

10 Key Takeaways for Employers on New Illinois Pay Transparency in Job Posting Law

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Takeaways

- The law goes into effect on Jan. 1, 2025, and makes it unlawful to fail to include the “pay scale and benefits” for a specific job in a job posting in Illinois.
- The law applies to employers with at least 15 employees, whether the employees are inside or outside of Illinois or full-time or part-time.
- The IDOL FAQs provide clarity regarding the scope and intent of the law.

Related links

- [Illinois Equal Pay Act Pay Transparency FAQs](#)
- [Illinois Equal Pay Act Salary Transparency](#)
- [Illinois Mandates Pay Transparency in Job Postings](#)

Article

The long-awaited [frequently asked questions](#) (FAQs) from the Illinois Department of Labor (IDOL) governing the state’s new pay transparency in job posting requirements were published on Nov. 22, 2024. The FAQs further clarify the practical implications of the [new law](#), which goes into effect on Jan. 1, 2025.

While the IDOL has indicated formal regulations will be released at some point, the FAQs and [additional materials](#) posted on the IDOL’s website provide helpful insight on how the IDOL intends to enforce the new law.

New Pay Transparency Law

The law makes it unlawful for an employer with at least 15 employees to fail to include the “pay scale and benefits” for a specific job in a job posting in Illinois.

The law defines “pay scale and benefits” broadly as the “wage or salary, or the wage or salary range, and 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.”

Key Takeaways

1. Clarification on “pay scale” requirement

The new law makes clear that employers may satisfy the “wage or salary, or the wage or salary range” requirement by referring to:

- Any applicable internal pay scale;
- The previously determined pay range for the position;
- The actual pay range of others currently holding equivalent positions; or

- The budgeted amount for the position, as applicable.

Employers also should indicate if a position is eligible to receive tips, commissions, or bonuses as a part of compensation, but the employer does not need to include estimated amounts.

The FAQs indicate that a “range of pay” is acceptable so long as the range includes “the lowest to the highest pay the employer actually believes it might pay for the particular job, depending on circumstances such as employee qualifications, employer finances, or other operational considerations.”

The FAQs also clarify that, if the pay might be different outside Illinois, the range should be what the employer would pay *in Illinois*. If the pay may vary by locality, the information should allow applicants to reasonably estimate their pay for a specific location.

2. Clarification on the “benefits” requirement

The new law also requires that job postings include a “general description” of any benefits offered for the position. This requirement can be satisfied by posting a relevant and up-to-date general benefits description in an easily accessible, central, and public location on an employer’s website and referring to this in the job posting.

While the law is unclear on the amount of detail needed in the “general description,” the FAQs state that the employer “must describe at least the nature of the benefits and what they provide” and that employers should “consider all possible benefits.”

3. The 15-employee threshold requirement is not restricted to Illinois

For the purposes of determining whether an employer is covered by the new law, the 15-employee requirement includes *all* employees, whether they are inside or outside of Illinois and whether full-time or part-time.

4. The new law applies to both internal and external job postings

The new law does not require employers to post job opportunities. However, if an employer chooses to post a specific job opportunity, whether internally externally, it must include the “pay scale and benefits” for that position. The FAQs also clarify that the new law applies to *all* job opportunities, including full-time, part-time, temporary, and those subject to a collective bargaining agreement.

5. Clarification on the definition of “job posting”

The new law is not restricted to postings on traditional job boards. It applies to any type of notification regarding a specific job opportunity. A “help wanted” sign or a notice encouraging employees to consider applying for promotional opportunities would not constitute job postings (because they are not for specific opportunities). An employer’s company-wide email to all employees about an open position or a physical notice posted in a break room, however, would constitute a “job postings” as contemplated by the new law.

The FAQs also clarify that employers must provide pay scale and benefit information to job applicants upon request if a job posting with the information has not previously been made available to them.

6. Employers are required to announce most external job postings to current employees

If an employer makes an external job posting for a position for which current employees also may apply as a promotion, the employer must announce that opportunity to current employees no later than 14 calendar days after the external job posting is made.

7. Remote positions are contemplated by the new law

The new law applies to any positions that (1) will be physically performed, at least in part, in Illinois or (2) will be physically performed outside of Illinois, but the employee reports to a supervisor, office, or other work site in Illinois.

The FAQs clarify that non-Illinois employers are required to follow the law only for positions that could be performed in Illinois “if the employer had a reason to know or reasonably foresees at the time it made the specific job posting that the work would be done, at least in part, in Illinois, or would report to a supervisor, office, or other work site in Illinois.”

The FAQs also clarify that positions that require “occasional, intermittent, or sporadic visits to or contact with Illinois for work” are not covered by the new law.

8. Job postings on external websites

If an employer uses a third party to announce, post, publish, or otherwise make known a job posting, the employer must provide the pay scale and benefits (or a hyperlink to the pay scale and benefits) to the third party, who, in turn, must include that information in the job posting.

9. Recordkeeping

Employers are required to make and preserve records that document the pay scale and benefits for each position, as well as the job posting for each position. The FAQs give the following examples of information that should be retained:

- Records showing that an employer that engaged a third party did include pay and benefit information in the materials it provided to the third party;
- Records showing when and by what means an employer (directly or through an engaged third party) published a specific job posting, whether external or internal-only;
- Records showing when and by what means an employer that externally published a specific job posting (directly or through an engaged third party) made the promotional opportunity known to its current employees;
- Records showing when and how an employer in good faith determined pay or pay range and benefits used in a specific job posting; and
- Records showing if the employer ultimately determined to offer different pay and benefits than those in the specific job posting and the good-faith reason for the change.

10. Fines and penalties for violations

The IDOL may initiate investigations (for both active and inactive job postings) of alleged violations of the law upon receiving a complaint from any person who claims to be aggrieved or at the IDOL’s own discretion.

If the IDOL determines that a violation has occurred and determines the job posting is still active, the IDOL will send to the employer a notice setting forth the violation, the applicable penalty, and the period to cure the violation.

If the job posting is not active, the FAQs indicate that the IDOL will send the employer a notice setting forth the violation and the applicable penalty.

PERM Ramifications

An employer seeking a permanent labor certification from the Department of Labor to allow it to hire a foreign worker to work permanently in the United States should be prepared to add Illinois to the list of states with similar transparency requirements.

Next Steps

The IDOL has indicated it intends to continue to update its FAQs. For more information about the new pay transparency requirements, please contact a Jackson Lewis attorney.

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