



NYC Poised to Have the Most Stringent Pay Data Reporting Requirement in the Nation

Insights

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A bill recently proposed in the New York City Council would amplify pay equity and transparency efforts by requiring employers with 25 or more employees who work within the five boroughs to comply with stringent pay and demographic data reporting rules. While the State of New York requires that employers ensure equal pay for equal or substantially similar work and prohibits wage discrimination based on many protected categories, and both the State and New York City have recently implemented pay transparency laws requiring certain wage disclosures on job postings, this NYC law would take the goal of pay equity to the next level. The required pay data reports would not only go above and beyond the Equal Employment Opportunity Commission's current EEO-1 reporting requirements, but also the anticipated revival of federal pay data reporting requirements by race and gender. Here's what employers need to know about the proposal.

New York City Bill

The legislation, Int. 982-2024, would impose significant pay data reporting requirements on employers with 25 or more employees who perform full or part-time work within New York City.

If passed, starting February 1, 2025, employers would be required submit detailed pay and demographic data to the NYC Department of Consumer and Worker Protection (DCWP) on an annual basis for each employee, including:

- Total salary or wages earned for the previous calendar year;
- The borough in which the employee works;
- The month and year the employee was hired;
- Job title;
- Gender, race, and ethnicity;
- Birth year;
- Whether the employee is a member of a labor union;
- Whether the employee works more than 35 hours per week, less than 35 hours per week, or on a temporary or seasonal basis not based on the number of hours worked per week;
- Whether the employee is a manager; and

- Any additional information required by the DCWP to be reported.

A covered employer would also be required to submit a digital affirmation by February 1, 2025, and every three years thereafter, self-certifying that it both:

- understands federal, state, and local pay equity laws as they apply to it; and
- complies with such federal, state, and local equal pay laws.

The intent is for the Department to publish on its website a list of the employers that submitted the digital affirmation. The proposed legislation does not indicate whether the DCWP will make the pay data reports submitted by employers available to the public.

Pay Data Reporting as a Trend

Many states are considering pay data reporting laws of their own, in furtherance of equal pay efforts. Already, California employers with at least 100 employees must comply with pay data reporting requirements that were enacted in 2020 and amended for 2023. Illinois also has a pay data reporting requirement, and more states may soon follow suit. If the NYC measure is successfully enacted, it will be the latest and perhaps most significant pay data reporting requirement.

What Should You Do Next?

While the bill is in its initial stages, some form of pay data reporting may soon be a requirement for many employers with a New York City employee presence. It is quite possible, in fact, that your 2024 compensation data may be evaluated by the DCWP – although it is unclear to what extent the pay and demographic data would be publicly available.

Compliance with state and local pay equity laws is key, and now is a good time to review your internal pay practices to ensure you are following these laws. We recommend partnering with legal counsel to conduct an attorney-client privileged pay equity audit to review and evaluate compensation decisions. This will allow you to identify and address any potential pay concerns before year's end.

Conclusion

Fisher Phillips will continue to monitor this bill and any further developments in this area as they occur, so you should ensure you are subscribed to Fisher Phillips' Insight System to gather the most up-to-date information. If you have any questions about New York and New York City pay equity compliance, please contact your Fisher Phillips attorney, the authors of this Insight, any attorney in our New York City office, or a member of Fisher Phillips' Pay Equity Practice Group.

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