

Getting Clear on NJ's Upcoming Pay Transparency Law: Terms, Requirements + Noncompliance Consequences Employers Need to Know

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Meet the Authors

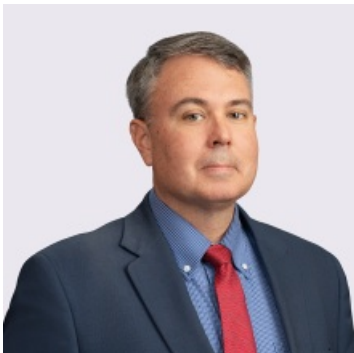


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[Update 11/19/24: Governor Murphy has signed the bill into law. The new law will become effective on June 1, 2025.]

Takeaways

- SB2310 becomes effective seven months after Governor Murphy signs it into law and is similar to state and local pay transparency laws enacted throughout the country.
- The bill applies to a wide range of individuals and organizations who do business, employ people, or take applications for employment in New Jersey.
- A \$300 fine will be levied for the first violation and doubled for subsequent violations.
- Covered employers should undergo a review of their internal systems and work with any outside service providers handling the advertising of positions to avoid disruption to hiring needs and operations and mitigate the risk of potential business exposure.

New Jersey is poised to join the growing list of states requiring employers to include the range of the hourly wage or salary in postings for new jobs or transfer opportunities. Senate Bill 2310 requires most businesses to state the range of wages or salary and a general description of benefits an applicant can expect to earn or be eligible to receive when advertising such position. Governor Phil Murphy has until Nov. 10, 2024, to sign the bill. If the governor signs it as expected, the new law will go into effect seven months later.

This bill is similar to other pay transparency laws enacted in states and cities throughout the country, including the Jersey City Pay Transparency Law (Ordinance 22-026).

Covered Employer

“Employer” is defined as any person, company, corporation, firm, labor organization, or association that has at least 10 employees over 20 calendar weeks and:

1. Does business in New Jersey;
2. Employs persons within New Jersey; or
3. Takes applications for employment within New Jersey.

Job placement, referral agencies, and other employment agencies are included in the

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Related Services

Pay Equity

Wage and Hour

definition of employer if they meet the above requirements.

Requirements for Posting, Advertising

A covered employer that advertises a promotion, new job, or transfer opportunity must disclose the hourly wage or salary (or a range of the hourly wage or salary it would consider) for the position and a general description of all benefits and other compensation programs for which the applicant would be eligible. An employer is free to increase the wages, benefits, or compensation identified in the job posting when making an offer for employment to an applicant. Failure to comply with this disclosure requirement for all postings for a particular job opening or transfer opportunity will be considered one violation, regardless of the number of postings for the position.

Further, if the employer advertises (internally or externally on internet-based advertisements, postings, printed flyers, or other similar means) for a position that could be a promotion for an existing employee, it must make “reasonable efforts” to announce, post, or otherwise make known the promotion opportunity to all current employees in the affected department(s) prior to making any promotion decision. However, an employer may make a promotion decision on an “emergent basis due to an unforeseen event.”

A promotion is broadly defined to include any position that would change an employee’s job title and increase their compensation. What constitutes a reasonable effort, an emergent basis, or an unforeseen event is not defined. Failure to comply with the promotion posting requirement is considered one violation for all postings for the particular opportunity, regardless of the number of postings for that particular opportunity.

Finally, temporary help service firms and consulting firms registered with the Division of Consumer Affairs in the Department of Law and Public Safety are excepted from the disclosure requirements for job postings posted for the purpose of identifying qualified applicants for potential future job openings. This exception does not apply to job postings for existing job openings.

Violations

An employer who violates this law will be subject to monetary penalties up to \$300 for the first violation and \$600 for each subsequent violation. The bill does not state that individuals can bring a private cause of action for violations.

Next Steps

Covered employers should prepare to ensure compliance with the law’s requirements. Review and update internal systems and ensure that any outside service providers handling the advertising of positions complies with the law. If you do not already have established salary ranges for all positions, consider implementing pay ranges. For multistate employers, it will be important to compare pay transparency requirements in other jurisdictions to ensure compliance across all relevant jurisdictions. Proactive planning will avoid disruption to hiring needs and operations and mitigate the risk of potential business exposure.

Jackson Lewis attorneys can assist with any aspect of compliance and answer any questions regarding the law’s provisions or applicability. For assistance, please contact

your Jackson Lewis attorney.

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