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New Jersey Pay Equity Measure Says No Reprisals Against Employees Requesting Information About Co-Workers

September 5, 2013

On August 28, 2013, New Jersey Governor Chris Christie signed A-2648 to add a new non-retaliation pay equity measure to the Law Against Discrimination ("LAD") (hereinafter, the "amendment" or "law"). The amendment prohibits an employer from retaliating against any employee who requests information concerning the job title, occupational category, rate of compensation (including benefits), gender, race, ethnicity, military status, or national origin of any other employee or former employee, provided that the purpose of the request is to investigate potential discriminatory treatment, or take legal action for discriminatory treatment, concerning pay, compensation, bonuses, or other compensation (hereinafter, "protected information"). The amendment makes it clear that an employer is not required to release protected information in response to an employee's request, but only prohibits reprisals against any employee who makes such a request.

The law as signed by the Governor is a narrower version of a prior bill that originally proposed to amend New Jersey's Conscientious Employee Protection Act ("CEPA") to prohibit retaliation against employees both for requesting protected information and disclosing such information. Although the law now amends the LAD rather than CEPA and does not specifically protect an employee who discloses protected information, the amendment nevertheless may open the door for CEPA claims by employees who suffer retaliation for objecting to or disclosing violations of the new law.

Employers in New Jersey should consider reexamining and recirculating written policies concerning the handling of requests for and disclosures of employee information, and should ensure that managerial and supervisory staff are aware of the new non-retaliation provisions. Given the sensitivity of imposing limitations on employee discussions of compensation, benefits, and other terms and conditions of employment, employers should exercise caution before making such decisions. If you have any questions or concerns regarding the amendment, please contact your Proskauer lawyer.

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