Cooley

Illinois Publishes Additional Guidance on Equal Pay Registration Certificate Requirement

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In a December 2021 client alert, we explained the updated equal pay reporting and compliance requirements in Illinois. The Illinois Department of Labor (IDOL) recently published additional guidance on the requirement for certain Illinois employers to obtain an equal pay registration certificate (EPRC). This alert reviews the main EPRC requirements and highlights key points from the recently published guidance.

Covered businesses

Illinois law requires private businesses that have 100 employees in the state – and are required to file an Employer Information Report EEO-1 with the Equal Employment Opportunity Commission – to apply to obtain an EPRC using IDOL's EPRC portal. (Instructions to access the portal are available on IDOL's EPRC page.)

To determine if it meets the employee threshold to be covered by the EPRC requirement, a business should count the total number of employees who worked in or were based out of Illinois on December 31 of the 12-month calendar year immediately prior to the year the business is required to submit an EPRC application.

All employees of a business based in Illinois should be included in the total employee count, even if the employees are working remotely outside Illinois. A business with multiple locations should include only the employees whose base location is in Illinois.

EPRC application due date

Covered businesses are required to submit the initial EPRC application between March 24, 2022, and March 23, 2024. IDOL will assign an application due date that is within this timeframe and will notify businesses of this due date at least 120 days before the application will be due. Businesses can visit IDOL's EPRC registration page to confirm their contact information.

New businesses must apply to obtain an EPRC within three years of commencing business operations, but not before January 1, 2024. New businesses can visit IDOL's EPRC registration page to submit their contact information to IDOL, which then will provide the business with an EPRC application due date at least 180 calendar days before the application will be due.

After their first EPRC application, businesses will be required to recertify every two years by submitting an updated application. IDOL will provide notice of the recertification due date at least 180 calendar days before the recertification will be due.

If a business receives notice from IDOL to recertify, but is exempt because its total employee count is below 100, the business must notify IDOL and certify in writing to IDOL that it is exempt from the EPRC requirement. This certification must be on company letterhead, signed by a senior executive of the company and sent to IDOL via email to DOL.EPRC@illinois.gov, or by US mail addressed to Illinois Department of Labor: ATTN: Con/Med Division, 160 North LaSalle Street, Suite C-1300, Chicago, IL 60601.

EPRC application

When filing an EPRC application, businesses must submit to IDOL:

1. A $150 filing fee.

2. Wage records, including a copy of their most recently filed EEO-1.
3. An equal pay compliance statement.

For reporting purposes, “wages” means any compensation paid to an employee by an employer pursuant to an employment contract or agreement between the two parties, including wages, salaries, earned commissions, earned bonuses, stocks and ownership shares. “Wages” does not include the value of retirement benefits, health insurance benefits or other fringe benefits. W-2 Box 5 should have the most complete information for the purposes of EPRC data reporting. A business may provide any other information it believes is relevant to explain any pay disparities among its employees. IDOL has provided an Excel spreadsheet template to submit employee information.

If employees are promoted one or more times in the course of their employment, the business should list the start and end dates for their time in each position, with the corresponding job titles and pay rates.

The equal pay compliance statement must be submitted in writing, and must be signed by a corporate officer, legal counsel or authorized agent of the business submitting the application. IDOL also has made available an equal pay compliance statement Word template.

Noncompliance

A business that fails to file an initial application or recertification will be fined up to $10,000. Before any such fines are imposed, IDOL will provide notice and 30 days to submit the application or recertification. For falsification or misrepresentation of information on an EPRC application, IDOL may seek to suspend or revoke an EPRC, or impose civil penalties of up to $10,000.

If you have any questions about or related to an Illinois EPRC, please reach out to a member of the Cooley employment team.

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