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Illinois' New Salary Transparency Law Takes Effect Jan. 1, 2025. Are You Prepared?



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Starting January 1, 2025, employers with 15 or more employees must include pay ranges in postings for jobs in Illinois. This new requirement, an Amendment to the Illinois Equal Pay Act, was signed into law by Illinois Gov. J.B. Pritzker on August 11, 2023. The Amendment will only apply *when* employers create job postings and does not require employers to make such postings in the first place. The text of the full Amendment is available [here](#).

What Is Required?

The Amendment requires covered employers to include “*pay scale and benefits*” in their job postings. The Amendment defines “pay scale and benefits” as:

“...the wage or salary, or wage or salary range, and a general description of the benefits and other compensation... that the employer reasonably expects in good faith to offer for the position.”

The Amendment further states that “benefits and other compensation” includes, but is not limited to, “bonuses, stock options, or other incentives the employer reasonably expects in good faith to offer for the position.”

How Is the Pay Scale Set?

The Amendment states that pay scales are set by reference to:

- any applicable pay scale,
- the previously determined range for the position,
- the actual range of others currently holding equivalent positions, or
- the budgeted amount for the position, as applicable.

What Are an Employer's Posting Obligations?

When an employer creates a job posting, it can provide the pay scale and benefits by including a “hyperlink” to a publicly available webpage that includes the pay scale and benefits. Employers may also satisfy the benefits posting requirement by posting a relevant and up-to-date general benefits description in an easily accessible, central and public location on the employer's website.

If an employer uses a third party to “announce, post, publish, or otherwise make known a job posting,” the employer must provide the third party with the pay scale and benefits or a hyperlink to the same, which the third party must use in the job posting. A third party is liable for failing to post the required information unless it can demonstrate that the employer did not provide such information.

What If There Is No Job Posting?

If an employer does not make a public or internal posting for a job (including a promotion, transfer or other employment opportunity), the employer or employment agency is still obligated to respond *to an applicant's request* for that information prior to any offer or discussion of compensation.

Where Is the Amendment Applicable?

Such postings will be required for positions that "will be physically performed, at least in part, in Illinois" or will be performed outside the state but the "employee reports to a supervisor, office, or other work site in Illinois."

What Is the Requirement Related to Opportunities for Promotion?

If an employer makes an external posting for a position, it must also "announce, post, or otherwise make known" all opportunities for promotion to all *current employees* no later than 14 calendar days after the employer makes the external job posting. The only exception to this requirement is for "positions in the State of Illinois workforce designated as exempt from competitive selection."

Can an Employer Ask a Candidate About Salary Expectations?

The Amendment specifically states that it does not prohibit an employer or employment agency from asking an applicant about his or her wage or salary expectations for the position for which the applicant is applying.

However and as a [reminder](#), under the 2019 amendments to the Equal Pay Act concerning salary history, employers cannot:

1. screen job applicants based on their current or prior wages or salary histories, including benefits or other compensation, by requiring that the wage or salary history of an applicant satisfy minimum or maximum criteria;
2. request or require a wage or salary history as a condition of being considered for employment, as a condition of being interviewed, as a condition of continuing to be considered for an offer of employment, as a condition of an offer of employment or an offer of compensation; or
3. request or require that an applicant disclose wage or salary history as a condition of employment.

Recordkeeping Requirements?

Along with the other recordkeeping requirements under the Illinois Equal Pay Act, employers must make and preserve records documenting the pay scale and benefits for each position and the job posting for each position for not less than five years.

Retaliation Prohibited?

Yes, as with other employment statutes, employers and employment agencies are prohibited from refusing to interview, hire, promote or employ (or to otherwise retaliate against) any applicants or employees for exercising their rights under the Amendment.

The Illinois Department of Labor (IDOL) may initiate investigations into alleged violations of the Amendment either upon receiving a complaint from an individual alleging to be aggrieved by a violation or at its discretion. Individuals have one year from the date of the alleged violation to submit a complaint to IDOL.

The Upshot

While the Amendment does not take effect until January 1, 2025, Illinois employers should be mindful of the Amendment and begin their preparation to comply with all posting requirements in advance of the effective date.

If you have any questions about the Amendment or your company's obligations under the Equal Pay Act, please contact a member of Gould & Ratner's [Human Resources and Employment Law Practice](#).