Monday, May 16, 2022

For the past three years, Mississippi remained the only state in the country that did not have a bill prohibiting pay discrimination based on gender. This all changed on April 20, 2022, when Mississippi Gov. Tate Reeves signed House Bill 770, also known as the “Mississippi Equal Pay for Equal Work Act,” into law.

The Mississippi Equal Pay for Equal Work Act prohibits an “employer [from paying] an employee a wage... less than the rate at which [an] employee of the opposite sex... is paid for equal work on a job... [that] requires equal skill, education, effort and responsibility, [while performed] under similar working conditions...” The act does provide several exceptions, including difference in wages due to pay being
dependent upon:

- a seniority system;
- a merit system;
- a system that measures earnings by quantity or quality of production; or
- any other factor other than sex.

Any other factor than sex, can include, but is not limited to:

- the comparator’s salary history or continuity of employment history;
- whether there was competition with other employers for the comparator’s services; and
- whether the comparator negotiated for higher wages.

While comparable to the federal Equal Pay Act in many ways, Mississippi employers should be aware that the new state law allows for employees to bring an equal pay action to state court, which in turn, prevents Mississippi employers from being able to remove the action to federal court. Furthermore, any action brought under the act may be commenced no later than two years from the day the employee knew or should have known that their employer was in violation of the act. If brought under the act, the employee waives their right to relief under the federal Equal Pay Act. If the Mississippi employee prevails on their gender-based discrimination claim, the employee is entitled to attorneys’ fees, prejudgment interest, back pay, liquidated damages and 100% of the difference of unpaid wages. The Mississippi Equal Pay for Equal Work Act will take effect on July 1, 2022. Mississippi employers are encouraged to revise and/or implement human resource policies and procedures that are in accordance with the new law.

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National Law Review, Volume XII, Number 136