

New Jersey Pay Transparency Legislation Passes First Committee Hurdle

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Joining the expanding roster of states advocating for salary transparency in job postings, New Jersey took a significant step on December 11, 2023. The Assembly Consumer Affairs Committee voted 4-0 (with one member not voting) to favorably report Assembly Bill A3937 with amendments to the full General Assembly.

If it becomes law, A3937 would require all New Jersey employers, with more than 10 employees, to “disclose in each posting for promotions, new jobs, and transfer opportunities that are advertised by the employer either externally or internally the hourly wage or salary, or a range of the hourly wage or salary[.]” Employers also would be required to provide “a listing of benefits and other compensation programs for which the employee would be eligible within the employee's first 12 months of employment.”

A3937 would affect promotions as well. Under the proposed bill, employers would be required to make “reasonable efforts to announce, post, or otherwise make known opportunities for promotion that are advertised internally within the employer or externally on internet-based advertisements, postings, printed flyers, or other similar advertisements to all current employees in the affected department or departments of the employer's business prior to making a promotion decision.” Promotions made on an “emergent basis” because of “an unforeseen event” would not be subject to this notification requirement.

The Department of Labor and Workforce Development would be responsible for enforcing A3937 and employers would be liable for fines of up to \$10,000. Notably, the amendments adopted by the Consumer Affairs Committee removed any private right of action by an employee. The bill now goes to the Assembly Appropriations Committee for further consideration.

Employers should carefully review their compensation policies to ensure that existing employees are properly paid because, if adopted, A3937 will provide them substantial insight into the pay range and any other benefits and compensation associated with their position. And, while there may not be a private right of action under A3937, as presently drafted, the Diane B. Allen Equal Pay Act already requires equal pay for substantially equal work.

Porzio's employment and labor attorneys are actively tracking the legislation and are ready to assist employers in navigating compliance if a new pay transparency law is enacted.