

CLIENT ALERT: California Becomes the Latest (and Largest) State to Pass Salary Transparency Law

On September 28, 2022, California Governor Gavin Newsom signed [California's](#) salary transparency bill ([SB 1162](#)), making California the largest state in the United States mandating employers provide salary information in job postings to prospective applicants and employees.

The new law, which goes into effect January 1, 2023, requires employers with 15 or more employees to disclose the salary ranges in all job postings for jobs in California. This includes both advertisements posted directly by the employer and those posted via third party services, which may include websites like Indeed or LinkedIn.

The law also requires all employers, regardless of size, to provide the salary range information for a particular job to a prospective applicant directly, upon that applicant's request. In addition to prospective applicants, California's disclosure law now requires that all employers, regardless of size, disclose the salary range information for a particular job to an *existing* employee currently in that position, upon that employee's request. Thus, this new law allows existing employees to check where their salaries fall within their own organizations. The law requires employers to maintain records of a job title and wage rate history for each employee for a specified period, to be open to inspection by the Labor Commissioner.

California's new law will also require employers with 100 or more employees to report to the Department of Fair Housing and Employment both the mean and median pay of their employees, and contractors, by race, ethnicity, and sex. These reports will be publicly available.

Individuals claiming to be aggrieved by any alleged violation of this law may file a written complaint with the California Labor Commission within one year after the person learns of the alleged violation. Upon any finding that the employer violated the law, the Labor Commission may impose a civil penalty of no less than one hundred dollars (\$100) and no more than ten thousand dollars (\$10,000) per violation. The Labor Commission will assess the penalty based on the totality of the circumstances. For example, an employer may avoid a penalty for the first violation by showing that all of its job postings have been updated to include required salary range information. In addition to filing a complaint with the Labor Commission, individuals may also file a lawsuit for injunctive or other appropriate relief in court.

With its passage, California joins Colorado, who passed a similar law that went into effect in January 2021, aggressively requiring pay transparency. [New York City](#) passed a similar disclosure law that is set to go into effect in November 2022, and Washington's law is set for early 2023. Other states with some form of salary transparency law include Connecticut, Maryland, Nevada, and Rhode Island. Some cities and towns also have passed laws impacting salary disclosures. In addition, the New York State legislature has passed a similar pay disclosure bill that awaits signature by Governor Kate Hochul, which if signed would become law after 270 days. These state laws create a patchwork of compliance obligations, requiring national and local employers to adjust their practices based on the jurisdictions in which they operate and/or seek candidates. These bills represent a trend across the country to push for compensation transparency in job postings, with proponents of these bills arguing that such transparency addresses racial and gender wage gaps.

MBJ will continue to monitor these bills as they make their ways across various jurisdictions. In the meantime, employers are encouraged to contact their MBJ attorney with any questions about salary disclosure in job postings, or any of the other issues addressed herein.

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