New Jersey Department of Labor Schools Employers on Its Intentions for Implementing Recent Pay Transparency Law with New Proposed Regulations

September 30, 2025

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On September 15, 2025, the New Jersey Department of Labor and Workforce Development released proposed regulations for implementing the New Jersey Pay and Benefit Transparency Act that went into effect earlier this year, signaling to employers how the law's compensation transparency requirements may be enforced.

Regulations issued by the New Jersey Department of Labor and Workforce Development (the Department) this month detail the forthcoming implementation of the key notification obligations for employers regarding promotion, new job, and transfer opportunities under the New Jersey Pay and Benefit Transparency Act (NJPBTA), N.J.S.A. 34:6B-23, which went into effect on June 1, 2025.

The NJPBTA requires compensation transparency for (1) job listings and (2) promotional opportunities. Employers must disclose salary or wage ranges and benefits in job postings and make reasonable efforts to notify current employees of promotional opportunities. In so requiring, the NJPBTA seeks to enhance workers' knowledge of what an employer is offering (in pay, benefits, and other compensation programs) before applying for a position. The NJPBTA covers job postings made in any format, including posts to job search websites, internal company emails, print advertisements, social media, and more. Employers who violate the NJPBTA are subject to costly monetary penalties.

The proposed regulations would impact the following provisions of the NJPBTA:

Covered Employers

Employers subject to NJPBTA requirements include any person, company, corporation, firm, labor organization, or association (including public employers):

1. Having 10 or more employees over 20 or more calendar weeks; and
2. Doing business, employing persons, or taking applications for employment within New Jersey.

The proposed regulations make two important clarifications regarding which entities are covered by the NJPBTA. First, the definition of “employer” under proposed regulation N.J.A.C. 12:74-2.1 would include employment agencies, incorporating the definition of employment agency from N.J.A.C. 13:45B-1.2.

Second, the proposed regulations' definitions would clarify that the “10 or more employees requirement” counts all workers, regardless of whether they work within or outside of New Jersey. The proposed regulations also explain that the

phrase “takes applications for employment within New Jersey” means that both the solicitation of those applications occurred within New Jersey, and that the prospective employment being solicited is to take place at least substantially (if not entirely) within New Jersey.

Reasonable Efforts to Advise of Promotional Opportunities

The NJPBTA obligates employers to make reasonable efforts to notify current employees of promotional opportunities. As proposed, N.J.A.C. 12:74-3.1 would establish what constitutes “reasonable efforts” to announce, post, or otherwise make known the existence of a promotional opportunity to all employees in the department(s) of the employer to which the promotional opportunity is open. This would entail the following:

3. Conspicuously posting notification of the promotional opportunity in a place(s) within the employer's workplace(s) that is/are accessible to all employees in the department(s) of the employer to which the promotional opportunity is open; and

4. In the event the employer has an internet site or intranet site for exclusive use by its employees and to which all employees have access, posting notification of the promotional opportunity on the employer's internet site or intranet site.

Permissible Pay Ranges in Job Postings

The NJPBTA permits employers to satisfy its job postings requirements by including either the exact hourly wage/salary being offered, or a range of the hourly wage/salary being offered. If the job posting contains a range, it is to include a start and an end point. The proposed regulations would provide an outer limitation on the contours of acceptable salary ranges. Specifically, under the proposed regulations, employers would be prohibited from including a pay range where the spread between the bottom and top of the pay range exceeds 60% of the pay range starting point. For example, a job posting with a pay range of “$100,000 to $165,000 a year,” would violate the NJPBTA under the proposed regulations because the difference between the bottom ($100,000) and top ($165,000) end of the offered pay range is 65% of the pay range starting point.

Enforcement and Hearing Procedures

The NJPBTA does not contain a private right of action and instead is enforced through complaints issued by the Commissioner of the Department. Under the proposed regulations, when penalties are assessed for NJPBTA violations, the following procedure will ensue:

- The Commissioner provides the employer with written notification of the violation and penalty amount;
- The employer can request a formal hearing within 15 days;
    - (If the employer does not make a hearing request within 15 days, then the notice of violation becomes a final order)
- The Division of Wage and Hour Compliance reviews the hearing request to determine if an informal settlement conference is warranted;
- Matters which do not resolve at a settlement conference will be forwarded to Office of Administrative Law for a formal hearing;
- The Commissioner makes final decisions regarding violations; and
- Final decisions are appealable to the Appellate Division.

Penalties

Employers who violate the NJPBTA are subject to penalties of up to $300 for a first violation, and up to $600 for each subsequent violation. Violations are measured by the number of job openings posted by the employer which violate the NJPBTA. For example, if an employer creates a job posting that violates the NJPBTA, then disseminates it via email and LinkedIn, those efforts together constitute just one violation. By contrast, if an employer creates 3 job postings, all of which violate the NJPBTA, then lists them all in a single LinkedIn post, that post would constitute 3 separate violations. As proposed, N.J.A.C. 12:74-1.2(b) delineates certain factors which the Commissioner would consider in determining the appropriate penalty for a violation of the NJPBTA, including the following:

5. The seriousness of the violation(s);
6. The past history of previous violations by the employer;
7. The good faith of the employer;
8. The size of the employer's business; and
9. Any other factors which the Commissioner deems appropriate.

Takeaways

Taken together, the proposed regulations would reinforce the wide scope of the NJPBTA's applicability, curtail the scope of permissible salary ranges in job postings, and establish an extensive procedural mechanism to challenge violations. While not yet final, the proposed regulations provide key insight into how the Department intends to implement and enforce the NJPBTA.

The Department is accepting public comment on the proposed regulations until November 14, 2025. In the meantime, employers are encouraged to do the following:

- Create templates for job postings (both internal and external);
- Ensure job postings contain appropriate floors and ceilings for salaries, if ranged;
- Review agreements with hiring agencies/recruiters to confirm that information is being posted accurately;
- Evaluate where positions are being posted to ensure complete compliance.

Porzio's team of employment attorneys is ready to assist employers in creating forms, reviewing processes and procedures, and providing strategic guidance to address employers' current and evolving obligations under the NJPBTA.