

Illinois Pay Transparency Requirements Take Effect January 1, 2025

August 28, 2023

On August 13, 2023, Illinois Gov. J.B. Pritzker signed an amendment to the Illinois Equal Pay Act, which will require certain Illinois employers to include the pay scale and benefits information for a position in any job posting beginning January 1, 2025.

Illinois joins a growing crowd of jurisdictions that require employers to disclose pay in job postings, including [California](#), [Colorado](#), [Hawaii](#) (effective January 1, 2024), [New York](#) (effective September 17, 2023), [New York City](#) and [Washington](#), along with several other localities. In addition, at the federal level, Rep. Eleanor Holmes Norton introduced the [Salary Transparency Act](#) earlier this year in Congress, which would amend the Fair Labor Standards Act to require employers to disclose wage ranges in job postings.

The [Illinois pay disclosure law](#) also adds to a recent surge of new compliance obligations for Illinois employers related to pay equity issues. In 2021, for example, the state again amended the Illinois Equal Pay Act's equal pay reporting and compliance requirements, only a few months after the requirements were previously amended. See [this December 2021 Cooley client alert](#) for more information on the Illinois Equal Pay Act reporting and certification obligations.

This alert summarizes the main requirements and highlights key considerations under the Illinois pay disclosure law.

Pay and benefits disclosure requirements

Employers in Illinois with 15 or more employees must include the pay scale and benefits for a position in any specific job posting beginning January 1, 2025. This means providing the following information for the position in the job posting:

- The wage or salary, or the wage or salary range.
- A general description of the benefits and other compensation the employer expects in good faith to offer for the position – including bonuses, stock options or other incentives.

The pay scale and benefits information should be 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.

To satisfy this disclosure requirement, the job posting also can include a hyperlink to a publicly viewable webpage that includes the required pay scale and benefits information.

Employers also must make promotion opportunities known to current employees no later than 14 calendar days after they post the position externally.

If a public or internal posting for the job, promotion, transfer or other employment opportunity has not been made available to an applicant, the employer must disclose to the job applicant the pay scale and benefits offered for the position prior to any offer or discussion of compensation and at the applicant's request. Notably, the law does not require employers to make a job posting and does not prohibit employers from asking applicants about wage or salary expectations.

Covered positions

Like many other pay transparency laws, the disclosure requirements apply to both in-state and remote or hybrid positions. Specifically, positions that will be physically performed, at least in part, in Illinois and positions that will be performed outside of Illinois, but will report to a supervisor, office or other worksite in Illinois, are subject to the disclosure requirements.

Using a third party to publish job postings

If an employer uses a third party to post a job, the employer must provide the pay scale and benefits information (or the hyperlink) to the third party, and the third party must include this information in the job posting. In this case, the third party is liable for failing to include the required information in the job posting, unless it can show that the employer did not provide the necessary information.

Recordkeeping

An employer must make and keep records of the pay scale and benefits for each position, as well as the job posting for each position. These records must be kept for at least five years.

Protection against retaliation

An employer cannot refuse to interview, hire, promote, employ or otherwise retaliate against an applicant or employee for exercising any rights under the law.

Penalties

The Illinois Department of Labor (IDOL) is empowered to investigate in response to any complaints about violations or at its own discretion. If it determines that an employer has violated the pay and benefits disclosure requirements, it will issue a notice of violation, setting forth the applicable penalty and the applicable period to cure the violation. The penalty and cure period depend on the number of previous violations, whether the job posting in violation is active or inactive, and the discretion of the IDOL.

For active job postings at the time the IDOL issues a notice of violation, penalties are as follows:

- For a first offense, following a cure period of 14 days to remedy the violation, a fine of up to \$500.
- For a second offense, following a cure period of seven days, a fine of up to \$2,500.
- For a third or subsequent offense, no cure period and a fine of up to \$10,000.

For inactive job postings at the time IDOL issues a notice of violation, penalties are as follows:

- For a first offense, a fine of up to \$250.
- For a second offense, a fine of up to \$2,500.
- For a third or subsequent offense, a fine of up to \$10,000.

Next steps

While the Illinois pay transparency law is not effective until January 1, 2025, understanding its requirements is only one step in preparing your business for pay equity-related issues.

Illinois employers should prepare to determine and disclose pay scale and benefits information well in advance of 2025. Employers with multistate operations should pay attention to this evolving landscape, as more jurisdictions are expected to pass similar laws.

In addition, making pay information available makes it easier to identify pay disparities that may be based on certain demographic characteristics. Employers should consider getting in front of potential issues by conducting an audit of their workforce to identify and address unjustified pay disparities. Businesses undertaking

a pay equity audit should closely protect the confidentiality of these audits, including by retaining outside counsel.

If you have any questions about pay disclosure requirements or pay equity issues, please reach out to a member of the Cooley employment team.

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