


JUNE 22, 2023 | STATE & LOCAL TRENDS

## Illinois' Pay Transparency Amendment Sent to Governor for Signature

Last week the Illinois General Assembly sent Governor Pritzker HB3129, a pay transparency amendment to the Equal Pay Act. If signed, HB3129 would require employers with 15 or more employees to include the pay scale and benefits for a position in any specific job posting.

The Act, as written and enforced now makes it unlawful for an employer in the state of Illinois with one or more employees to:

- discriminate against employees on the basis of race or sex when determining employee wage rates;
- seek the wage or salary history, including benefits and other compensation, of a job applicant from their current or former employer; and
- retaliate against an employee who exercises their rights under the Act. 

### Employee Count

The amendment does not specify whether all 15 employees must work in the state of Illinois or whether the employer must have 15 or more employees corporate wide for the amendment to apply.

The amendment does however provide that the posting requirements apply to positions that will be physically performed, at least in part, in the state of Illinois. If the job will be performed outside the state of Illinois, but the employee will report to a supervisor, office, or other work site in the state of Illinois the amendment similarly applies.

### Disclosure Requirements

The "pay scale and benefit" information that must be included in the specific job posting includes the wage or salary, or the wage or salary range. Additionally, the posting must include a general description of the benefits and other compensation, including, but not limited to, bonuses, stock options, or other incentives the employer reasonably expects in good faith to offer for the position. This information can be set by reference to any applicable pay scale, the previously determined range for the position, the actual range of others currently holding equivalent positions, or the budgeted amount for the position.

Employers may satisfy the posting requirement by including a hyperlink to a publicly viewable webpage that

includes the pay scale and benefits.

The posting requirements also apply to third party announcements, posting, and publications. Likewise, under the amendment employers would have 14 calendar days after making an external job posting to inform all current employees of an opportunity.

The amendment does not prohibit employers and employment agencies from asking an applicant about their wage or salary expectations for the position. But the employer or employment agency must disclose to the applicant the pay scale and benefits for the position before any offer or discussion of compensation.

### **Key Takeaways**

If signed by Governor Pritzker, HB3129 would take effect on January 1, 2025. To prepare for the change and avoid potential liability, covered employers should carefully determine and document pay ranges for all positions. Additionally, employers should audit existing job advertisements templates or create new templates to ensure that at a minimum there is a hyperlink to a public webpage for an advertised position. Supervisors, managers, and human resources should also be trained on the disclosure requirements and the implications of failing to comply. Ultimately, developing an internal review process to ensure that all job postings include a wage range before dissemination will help mitigate the potential risk for fines or private lawsuits.

Illinois would not be the first jurisdiction to enact a pay transparency law. We previously wrote about [New York City's pay transparency law](#) which took effect on November 1, 2022. Even if employers would not be covered by the amendment, as a best practice, all employers, especially multi-jurisdictional employers, should consider whether to universally modify their job advertisements to include salary ranges. The number of pay transparency laws throughout the country are growing exponentially. Notably, New York State's state-wide pay transparency law takes effect September 17, 2023. Even if there isn't a pay transparency law that applies to a given job advertisements, large employers should still consider whether they would prefer to have uniformity across all job postings or whether salary range information will be included only in postings for roles that can be performed in jurisdictions with a similar pay transparency law, such as New York, Colorado, and Washington.