

CLIENT ALERT

Connecticut Enacts “Pay Equity and Fairness” Act— Expanding List of States with Pay Transparency Legislation

JULY 14, 2015

Recently, Connecticut Governor Daniel P. Malloy (D.) signed into law Public Act No. 15-196, titled “An Act Concerning Pay Equity and Fairness” (the Act). The Act encourages wage transparency by barring employers from prohibiting employees from voluntarily discussing their wages with other employees and/or with third parties. The Act is now effective.

Coverage of the Act

The Act applies to all Connecticut employers, regardless of size. Employer is defined as “any individual, corporation, limited liability company, firm, partnership, voluntary association, joint stock association, the state and any political subdivision thereof, and any public corporation within the state using the services of one or more employees for pay.” “Any individual employed or permitted to work by an employer” is a covered employee.

The Act provides that an employer cannot prohibit:

- an employee from disclosing or discussing the amount of his or her wages or the wages of another employee that have been voluntarily disclosed; or
- an employee from inquiring about the wages of another employee.

Additionally, an employer may not require an employee to sign a waiver or other document that denies the employee’s right to:

- disclose or discuss the amount of his or her wages or the wages of another employee of such employer that have been disclosed voluntarily by such other employee; or
- inquire about the wages of another employee.

The Act’s anti-retaliation provisions prohibit an employer’s abilities to discharge, discipline, discriminate against, retaliate against, or otherwise penalize any employee who discloses or discusses the amount of his or her wages or the wages of another employee that have been disclosed voluntarily by such other employee; or any employee who

inquires about the wages of another employee. The Act does not require any employer or employee to disclose the amount of wages paid to any employee.

The Act provides covered employees with a private right of action. Finally, damages for violations of the Act include compensatory and punitive damages, attorney’s fees and costs, and any other relief as determined appropriate by a court.

Overlap With Federal Law

Section 7 of the National Labor Relations Act (NLRA) guarantees employees, whether unionized or not, the right to engage in “concerted activities for mutual aid or protection.” The National Labor Relations Board (NLRB) has interpreted this provision to provide two or more employees the right to discuss their pay and wages. Under Section 8 of the NLRA, employers are prohibited from “restraining” an employee’s right to engage in “concerted protected activity” under Section 7, and employers also are prohibited from retaliating against employees for exercising those rights. Similarly, the Act statutorily permits employees in Connecticut to discuss, disclose, or inquire about their or other employees’ wages.

Also of note, on July 7, 2015, the Office of Federal Compliance Contract Programs sent the Office of Management and Budget (OMB) its proposed final rule for implementation of President Obama’s Executive Order (EO) 13665, entitled “Non-Retaliation for Disclosure of Compensation Information.” EO 13665—issued on April 8, 2014—prevents federal contractors from retaliating against employees who voluntarily discuss or inquire about their own wages or the wages of other employees.

Other State Legislation

Statutes similar to the new Connecticut law have been passed in a number of other states. Twelve states—California, Connecticut, Colorado, Illinois, Louisiana, Maine, Michigan, Minnesota, New Jersey, Oregon, Vermont, and New Hampshire—have adopted some form of anti-wage secrecy legislation. New York Governor Andrew Cuomo (D.) is also expected to sign comparable legislation that was recently passed by the New York state legislature.

Awareness and Compliance

As noted above, the Act is already effective. Employers should consult with counsel to review handbooks, contracts, and policies in order to ensure compliance.

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