

New Jersey Proposes New Regulations to Implement Pay Transparency Law: What Employers Should Do Now

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As we noted in our January 8, 2025, Saiber Employment Law Alert, New Jersey's pay transparency law (N.J.S.A. 34:6B-23) took effect on June 1, 2025, requiring covered employers to disclose salary information and certain benefits in job postings and to provide notice of promotional opportunities to current employees.

The New Jersey Department of Labor and Workforce Development ("NJDOLE") issued proposed regulations that would implement and clarify the law. While the rules are not final, the NJDOLE has signaled that employers should treat the proposal as a roadmap for compliance.

Below is a summary of the key points and practical steps employers should consider now.

Coverage: Who Is a "Covered Employer"?

The statute and proposed new rules apply broadly to any employer with 10 or more employees over 20 calendar weeks, regardless of where those employees work, so long as the employer does business, employs individuals, or takes applications in New Jersey. The proposed new rules clarify that an employer "takes applications" in New Jersey when both (1) the solicitation occurs in New Jersey and (2) the physical location of the prospective employment is in whole or in substantial part in New Jersey.

As a result, multi-state and remote employers may be covered even if they have few or no employees physically in New Jersey, provided they recruit for roles that are, in whole or substantial part, based in New Jersey.

Content of Job Postings: Pay Ranges and Benefits

The law requires all internal and external postings for new jobs and transfer opportunities to include the hourly rate or salary (or a range) and a general description of the benefits and other compensation programs available to the selected applicant. The proposed regulations expand on those requirements:

- Any pay range must include both a minimum and a maximum salary, and open-ended ranges such as "\$80,000 and up" are not permitted.
- When a range is provided, the difference between the minimum and maximum may be no more than 60 percent of the minimum. For example, a range of \$100,000 to \$160,000 would comply, while \$100,000 to \$200,000 would not. The rules also provide a formula for calculating the percentage spread.

- The 60 percent cap does not apply when the pay range is established by a collective bargaining agreement or by law, rule, or local ordinance.
- “Benefits” is defined broadly to include fringe benefits such as health, life, and disability insurance, paid time off (including vacation, holidays, personal leave, and sick leave), training, and pension, while “other compensation programs” include commissions, bonuses, profit-sharing, and similar arrangements.

The proposed rules clarify that employers may be liable for non-compliant third-party postings when they control the content or have contracted away control of the recruitment process for a specific position.

Promotional Opportunities: What Counts as “Reasonable Efforts”?

The law requires employers to make “reasonable efforts” to inform current employees of promotional opportunities (defined as a change in job title and an increase in compensation) before a promotion decision is made. The proposed rules define “reasonable efforts” to include:

- Conspicuously posting notice of the promotional opportunity in a location accessible to all employees in the affected department(s); and
- If the employer has an internet or intranet site for exclusive use by employees to which all employees have access, posting the promotional opportunity on that site as well.

The proposed rules also recognize two exceptions:

- Promotions based on years of experience or performance are not subject to the posting requirement; and
- Employers are not required to post promotional opportunities filled on an emergent basis due to an unforeseen event.

Enforcement and Penalties

The proposed regulations confirm the penalty structure in the statute:

- Up to \$300 for a first violation; and
- Up to \$600 for each subsequent violation.

A single failure to comply with the law’s requirements for a particular promotional opportunity or job posting will be treated as one violation, even if the same non-compliant posting appears in multiple places or on multiple forums. The Commissioner will consider mitigating factors when determining any penalty.

Practical Steps for Employers

Although the proposed rules have not yet been adopted, they offer insight into how the NJDOL expects employers to comply. Employers that do business in New Jersey should begin preparing by auditing all job postings and templates to ensure they contain a compliant pay rate or range with no more than a 60 percent spread, and a general description of benefits and other compensation programs. Employers should also review their promotion and internal transfer

practices to confirm that opportunities are publicized in a manner that satisfies the “reasonable efforts” standard. Finally, employers should assess their agreements and practices with recruiters, staffing firms, and job-posting platforms to ensure those third parties are aligned with the law.

If you have any questions about New Jersey’s pay transparency law, the proposed regulations, or how these developments may affect your hiring or promotion practices, please contact DanaLynn T. Colao or any member of Saiber LLC’s Employment and Labor Law Group.