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New Jersey Legislature Passes Pay Transparency Bill

Law and the Workplace on **October 1, 2024**

New Jersey is now poised to join a growing list of states that have enacted pay transparency laws. On September 28, 2024, the New Jersey legislature passed a bill (S2310/A4151) after the Senate voted unanimously to approve the measure in June. It now goes before Governor Phil Murphy for his consideration. If enacted, the bill would require transparency as it relates to both compensation in employment listings as well as promotional opportunities.

Covered Employers

The pay transparency and promotional opportunity notice requirements would apply to employers with 10 or more employees over 20 calendar weeks who do business, employ persons, or take applications for employment within New Jersey. Coverage would also extend to job placement and referral agencies and employment agencies.

Required Job Posting Pay Disclosures

The bill would require that covered employers include in each posting for new jobs and transfer opportunities the hourly wage or salary, or the range of the hourly wage or salary, for the role, as well as a general description of benefits and other compensation programs for which the employee hired into the role would be eligible. The bill further provides, however, that "[n]othing [in the bill] shall be construed to prohibit an employer from increasing the wages, benefits, and compensation identified in the job opening posting at the time of making an offer for employment to an applicant."

Temporary help service firms and consulting firms would also be required to provide the same pay and benefit information to an applicant for temporary employment at the time of interview or hire for a specific job opening. However, such firms would not be required to include any such information in postings "that are posted for the purpose of identifying qualified applicants for potential future job openings and not for existing job openings."

Promotional Opportunity Notice Requirement

Covered employers also would be required to "make reasonable efforts to announce, post, or otherwise make known" opportunities for promotion that are advertised either externally or internally within the employer to all current employees in the affected department(s) prior to making a promotion decision. External postings for this purpose would include internet-based advertisements, postings, printed flyers, or other similar advertisements. However, any promotion for a current employee that is awarded on the basis of years of experience or performance would be excluded from the notice requirement. The bill also would not prohibit an employer from making a promotion "on an emergent basis due to an unforeseen event."

Remedies and Enforcement

Employers would face fines of up to $300 for the first violation and $600 for each subsequent violation of the proposed law. Failure to comply for all postings for one job opening or transfer opportunity or for one promotional opportunity would be considered a single violation, regardless of the number of postings or listings for the given opportunity. No private right of action would be available.

Takeaways

If signed by Governor Murphy, the bill would go into effect six months after signing. New Jersey employers should follow developments on this bill and prepare for possible upcoming changes around job posting obligations.

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Related Professionals

- **Evandro C. Gigante**
  Partner
- **Laura M. Fant**
  Special Employment Law Counsel