keep their pay secret. Oftentimes, it is not until years later that women discover that they are being paid substantially lower rates than their male counterparts. Indeed, several years ago, in *Mundell v Acadia Hospital*, 585 F.Supp.3d 86 (D. Me. 2022), *aff'd*, 92 F.4th 1 (1st Cir. 2024), Acadia Hospital and Eastern Maine Medical Center were found to have violated the Maine Equal Pay Act by paying a female psychologist virtually ½ the hourly rate of male psychologists. Mundell only discovered the disparity years after the fact.

Not only does salary secrecy harm female employees, but studies have shown that such secrecy depresses wages for people of color, especially black women. Not knowing what jobs pay, women and people of color tend to dramatically lower their minimum pay requirements.

LD 54 will help eliminate these gross pay discrepancies and level the playing field by requiring that employers provide upfront the salary range for job openings. That way, job applicants all start from the same place and can make informed decisions about what to ask for as a starting salary or hourly rate.

Moreover, salary transparency encourages employers to scrutinize their pay practices to ensure that they are not unintentionally discriminating against women and people of

color. Unlike most anti-discrimination laws, the Maine Equal Pay Act does not require a showing of intent. Regular review of pay practices will help protect employers against the type of discrimination that occurred in *Mundell*.

The days of secrecy in salary are long gone. Both employers and job applicants benefit from salary transparency. Publishing salary ranges will discourage employees from applying for jobs that pay too low and save employers time from reviewing and even interviewing candidates who would be unwilling to work for wages proposed by prospective employers.

At least thirteen other states, including our New England neighbors in Connecticut, Massachusetts, Rhode Island, and Vermont, plus the District of Columbia have passed some form of this legislation. <https://www.cnn.com/2024/11/13/business/pay-transparency-laws-by-states/index.html> . Millennials are looking for this type of information and Maine needs to compete with our sister states to attract such younger workers. Indeed, a management attorney from a prominent labor and employment firm has stated that providing salary ranges is a "best practice." *Id.*

For these reasons, the Maine Employment Lawyers Association urges you to vote in favor of LD 54.