Understanding Pay Transparency in Job Postings

Employment and Labor

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Pay transparency legislation has gained traction in recent years. Several states and local jurisdictions require private employers to disclose pay information to applicants. Today, 10 states require employers to disclose pay information in job postings and four states have pending bills. In addition, several municipalities and counties have also passed similar legislation.

Various state requirements

Generally, all pay disclosure laws require employers to provide the pay range for an open position, however, some states also require disclosure of other compensation, such as bonuses, stock options, and incentives. Colorado, Illinois, and Washington also require a description of benefits.

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The following are a few notable state requirements to consider:

- While pay transparency requirements typically apply to external job postings, some states, such as Colorado and New York, extend this requirement to internal opportunities as well.
- In Illinois, employers may include the required information in job postings or a hyperlink to a public webpage, whereas in California employers are required to disclose the information in the job posting and not separately in a link or QR code.
- California, Colorado, and Washington pay disclosure requirements apply to any job posting that may be filled within the jurisdiction, such as a remote position.

- Illinois and New York requirements apply to positions performed outside of the jurisdiction if the employee reports to a supervisor, office, or other work site in the jurisdiction.

While disclosure laws are similar, they are not all the same which makes it difficult for employers with employees in multiple jurisdictions to use a one-size-fits-all approach. Employers will need to evaluate each law's requirements and consider complying with the most rigorous.

Positive impacts of pay disclosure

Disclosing pay information in job postings may have a positive impact in other areas.

Compliance with other laws is one such benefit. For example, the Illinois Equal Pay Act requires private employers with 100 or more employees in Illinois to submit employee pay data and a signed compliance statement with the state certifying, among other things, that the average compensation for the employer's female and minority employees is not below the average compensation for its male and non-minority employees. The compliance statement must also indicate the approach for determining the level of wages as well as how often wage and benefit disparities are evaluated. The process to determine the pay range to be included in a job posting likely helps an employer describe the evaluation related to equal pay.

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In addition, studies have shown that employers who disclose pay are more likely to achieve equal pay. In October 2022, LinkedIn reported that pay data shows females make $0.82 for each $1.00 males make; the gap widens for minority women. The article posits that pay transparency helps

shrink pay gaps because it gives marginalized applicants a baseline for negotiation. A recent study by *Harvard Business Review* looked at the pay gap in public US academic institutions and found that pay transparency has not only reduced the gender pay gap but eliminated it in some states.

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Business case in favor of pay transparency

Competition for talent

Compensation is often a prominent concern for job seekers. The Society for Human Resources Management ("SHRM") reported in November 2022 that most job seekers rank pay higher than location, culture, DEI policy, and benefits. In June 2023, *The New York Times* reported that in a survey of more than 1,000 participants, 85 percent indicated they are less likely to apply for a job if the pay range is not provided in the job posting.

Recruiting costs

SHRM recently reported that 54 percent of respondents to a survey stated they had declined a job offer after learning the pay and 33 percent said they will not attend an interview if they are not told the pay beforehand. Given this data, employers should consider the financial impact of unnecessary rounds of interviews on the company, which may be avoided by disclosing pay up front.

DEI and company culture

Another added benefit of disclosing pay is that it may attract a more diverse workforce. Data from Textio, a company that provides guidance to optimize job postings, shows job postings in Colorado that included pay ranges were 83 percent more likely to appeal to women and were 50 percent more likely to appeal to all age groups than postings that did not disclose pay.

It is important to include pay transparency in job postings to appeal to all ages and genders. VectorMine / *Shutterstock.com*

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The patchwork of laws is a challenge

With the patchwork of pay disclosure requirements, employers should be mindful of what information needs to be provided, to whom, and how it needs to be provided to be compliant. Such efforts may also assist with compliance with other laws and have a positive business impact.

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