

Illinois Governor Signs Changes to State Equal Pay Act Including Salary History Ban

August 14, 2019



As we previously reported, the Illinois legislature passed House Bill 834 and Governor J. B. Pritzker signed the bill into law. It will become effective September 29, 2019. The new law prohibits employers from requesting or requiring prospective employees to provide their salary histories as a condition of being considered for employment.



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The Illinois law specifically allows an employer to discuss an applicant's expectations with respect to compensation. Such inquiries regarding a candidate's expectations currently remain permissible under all salary history inquiry laws. However, under the Illinois law, even if a candidate voluntarily discloses his or her current or prior compensation, the employer cannot "consider or rely on the voluntary disclosure as a factor in determining whether to offer . . . or in determining future . . . compensation."

The new law also alters the analysis for determining whether a company is discriminating in its pay practices by sex or race. The law previously compared employees who performed jobs requiring "equal" skill, effort, and responsibility. Under the new law, employees will be compared to others in jobs that require "substantially similar" skill, effort, and responsibility. Employers conducting proactive pay audits may want to revisit the question of which employees they compare to comply with this new standard. In

addition, factors that account for differences in pay must, under the new law, be job related and consistent with business necessity and not be “based on or derived from a differential in compensation based on race or another protected characteristic.” As is becoming more common under state law, the factor must also account for the differential. These changes will likely call for more certainty in accounting for pay differentials, rather than merely being able to rule out sex, race, or another protected

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