

Illinois Department of Labor Gives Long-Awaited Guidance on January 1, 2025 Pay Transparency Requirements

Labor & Employment Law Update

By Stephen Pauwels and Sara Zorich on December 10, 2024

Less than a month before the changes are set to go into effect, the Illinois Department of Labor (IDOL) has given employers some guidance on how the department will be enforcing the new requirements and published the poster that employers must display to their employees.

In brief, the amendments to the Equal Pay Act, signed into law in mid-August 2023, require that employers with at least 15 employees that choose to publish a job posting are required to include: the expected wage range and offered benefits for jobs that will physically be performed in Illinois or report to an Illinois-based supervisor or office. The amendments also require that employers notify their current employees of any published job posting within two weeks.

The guidance, made in the form of an FAQ, comes on the heels of a series of webinars the IDOL has hosted to lay out its expectations for the new requirements and elicit questions and feedback from the public. Among the highlights of the FAQs are:

- Employers are *not required* to make job postings under the law; it only applies when an employer *chooses* to publish a job opening. If a job posting is not published, employers must provide pay scale and benefits information prior to any offer or discussion of compensation *only when the applicant asks for it*.
- The amendments do not apply to postings that generally seek applicants without reference to a specific job (e.g., a “help wanted” sign).
- The amendments also do not apply to jobs that employers do not expect to be performed in Illinois or that will only occasionally or sporadically do work in Illinois.
- The wage or wage range must be what the employer actually anticipates offering to candidates but does not have to be what the employer actually pays the person it hires for the position if other factors influence the pay of the applicant selected.

- Employers should avoid open-ended phrases (e.g., “up to \$60,000” or “pay starts at \$50,000 depending on qualifications”) when setting the wage range.
- Employers can post a link that would give an applicant the wage and benefit information and should post the expected wages for all applicable worksites if wages will differ depending on worksite.

Employers that make non-compliant job postings will face an escalating series of fines, depending on whether the posting is active at the time the IDOL becomes aware of the violation. Non-compliant posts will only count as one violation if the same problematic job posting is made in multiple locations and if the department becomes aware of more than postings for one position all at the same time.

The guidance is not yet complete, however, and questions remain about the IDOL’s interpretation of the amendments, such as the level of detail required for offered benefits. Employers should seek out knowledgeable legal counsel to avoid the penalties that come along with non-compliant job postings and to stay up-to-date on developments as we await further IDOL guidance and administrative rules.

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