

November 29, 2023

Representative Josh Cutler, Chair
Joint Committee on Labor and Workforce
Development
State House, Room 472
Boston, MA 02133

Representative Brandy Fluker Oakley
House of Representatives
State House, Room 236
Boston, MA 02133

Representative Hannah Kane
House of Representatives
State House, Room 167
Boston, MA 02133

Senator Patricia Jehlen, Chair
Joint Committee on Labor and Workforce
Development
State House, Room 424
Boston, MA 02133

Senator Paul Feeney
Senate
State House, Room 112
Boston, MA 02133

Senator Patrick O'Connor
Senate
State House, Room 419
Boston, MA 02133

Dear Conference Committee Members,

On behalf of the Greater Boston Chamber of Commerce and our 1,200 members, I write to offer comments on H.4109/S.2484, *An Act relative to salary range transparency*. Having partnered with the Legislature to support and pass historic pay equity legislation effective in 2018, the Chamber has long prioritized measures to address wage inequality in Massachusetts. We appreciate the Legislature's willingness to engage with the business community to find practical public policy solutions that support pay equity in the workplace while ensuring new legal requirements on employers are feasible and clear.

We sincerely thank the Joint Committee on Labor and Workforce Development, and the Members of both the House and the Senate for continuing to partner with the Chamber on this issue and the important changes made throughout the legislative process that strengthened the bill. These improvements include clearer definitions of pay range and postings, tightening language related to salary disclosures for promotions and transfers, narrowing the retaliation provision, including a 2-year right to cure, and adopting a 1-year implementation timeframe. Both H.4100 and S.2468 address many of the Chamber's policy concerns outlined in our May testimony and demonstrate the Legislature's willingness to engage and address employers' implementation priorities.

As you consider a final agreement on this legislation, the Chamber takes this opportunity to offer final suggestions to facilitate successful implementation by employers of the legislation's new requirements:

- 1) **Penalties Definition** - Subsection (f) of new section 105F of chapter 149 creates penalties for violating new salary range disclosure requirements. The Chamber strongly prefers the House language in paragraph (2) of subsection (f) that defines an offense as 1 or more job postings made by the same employer during a 48-hour period. This clear and easily understood language ensures that inadvertent job postings due to technical glitches or human error will not be fined in separate cases and, by definition, will be treated as a single offense. The Senate alternative creates a rebuttable presumption that multiple violations occurring within a 48-hour period constitute a single offense. The Chamber appreciates the Senate's acknowledgement that errors may occur, but the language creates uncertainty and invites potential litigation on how to treat separate postings that may or may not be grouped together for enforcement purposes. Therefore, the Chamber urges the conference committee to adopt the House language.

- 2) **Attorney General Enforcement Authority** – Subsection (f) of both bills also grants the Attorney General exclusive jurisdiction to enforce the provisions of this legislation. However, S.2484 omits a reference to subsection (e) of new section 105F (the subsection prohibiting retaliation against employees or applicants for exercising rights under the new law). Again, this change creates ambiguity over the Attorney General’s ability and exclusive authority to identify bad actors and determine the penalties under the statute. The omission of subsection (e) allows employees or applicants to bring direct actions against job posters, potentially unleashing a wave of litigation on employers trying to hire people living and working in Massachusetts. The Chamber therefore encourages the conference committee to adopt the language in H.4109, which states that the Attorney General has exclusive jurisdiction to enforce subsections (b) to (e) of section 105F. This language removes any ambiguity about the Attorney General’s enforcement authority, creates predictability for employers, and removes any disincentive to hiring in the Commonwealth.

Thank you again for your consideration, and please reach out with any questions.

Sincerely,

A handwritten signature in black ink that reads "James E. Rooney". The signature is written in a cursive, flowing style.

James E. Rooney
President and CEO