

Pay Transparency Arrives in New Jersey

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By: Sarah Wisniewski

Governor Murphy signed S2310 into law last week, making New Jersey the 14th state to require pay transparency. The new law requires employers to be transparent about compensation and benefits for promotions, job listings, and transfer opportunities.

The stated goal of S2310 is to promote fairness in the workplace and increase career advancement opportunities. S2310 mirrors Jersey City's existing pay transparency law, Ordinance 22-045. Ordinance 22-045 applies to employers with five or more employees and whose principal place of business is Jersey City. Covered employers are required to disclose the minimum and maximum annual salary or hourly wages in employment opportunities, and the penalty for noncompliance is up to \$2,000.

S2310 does not standardize local pay transparency ordinances, and employers should be aware of the variability between the State and local pay transparency laws. Though local laws may provide some stronger protections to supplement the State law, S2310 sets the floor for all employers throughout the State, who must abide by its minimum requirements.

Covered Employers

S2310 defines an “employer” as “any person, company, corporation, firm, labor organization, or association. . . .” An employer may be subject to S2310 if the employer: (1) employs 10 or more employees over the course of 20 calendar weeks, and (2) does business, employs individuals, or takes applications for employment within New Jersey. Job placement and referral agencies may also be subject to S2310 if they meet both requirements.

The language of S2310 is unclear whether an employer is subject to the law if the “employment” is located in New Jersey or if the employer accepts applications from someone in New Jersey for an out-of-state job. Therefore, until the issue is clarified, we recommend any business that accepts any employment applications in New Jersey, regardless of whether the “employment” is located in New Jersey, review and update their processes for advertising job opportunities to ensure they are in compliance with the law.

Disclosure

Employers subject to S2310 must disclose the hourly rate, annual salary, or range for any advertised position, as well as all benefits and additional compensation an employee may be eligible for within the first 12 months of employment. Employers, however, are not prohibited from “increasing the wages, benefits, and compensation identified in the job opening posting at the time of making an offer for employment to an applicant.”

Notice

S2310 also requires that employers make “reasonable efforts” to make known to all employees in an applicable department any promotional opportunities available. S2310 defines “promotion” as a “change in job title and an increase in compensation.”

Regarding S2310's notice requirement, Assemblywoman Quijano (D-Union) emphasized the law's intent, stating, “[n]obody deserves to be overlooked when it comes to promotional opportunities and this legislation is about ensuring fairness in the workplace.”

Noncompliance

S2310 does not provide a private right of action that would allow individuals to sue a noncompliant employer. Instead, employers who violate the law may be fined up to \$300 for an initial violation and \$600 for each subsequent violation.

Important Takeaways

- S2310 will go into effect in mid-June 2025, seven months after Governor Murphy signed the bill into law.
- Employers will be required to disclose the hourly wage, annual salary, or range for a position, and include a description of benefits and additional compensation an applicant may be eligible for within the first 12 months of employment.
- Noncompliance will result in civil penalties: \$300 for a first violation and \$600 for every subsequent violation. The law does not permit employees a private right of action to sue their employers for noncompliance.
- S2310 only applies to employers: (1) with 10 or more employees over the course of 20 calendar weeks and (2) who do business, employ individuals or take applications in New Jersey.

Employers who are subject to S2310 should review and update their processes for advertising job opportunities to ensure they are in compliance with the law. While S2310 will not take effect until mid-2025, employers should begin planning now to ensure they have the appropriate information in place when the law takes effect. Porzio's employment and labor attorneys are ready to assist employers in navigating compliance with the new pay transparency law.