

into compliance with regulatory actions brought by two U.S. government agencies, the Department of Labor's Equal Employment Opportunity Commission (EEOC) and its Wage and Hour Division (WHD). Compliance issues fall into two corresponding areas: employment discrimination (especially Title VII of the Civil Rights Act) and wage and hour (especially the Fair Labor Standards Act, FLSA). Over the 5-year period of 2010 to 2014, the EEOC recovered over \$1.7 billion from employers to resolve employment discrimination issues (some, but not all, having to do with compensation issues), with most of that relating to Title VII. During that same period, the WHD recovered over \$1.1 billion in back wages payments (i.e., wages for work employees previously performed, but for which they were not fully paid) from employers. Employees may also bring private (i.e., without involving government agencies) lawsuits against employers. These are most costly when they are class action suits that include many similarly situated employees combining to bring a single joint lawsuit. In the area of employment discrimination, the 10 largest class action lawsuit settlements alone cost over \$170 million per year, or about \$850 million over a 5-year period at that rate. On the wage and hour side, the 10 largest class action lawsuit settlements cost almost \$252 million per year, or almost \$1.3 billion over a 5-year period at that rate. These, we think you will agree, are big numbers and it would be great if you could help your future employer comply with the law so as not to be paying out these very large amounts of money to settle lawsuits.

GOVERNMENT AS PART OF THE EMPLOYMENT RELATIONSHIP

Overview

People differ in their view of what role government should play in the contemporary workplace. Some call for organizations and the government to act in concert to carry out a public policy that protects the interests of employees.³ Others believe that the best opportunities for employees are created by the constant change and reconfiguring that is inherent in market-based economies; the economy ought to be allowed to adapt and transform, undistorted by government actions.⁴ All countries throughout the world must address these issues. However, as we will see, different countries take different approaches.⁵

Governments' usual interests in compensation decisions are whether procedures for determining pay are fair (e.g., pay discrimination), safety nets for the unemployed and/or those unable to work (e.g., unemployment compensation, workers compensation), and worker protection (e.g., overtime pay, minimum wage, child labor restrictions).

In addition to being a party to all employment relationships, government units are also employers and purchasers. Consequently, government decisions also affect conditions in the labor market. The U.S. federal government employs 2.73 million people; state and local governments employ 19.18 million. Overall, government employment is 21.9 million, representing 16 percent of the total U.S. nonfarm employment of 141.26 million.⁶ In addition to being a big employer, and thus competing with private sector organizations for employees, government also indirectly affects labor demand in the private sector through its spending and purchases (military aircraft, computer systems, paper clips) and tax policy. In addition to government fiscal policy (i.e., total spending and budget, tax policy,

taxes), the federal government influences overall economic growth/demand and business activity through its monetary policy (level of interest rates and money supply). Increased business activity translates into increased demand for labor and upward pressure on wages. In addition to being an employer, government affects labor supply through legislation. Laws aimed at protecting specific groups also tend to restrict those groups' participation in the labor market. Compulsory schooling laws restrict the supply of children available to sell hamburgers or to assemble soccer balls. Licensing requirements for certain occupations (plumbers, cosmetologists, attorneys, physicians, psychologists) restrict the number of people who can legally offer a service.⁷ Immigration policy and how rigorously it is enforced is an increasingly important factor in labor supply.⁸

This chapter will examine the laws and regulations that most directly affect compensation in the United States. Exhibit 17.2 provides an overview of the regulatory

EXHIBIT 17.2 U.S. Federal Pay Regulations

1931	Davis-Bacon Act	Requires that mechanics and laborers on public construction projects be paid the "prevailing wage" in an area.
1934	Securities Exchange Act	Created the Securities and Exchange Commission (SEC). Currently, the SEC requires companies that have more than \$10 million in assets and whose securities are publicly traded and held by more than 500 owners to periodically report information, which is available to the public. This includes disclosure of compensation received by the CEO, CFO, and three other highest paid executives.
1936	Walsh-Healey Public Contracts Act	Extends prevailing-wage concept to manufacturers or suppliers of goods for government contracts.
1938	Fair Labor Standards Act (FLSA)	Sets minimum wage, hours of work, overtime premiums; prohibits child labor.
1963	Equal Pay Act	Equal pay required for men and women doing "substantially similar" work in terms of skill, effort, responsibility, and working conditions.
1964	Title VII of Civil Rights Act of 1964	Prohibits discrimination in all employment practices on basis of race, sex, color, religion, or national origin.
1965	Executive Order 11246	Prohibits discrimination by federal contractors and subcontractors in all employment practices on basis of race, sex, color, religion, or national origin.
1967	Age Discrimination in Employment Act (ADEA)	Protects employees age 40 and over against age discrimination.
1978	Pregnancy Discrimination Act (PDA)	Pregnancy must be covered to same extent that other medical conditions are covered.
1990	Americans with Disabilities Act (ADA)	Requires that "essential elements" of a job be called out. If a person with a disability can perform these essential elements, reasonable accommodation must be provided.