

# Client Alert **Employment and Labor**

## **New Jersey Employers: Pay Transparency Arrives June 1**

Beginning on June 1, 2025, the newly enacted pay transparency law will require New Jersey employers with 10 or more employees to disclose specific compensation details in their advertisements and postings for job openings and transfer opportunities, and to notify all current employees in the affected department of promotional opportunities that are advertised internally or externally in advance of the decision.

### **Coverage**

The law defines “employer” broadly as any person, company, corporation, firm, labor organization, or association that has 10 or more employees in over 20 calendar weeks, and which does business, employs persons, or takes applications for employment within New Jersey, and includes the State, as well as any county or municipality. Given its broad coverage, the law could potentially apply to those employers located outside of New Jersey who do business in New Jersey, employ persons and/or accept employment applications from within the state.

Job placement, referral, and other employment agencies are also included within the definition of “employer.” Temporary help service firms and consulting firms registered with the Division of Consumer Affairs in the Department of Law and Public Safety are not required to disclose information for the purpose of identifying qualified applicants for potential future job openings. However, temporary and consulting firms are required to provide pay and benefit information to an applicant for temporary employment at the time of the interview or hire for a specific job opening.

### **Pay and Benefits Information Required for New Jobs and Transfer Opportunities**

Employers’ internal and external advertisements and postings for new jobs or transfer opportunities must specify:

- The hourly wage or salary (or a range); and
- A general description of the benefits and other compensation programs (such as bonuses and commissions) for which the selected candidate will be eligible.

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Importantly, employers retain the flexibility to offer higher compensation and benefits when extending offers of employment. This circumstance may occur, for example, when a highly qualified candidate is identified.

While the law does not define “transfer opportunity,” it appears to refer to an internal job move. To aid human resources and managerial personnel who will implement this requirement, employers may wish to define this term in their handbooks and policies.

### Promotional Opportunities

In addition, an employer that publicizes a promotion opportunity through internal or external internet-based advertisements, postings, printed flyers, or similar methods, must make “reasonable efforts” to notify all current employees in the affected departments of the opportunity prior to making the promotion decision. The term “promotion” is defined as “a change in job title and an increase in compensation.”

Nevertheless, notification is not required when:

- The promotion decision is based on a current employee’s years of experience or performance; or
- The promotion is made on an emergent basis due to an unforeseen event.

### Penalties and Other Risks of Non-Compliance

Employers who violate the law will be subject to a civil penalty not to exceed \$300 for the first offense and \$600 for subsequent offenses. An employer’s failure to comply with the disclosure requirements for a particular promotion, new job, or transfer will be considered as a single violation, regardless of whether there are multiple forums, postings, or listings. These penalties will be enforced by the New Jersey Department of Labor. The law does not provide for a private right to action. Aside from the statutory penalties, employers who violate the law may face other risks, such as employee relations issues or damage to reputation.

### Next Steps for Employers

The law’s broad application and mandated compensation disclosure is a new approach in New Jersey. Notably, New York State and New York City have previously enacted similar pay transparency laws, which are already in effect.<sup>1</sup> Employers who operate in multiple states or who may have remote applicants or workers in different states need to consider whether pay transparency law(s) potentially apply.

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<sup>1</sup> Jersey City enacted a pay transparency ordinance in 2022, which applies to any Jersey City employer with five (5) or more employees within Jersey City. The Jersey City ordinance has slightly different requirements. Jersey City employers should ensure that they meet the requirements of both laws.

To prepare for the new law's effective date, employers should consider reviewing their hiring, promotional, and transfer practices now. Among other actions, we recommend that employers consider: (i) undertaking a pay equity review/audit to ensure that existing pay practices comply with federal and state equal pay laws; (ii) preparing pay and benefit ranges for existing positions; (iii) examining current procedures used for publicizing job openings, transfer opportunities, and promotions, and, if needed, update such procedures to ensure compliance with the law; and (iv) training appropriate human resources and other personnel involved in the hiring and promotion process on the transparency law's requirements.

New Jersey's forthcoming pay transparency law adds to several laws that New Jersey has enacted in recent years to promote openness and equity about employees' pay. For example, in 2018, the Diane B. Allen Equal Pay Act amended the New Jersey Law Against Discrimination to prohibit employers from paying lower wages and benefits to members of protected classes who perform substantially similar work as those performed by members of non-protected classes. That law further prohibits employers from retaliating against employees who discuss their salary and benefits with their coworkers. Thereafter, in 2020, New Jersey enacted a law that prohibits employers from asking job candidates about their salary history, or from screening candidates based on their salary history. SCG's Employment Law Group will continue to monitor how this law is applied by the New Jersey Department of Labor and if further guidance is provided. The Group stands ready to assist employers in complying with its requirements.

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Sills Cummis' Employment and Labor Practice Group is available to help.

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