

Publications

Illinois Employers: Prepare for New Pay Transparency Requirements

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On January 1, 2025, amendments to the Illinois Equal Pay Act will add Illinois to the list of states requiring employers to align with pay transparency and promotion posting requirements. Most employers in Illinois will be required to disclose pay ranges and benefits in their job postings, make opportunities for promotion known internally, and follow certain recordkeeping requirements.

Who must comply with the pay transparency requirements?

The new requirements apply to a broad range of actors, including individuals, partnerships, corporations, associations, businesses, and trusts with 15 or more employees in or outside of Illinois. The requirements only apply, however, to positions physically performing work in Illinois or reporting to a supervisor or work site in Illinois.

What must covered employers do to comply?

Covered employers must disclose in their postings for new jobs both the pay scale and benefits for that position. The same requirements apply to any postings made through a third party. If an employer provides the required information to the third party, that third party becomes liable for a failure to post it. Employers and third parties may include the required information through a hyperlink or referring applicants to an easily accessible benefits description on the employer's website.

The law does not require that employers actually make a job posting. But, even if there is no posting, employers must provide the pay scale and benefit information before discussing compensation and at the applicant's request. Employers may also make job offers above or below the provided pay range, as long as the range was provided in good faith.

Employers must also make opportunities for promotion known to all current employees within 14 days of making an external job posting for the same position.

Employers must keep records of the pay scale, benefits, and job postings for each position for five years.

What is included in “pay scales” and “benefits”?

A posting must include the “pay scale and benefits,” which means the wage or salary or a range of wage or salary and a general description of benefits. Other forms of compensation to be included in these postings include bonuses, stock options, and other incentives. An acceptable range should include the lowest to the highest pay the employer actually believes it might pay for the particular job, depending on circumstances such as qualifications, employer finances, or other operational considerations. A range should not include open-ended phrases (e.g., “\$XX and up”).

What are the penalties for failure to comply?

Employers are prohibited from retaliating against applicants for exercising their rights under the law. The law also allows anyone who “claims to be aggrieved” by a violation to file a complaint with the Illinois Department of Labor within one year of the alleged violation. Employers are permitted time to cure violations, differing in length depending on the number of violations. Each defective posting is a single violation, regardless of how many times it is reproduced.

For “active” postings, employers can be fined up to \$500 for a first offense, after 14 days to cure; \$2,500 for a second offense, after seven days to cure; and \$10,000 for a subsequent offense, with no cure period. The penalty enhancement will not apply if five years have passed since the last prior offense. If a job posting is not “active,” the first offense penalty cannot exceed \$250 but the other penalties are the same as for “active” postings. “Active” status depends on whether the position has been filled, the length of time the posting has been accessible, the existence of a date range, and whether the employer is no longer accepting applicants for that position.

Takeaways for Employers

Employers who do business in Illinois should review their current pay rates, hiring practices, promotion practices, and postings in anticipation of the January 1, 2025, effective date.

States continue to enact pay transparency (job posting) requirements. For example, Minnesota’s pay transparency law takes effect in January 2025, New Jersey’s law takes effect in June 2025, and Massachusetts’ and Vermont’s laws take effect in July 2025. Contact your Vorys lawyer with questions regarding Illinois’ pay transparency requirements and similar requirements in other jurisdictions.