

ARE YOU READY FOR NEW ILLINOIS PAY TRANSPARENCY RULES? A COMPLIANCE BLUEPRINT FOR EMPLOYERS

Insights
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Illinois employers will soon be required to reveal salary information in job postings, thanks to a new law that will take effect on January 1. Amendments to the Illinois Equal Pay Act will require covered organizations to provide pay scale and benefits information in their job postings for positions that will be physically performed, at least in part, in Illinois, or positions that will be physically performed outside of Illinois if the employee reports to a supervisor, office, or other work site in the state. Here is a summary of the key changes and a blueprint to help ensure compliance in the new year.

5 Things You Need to Know

The new law amends the [Illinois Equal Pay Act](#) in five significant ways:

1. New Job Posting Requirements: Covered organizations will be required to provide the wage or salary, or the wage or salary range, and a general description of the benefits and other compensation the employer reasonably expects to offer for positions that will be physically performed, at least in part, in Illinois, or positions that will be physically performed outside of Illinois, but the employee reports to a supervisor, office, or other work site in Illinois in their job postings. Additionally, the act requires covered organizations to announce, post, or otherwise make known all job opportunities to all current employees no later than 14 calendar days after making an external job posting for the position.

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2. Disclosure of Pay Scale and Benefits to Applicants:

While the act will not require employers to make a job posting, employers will be required to disclose to an applicant the pay scale and benefits to be offered for the position prior to any offer or discussion of compensation and at the applicant's request if no job posting has been made available.

3. Recordkeeping Requirements: The act will require employers to preserve records of the pay scale and benefits information for each posted position for at least five years. In the event of an ongoing investigation, however, employers will need to retain them until the Department of Labor or court order authorizes their destruction.

4. Potential Liability for Third Party Job Postings: Illinois employers should work closely with any third party they use to assist with job postings and recruitment because the act holds employers liable for a third party's failure to include the pay scale and benefits information in a job posting on their behalf. Employers will have to provide the pay scale and benefits, or a hyperlink to the pay scale and benefits, to the third party to include in the job posting.

5. Severe Penalties for Violations: If the Illinois Department of Labor determines a violation has occurred for an active job posting, the employer will have 14 days for a first offense, seven days for a second offense, and no cure period for a third or subsequent offense, to remedy the violation. If the violation on the active job posting is not remedied within the cure period, the employer will be subject to a civil penalty not to exceed \$500 for a first offense, \$2,500 for a second offense, and \$10,000 for a third or subsequent offense. For violations on non-active job postings, the employer will be subject to a civil penalty not to exceed \$250 for a first offense, \$2,500 for a second offense, and \$10,000 for a third or subsequent offense. A job posting is considered one posting regardless of how many duplicative postings list the job opening.

What Should You Do? Your Compliance Blueprint

Illinois employers should review their compliance plan ahead of the effective date and consider taking the following steps:

- **Begin reviewing your job postings** to ensure they will comply with the new requirements.

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- **Train** your hiring managers, talent acquisition professionals, and human resources employees on the new requirements.
- **Establish a regular review process** so that you can evaluate and update your compensation and benefits on a routine basis and adjust as necessary.
- **Coordinate with any third party you use** to assist with job postings to ensure they are aware of and will comply with the new law once it takes effect.
- **Conduct a privileged pay audit with counsel** to ensure compliance with state and federal equal pay requirements.
- If necessary, consider working with your counsel to **develop a standardized pay scale format** to ensure you comply with pay equity principles.
- If you have operations in states that do not require such transparency, **consider whether you will adopt a patchwork approach or a uniform approach** to job postings in those other states. There are pros and cons to each approach, but you will want to work with your legal counsel to understand your options.

Conclusion

If you have questions regarding changes you may need to make to job postings in Illinois, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in [our Chicago office](#) or [Pay Equity Practice Group](#). We will continue to monitor all labor and employment issues affecting employers, so make sure you are subscribed to the [Fisher Phillips' Insight System](#) to gather the most up-to-date information.