

Make Room on Your Bulletin Board – New Jersey Mandates New Notice Requirement for Employers

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The New Jersey State Assembly has passed and Governor Chris Christie has signed into law a bill that will increase the requirements for employers to provide notice to employees of laws protecting them from wage and other discrimination because of gender. The new law (A2647) supplements the New Jersey Equal Pay Act and requires employers with 50 or more employees to “conspicuously post” a notification stating workers’ rights to be free from gender inequity or bias in pay, compensation, benefits or other terms or conditions, under the New Jersey Law Against Discrimination, Title VII of the Civil Rights Act of 1964 and the Equal Pay Act of 1963. Signed on September 21, 2012, the new law is scheduled to take effect 61 days from the date of its signing. However, the Commissioner of the Department of Labor still needs to develop and issue the form of notification required.

The bill also requires covered employers to provide each worker with a written copy of the notification not more than 30 days after the Commissioner issues the form, as well as at the time of the worker’s hiring, if the worker is hired after the issuance. In addition, employers must provide the notification annually and at any time after an employee’s first request. Employers may provide a written copy of the notification by e-mail delivery, as printed material in a pay check insert, a brochure, handbook policy or flyer at an employee meeting, or by posting it on an Internet or Intranet website if the website is for the exclusive use of all workers, the website can be accessed by all workers, and the employer provides notice of the website posting itself.

Employers also must include an acknowledgement with the notification in which the employee states that he or she has received the notification, has read and understands the terms of the notification. The worker must sign the acknowledgement in writing or by electronic verification and return it to the employer within 30 days of its receipt.

The employer also must post the notification in any language the employer reasonably believes is the first language of a significant number of the employer’s workforce. The law does not define “significant number.” It is anticipated that this will be addressed in the regulations to be drafted by the New Jersey Department of Labor and Workforce Development.

The new law does not indicate what penalties, if any, can be imposed for a failure to comply.

Employers are required to post or distribute the notification no later than 30 days after the Commissioner issues the form of the notification. Before this can occur, the Commissioner must draft the notice and any accompanying regulations and submit them for public comment. Therefore, it is not likely the notice will be available for posting or distribution before the end of the year.

The new law continues the trend in the New Jersey legislature of requiring employers to post and distribute notices to employees regarding various laws affecting employees’ employment. In this latest instance, the legislation imposes additional burdens on employers — simply posting a notice is not sufficient anymore — including the requirement to distribute the notice annually and obtain an acknowledgment from each employee. To ensure compliance with the myriad posting and distribution requirements under the various laws, employers must be pro-active to ensure all requirements under New Jersey laws have been met. Jackson Lewis will continue to monitor these developments and will provide updates as material developments occur regarding this new legislation. Jackson Lewis attorneys also can provide assistance to employers to ensure compliance with all posting and distribution requirements under New Jersey and federal laws.

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