

Navigating New Jersey's Pay Transparency Act, Effective June 1?

WRITTEN BY

Jack O'Connor | Tracey E. Diamond

On June 1, new job posting requirements took effect in New Jersey under the New Jersey Pay and Benefit Transparency Act. The “Pay Transparency Act,” signed into law by Governor Phil Murphy in November 2024, requires employers to include information about compensation in job postings. Employers also must take steps to make current employees aware of internal promotional opportunities.

New Jersey joins 13 other states with some form of pay transparency requirement — in addition to similar laws already in effect in New York City and Jersey City. The trend will continue as pay transparency laws in other states, such as Massachusetts and Vermont, will become effective soon.

The Pay Transparency Act applies to employers that have 10 or more employees over 20 or more calendar weeks and who do business, employ persons, or take job applications within the state of New Jersey. This definition is expansive and includes, for example, companies that are incorporated, headquartered, or have a store or office physically located in New Jersey; out-of-state companies that have at least one employee who works in New Jersey; out-of-state companies that regularly contract with or sell products or services to New Jersey businesses or customers; and entities based outside of New Jersey that take job applications from New Jersey residents. The Act also applies to job placement, referral agencies, and other employment agencies. The transparency requirements, however, do not apply to efforts by consulting firms to identify potential candidates for future job openings as opposed to current job openings. Additionally, while temporary agencies are not required to include this information in job postings, they must provide the information at the time of the interview or hire for a new job opening.

Internal Notice

Much of the focus on this Act is given to the pay transparency requirements. However, the Act also requires employers to “make reasonable efforts” to notify all current employees in an affected department about opportunities for a promotion before a promotional decision is made, whether the opportunity is advertised internally or externally on an internet-based job posting.

The requirements under this section of the Act do **not** apply to promotions awarded to current employees based on years of experience or performance.

Pay Transparency

The Act requires both employers and job placement agencies (including temporary service and consulting firms) to include the following information in all job postings: (1) the exact hourly wage or salary, or hourly wage or salary range of the position, and (2) a general description of the benefits and other compensation programs for which the employee would be eligible. The range must have a starting and ending point; stating, for example, “up to \$35 per hour” or “\$70,000 per year and above” is not sufficient. This requirement applies to internal and external postings published on the internet, via posters and flyers, or on other similar advertisements.

Penalties

Employers are subject to fines of \$300 for the first violation and \$600 for all subsequent violations. If an employer publishes the same job posting in multiple places at the same time, for example, in a newspaper, job search website and social media, it will be considered one violation. However, if an employer advertises multiple roles at the same time, the state’s Department of Labor and Workforce Development will assess one penalty for each role where the posting is noncompliant with the Act.

Advice for Employers

The goal of New Jersey’s Pay Transparency Act, like the salary history ban (which prohibits employers from asking employees about their prior salaries before a conditional job offer is made), is to increase pay equity and enable current and prospective employees to make informed employment decisions by having information to determine if their compensation is fair. This is especially important in the state in light of New Jersey’s Equal Pay Act, which expanded the New Jersey Law Against Discrimination to make it an unlawful employment practice to discriminate against any protected class in the payment of wages.

To ensure equity, employers should conduct an internal review of pay ranges prior to any job posting. In addition to avoiding legal compliance issues, this type of review can uncover issues, enable employers to reconsider compensation levels, and more effectively recruit and retain employees.

Multistate employers should keep in mind that not all pay transparency laws are the same. It is important to be aware of differences in the law and comply with all applicable requirements in the states where you do business or employ employees.

Finally, as with any change in the law, it is important to notify key personnel in human resources, hiring roles, and department leaders about the new requirements under the Act and review and train them on Act requirements. Employers should plan next steps with the collaboration of all stakeholders.

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