

## California Joins Washington, Colorado, and NYC in Adopting Pay Transparency Law

10.24.2022

California recently became the most populous state in the United States to enact a pay transparency law, requiring covered employers to provide wage ranges in each job advertisement. Under the new law, employers with 15 or more employees in the state must provide wage ranges in job advertisements. The state joins Washington, which passed a similar law earlier this year, Colorado, and New York City in mandating employer transparency regarding pay. Because all covered employers operating in these states may face civil penalties for violations, the state laws are likely to create a ripple effect nationwide. Multistate employers will want to proactively monitor these laws to ensure compliance and avoid penalties. For more information on Colorado and New York City's recent wage laws, read our previous publication [here](#).

### *California*

**Effective Date:** January 1, 2023

**Covered Employers:** California employers with 15 or more employees. We are currently awaiting further guidance as to what constitutes a California employer, as the law is unclear whether covered employers must maintain a physical presence within the state to qualify.

**Requirements:** Employers must disclose wage ranges in each job posting for open positions, including public postings through third party platforms (e.g., LinkedIn , Indeed, etc.) on behalf of employers. Employers are also required to maintain

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job title and wage rate history for each employee for a minimum of three years post-employment. There is no requirement to disclose benefits and additional compensation, such as bonuses or stock options, within the job postings. In addition, all covered employers must disclose pay scale information to current employees or applicants upon request. This is broader than California's current law, which requires employers to disclose pay ranges in the event an applicant requests such information after an initial interview. Covered employers should be prepared to provide employees with pay scale information upon request once the law goes into effect.

Existing law allows employers with over 100 employees to submit the federal Employer Information Report ("EEO-1") to the Civil Rights Department (the "Department") if one employee works in California. In addition to the federally-required EEO-1, private California employers with 100 or more employees must file an annual report to the Department that includes pay information such as median and mean hourly rate for each combination of race, ethnicity, and sex within each job category. Large employers must also submit separate pay data reports for employees hired through labor contractors. Failing to file such reports may result in penalties of \$100 for each employee as an initial violation, and \$200 per employee for each subsequent violation.

**Remote Workers:** The law does not specify whether or how it may apply to postings for remote work positions.

**Enforcement:** Aggrieved employees may file complaints alleging employer violations with California's Labor Commissioner, who is authorized to issue civil penalties up to \$10,000 for each employer violation. California's Division of Labor Standards Enforcement is required to investigate all employee complaints. If an employer fails to keep records in accordance with the law, a rebuttable presumption exists in favor of an employee's claim. The law also permits a private right of action for individuals seeking injunctive or other relief.

### *Washington State*

**Effective Date:** January 1, 2023

**Covered Employers:** Washington employers with 15 or more employees. We are currently awaiting further guidance as to what constitutes a Washington employer, as the law is unclear whether covered employers must maintain a physical presence within the state to qualify.

**Requirements:** Employers must proactively disclose the wage scale or salary range for each posting for individual job openings, including those posted by third-parties. In addition, each posting must include a general description of all benefits and additional compensation offered

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to the applicant. A “posting” is a solicitation intended to recruit job applicants for a specific available position that includes qualifications for desired applicants, including both electronic and hard-copy postings.

**Remote Workers:** The law does not specify whether the position must be physically performed in Washington, or whether remote work is included in the covered positions.

**Enforcement:** An applicant or employee may file a complaint with the Department of Labor & Industries, or file a civil suit against an employer for violations of the law. Eligible recovery is the greater of either actual damages caused by the violation, or the statutory damages of \$5,000 plus interest, costs, and reasonable attorneys’ fees. Any wages and interest owed is calculated back four years from the last violation.

For further guidance on how to comply with California and Washington’s new pay transparency laws, reach out to any member of Koley Jessen’s **Employment, Labor, and Benefits** team for assistance.