



New Jersey Governor Signs New Law Banning ‘Salary Secrecy’

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New Jersey Governor Chris Christie has approved legislation banning retaliation against employees who discuss their jobs and compensation with their colleagues if the purpose of the discussion is to assist in investigating potential discriminatory treatment concerning “pay, compensation, bonuses, other compensation, or benefits.” The new legislation (P.L.2013, c.154) prohibiting “salary secrecy” is designed to combat the obstacles to uncovering wage discrimination created by discouraging employees from discussing their wages and benefits with others. The new pay equity protection is effective immediately.

It is illegal for any New Jersey employer to take retaliatory action against an employee simply because that employee disclosed to or requested of another employee or former employee information regarding his or her job titles, occupational categories, rates of compensation, benefits, gender, race, ethnicity, national origin or military status. However, the disclosure or request must be made for the purpose of assisting in investigating potential discrimination in the employer’s payment of wages, bonuses or other employee benefits.

While the new law does not protect employees from adverse employment action unless the inquiry or disclosure is related to gathering information about discrimination, employers nonetheless should be cautious. In addition to the difficulty of being certain of an employee’s motives for making the inquiry or disclosure, the initiation of discussions concerning wages and other terms of employment often is protected activity under the National Labor Relations Act. In fact, the National Labor Relations Board considers any policy or practice that prevents or discourages employees from discussing the terms and conditions of their employment to be a violation of law.

Governor Christie had conditionally vetoed an earlier version of the bill, which would have expanded the scope of the state whistleblower law, the Conscientious Employee Protection Act, because it was incompatible with the original intent of that law. He recommended incorporating the pay equity protection into the state’s Law Against Discrimination.

The new law, now an official part of New Jersey’s Law Against Discrimination, in many ways mirrors federal legislation. As a matter of employee relations, publicity around the law may result in an increase in employee awareness and discussions both inside and outside the workplace. Employers therefore should take this opportunity to educate their managers and supervisors regarding the new state legislation and remind them of their obligations and rights under federal law.

For additional information, or advice about a particular problem or situation relating to New Jersey’s new pay equity protection measure or compensation practices in general, please contact Jeffrey Corradino at corradij@jacksonlewis.com, Timothy D. Speedy, at speedyt@jacksonlewis.com, or Justin Cutlip at cutlipj@jacksonlewis.com, in our Morristown office, (973) 538-6890, or the Jackson Lewis attorney with whom you regularly work.

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