



ALERTS

Illinois Poised To Become Latest State To Mandate Pay Transparency

June 1, 2023

Highlights

Pay transparency laws continue to gain momentum across the country, encouraging open dialogue about compensation during recruitment

If the legislation is signed into law as expected, Illinois will amend its Equal Pay Act, effective Jan. 1, 2025, requiring employers to disclose pay scale and benefits in job postings

Employers should consider taking the appropriate steps to ensure compliance with applicable disclosure requirements

On May 17, 2023, [House Bill 3129](#) passed both houses of the Illinois legislature. The bill is expected to be signed into law by Gov. J.B. Pritzker and go into effect on Jan. 1, 2025. Illinois will then join a growing number of states that have enacted or are currently considering pay transparency laws that are intended to address discrimination and eliminate pay disparity.

The laws are grounded in the theory that individuals who have previously been underpaid – often women and minorities – may accept a lower salary or hourly rate than they could have commanded if they had

RELATED PEOPLE



David G. Weldon

Partner

Chicago

P 312-214-4815

F 312-759-5646

david.weldon@btlaw.com



Charity N. Seaborn

Associate

Chicago

P 312-214-4827

F 312-759-5646

charity.seaborn@btlaw.com

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accurate information to assess the fairness of an employer's offer. Pay transparency laws seek to level the playing field by giving candidates and employees more leverage in compensation discussions.

The new law will amend Illinois's Equal Pay Act and require employers with more than 15 employees to disclose pay scales and benefits in job postings. Unlike many other states, employers will be able to satisfy this requirement by including a hyperlink to a public webpage that lists all required disclosures. In addition to positions that will be physically performed in Illinois, the disclosure requirement also will apply to positions that will be physically performed outside of Illinois by an employee who reports to a supervisor, office or work site in Illinois.

Employers also will be required to maintain records of pay scales and benefits for five years. Employers found to be in violation of the law's requirements will be assessed a fine of up to \$500 for a first violation, up to \$2,500 for a second violation, and up to \$10,000 for third and subsequent violations.

HB 3129 is similar to pay transparency laws in California, Colorado and Washington. New York will be joining that list in September 2023 and Hawaii will follow on Jan. 1, 2024.

The number of states and municipalities with pay transparency laws is almost certain to continue to increase. Other states that are expected to consider pay transparency requirements include Alaska, Georgia, Kentucky, Massachusetts, Montana, New Jersey, Oregon and South Dakota. Meanwhile, the Washington, D.C., legislature is currently considering a pay transparency bill that is scheduled for public hearing June 8.

Even in states that have yet to enact or consider a pay transparency law, employers may face increasing pressure from candidates, employees, investors or third parties to be transparent about their pay practices. Employers who choose not to do so may be at a competitive disadvantage in recruiting and retaining top talent. Proponents of pay transparency mandates have cited the positive impact they can have on employee recruitment and morale, while also enabling employers to have a more diverse workforce.

Employers should remain up to date on pay transparency developments in states in which they operate to ensure compliance. While the rationale for pay transparency laws is consistent across states, the laws themselves are not identical and may impose differing or conflicting obligations on multistate employers. Employers should consider consulting with employment counsel to assess how their business is affected.

For more information, please contact the Barnes & Thornburg attorney with whom you work or David Weldon at 312-214-4815 or david.weldon@btlaw.com or Charity Seaborn at 312-214-4827 or charity.seaborn@btlaw.com.

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