

California recently adopted new and expanded pay transparency and pay reporting requirements, effective beginning January 1, 2023.

**Pay Transparency.** Under the new law (Senate Bill 1162), employers with 15 or more employees must include the pay scale for a position in any job posting, internal or external, including those posted by third parties or on third party platforms. The new law defines "pay scale" to mean the salary or hourly wage range that the employer reasonably expects to pay for the position.

All California employers are already required to provide a position's pay scale to applicants for employment upon reasonable request. That requirement remains, and under the new law, employees are also required to provide to an employee, upon reasonable request, with the pay scale for the position in which the employee is currently employed.

Employers are also required to maintain records of job titles and wage rate history for each employee for the duration of employment plus three years after the end of employment. Penalties for noncompliance are significant. SB 1162 allows penalties ranging from \$100 to \$10,000 per violation for failure to comply with the pay scale disclosure requirements. However, the California Division of Labor Standards Enforcement will not assess a penalty for the first violation if the employer can demonstrate that all job postings for open positions have been updated to include the required pay scale information.

**Pay Data Reporting.** SB 1162 also institutes additional pay data reporting requirements. Specifically, the new legislation requires all employers with 100 or more employees to submit pay data to the California Civil Rights Department (CRD). In addition, private employers with 100 or more employees hired through labor contractors, as defined in the legislation, must submit separate pay data reports to the CRD for those employees as well.

The expanded pay data reports for employees (and for contracted workers hired through labor contractors) must be provided on or before the second Wednesday of May 2023 (covering 2022 compensation information) and for each year thereafter (providing data covering the prior calendar year) on or before the second Wednesday of May. Significantly, employers are not permitted to satisfy this reporting requirement by submitting a federal EEO-1 (Employer Information Report) with similar information.

If an employer fails to file the pay data reports, the CRD can seek a court order requiring compliance and to recover costs associated with seeking such order. A court can also impose civil penalties of \$100 per employee, and up to \$200 per employee, for subsequent failures to file the report. If an employer cannot comply because a labor contractor has not provided the required pay data information, a court may also apportion an "appropriate amount of penalties" to such contractor.

If you need help complying with the new requirements, contact a Brown & Streza business attorney or a labor and employment attorney for assistance.

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