California Governor Gavin Newsom Signs Update to State's Pay Transparency Law, Setting Out New Pay Disclosure Requirements

by Gabrielle Wirth, Erica Haggerty Chen, Nisha Verma, and Pavlina Kochankovska Rafter

Governor Newsome has signed S.B. 1162, which requires employers to make salary ranges for positions available to both applicants and employees and expands pay data reporting requirements to better identify gender and race-based pay disparities.

Pay Data Reporting

California currently requires employers with at least 100 employees who have at least one employee in California to annually report pay data broken down by employees' sex, race and ethnicity to the Civil Rights Department (formerly known as the Department of Fair Employment and Housing).

Under S.B. 1162, a private employer with 100 or more employees must submit a pay data report to include the median and mean hourly rate for each combination of race, ethnicity and sex within each job category. It also requires employers to submit a separate pay data report for employees hired through labor contractors. This bill also removes the provision of existing law which allowed employers to comply by submitting an EEO-1 report in lieu of pay data. These reports must be filed by the second Wednesday of May 2023, and the second Wednesday in May for each subsequent year.

Pay Scale Transparency

California law currently requires an employer, upon request, to provide the pay scale for a position to a job applicant. S.B. 1162 expands these requirements as follows:

- Upon request, employers must provide *employees* the pay scale for the position in which the employee is currently employed.
- Employers with 15 or more employees must include the pay scale for a position in any job posting.
- Employers must maintain records of a job title and wage rate history for each employee for a specified timeframe, to be open to inspection by the Labor Commissioner.

Related People

- Gabrielle Wirth
- Erica Haggerty Chen
- Nisha Verma
- Pavlina Kochankovska Rafter

Related Capabilities

- Labor & Employment
- Labor & Employment Guides

The law also requires the Labor Commissioner to investigate complaints alleging violations of these requirements and would authorize the Commissioner to order an employer to pay a civil penalty upon finding a violation.

California has been a leader in pay transparency legislation and versions of similar laws exist in Colorado, Washington state and New York City. See our Quirky Questions Blog for a discussion on pay equity laws and compliance.