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Detailed Look at State, Local and Federal Updates



Timely, topical insights on a variety
of payroll and reporting issues.

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State/Territory/District

Colorado Provides New Employee Withholding Certificate

The Colorado Department of Revenue (DOR) has released a new employee withholding certificate known as DR 0004. Prior to the DR 0004 release, Colorado did not provide a state form and the federal Form W-4 was used to calculate state tax withholding. ADP is actively working to complete development necessary to help support clients when an employee submits a DR 0004. We will keep you informed of these efforts.

The Details:

The DOR released [DR 0004](#) to assist employees in more accurately withholding from wages in relation to Colorado state income tax liability. DR 0004 is optional for employees, but as of January 1, 2022, if an employee gives the employer a completed and signed DR 0004, the employer is required to use the values entered on the DR 0004 to calculate that employee's withholding.

If an employee does not submit a DR 0004, the employer should calculate the employee's state income tax withholding utilizing the default values based on the employee's federal Form W-4 provided on [DR 1098](#) titled "Colorado Withholding Worksheet for Employers."

Where an employee fails to provide neither a federal Form W-4 nor a state DR 0004, employers should calculate Colorado state income tax withholding as if the employee were single with no other adjustments.

Additional information from the CO Department of Revenue, including frequently asked questions, can be found [here](#).

Next Steps:

When Colorado employers receive a DR 0004 from an employee, the employer should utilize the information contained on this form when calculating the employee's state tax withholding utilizing DR 1098.

If a DR 0004 is not submitted by the employee, state income tax withholding should be calculated by using the default values from the employee's federal Form W-4.

District of Columbia to Expand Paid Family Leave Program

The District of Columbia's chief financial officer has announced that there is already sufficient funding in a program offering paid family leave benefits to eligible employees to expand it and to reduce the employer contribution rate. As a result of the announcement, the changes will be implemented as soon as July 1, 2022.

The Details:

Timing of the Changes:

The [Department of Employment Services](#) is determining how quickly it can implement the expansion of paid family leave and the reduction in the employer contribution rate. The soonest the changes could be implemented is July 1, 2022, but they may occur later.

More Weeks of Paid Leave Benefits:

Once the changes are implemented, eligible employees will be entitled to more weeks of paid family leave. They will be able to receive a maximum of:

- 12 workweeks (up from 8 workweeks) of paid parental leave benefits within a 52-workweek period for bonding associated with:
 - o The birth of a child;
 - o The placement of a child for adoption or foster care; or
 - o The placement of a child for whom the employee legally assumes and discharges parental responsibility.
- 12 workweeks (up from 6 workweeks) of paid family leave benefits within a 52-workweek period to provide care or companionship to a family member with a serious health condition.
- 12 workweeks (up from 6 workweeks) of paid medical leave benefits within a 52-workweek period for their own serious health condition.

Eligible employees are entitled to up to two workweeks of paid leave benefits for prenatal medical care. This is the same amount as under current rules. Generally, employees will be eligible to receive no more than 12 weeks of paid family leave benefits in a year, regardless of the number of qualifying events.

Employer Contribution Rate to Be Lowered:

Once the changes take effect, the employer contribution rate is expected to decrease from 0.62 percent to 0.26 percent. Note that the PFL tax rate will remain at 0.62 percent until the DC Council approves a new tax rate and effective date. Once an official effective date is established, the Department of Employment Services will release updated guidance for employers.

Next Steps:

- Monitor the [Department of Employment Services website](#) closely to determine when the changes will be implemented.
- Amend leave policies and forms to reflect the changes.
- Post an updated notice in the workplace.
- Ensure the program information you are required to provide at time of hire, annually, and when leave is requested reflects the changes.

Maine Requires Payout of Unused Paid Vacation Effective January 1, 2023

On April 7, 2022, Governor Mills of Maine signed into law [H.P. 160](#), which requires employers to pay out all accrued, unused vacation at the time of separation. This requirement becomes effective on **January 1, 2023**.

The Details:

Effective January 1, 2023, covered Maine employers must pay out accrued unused vacation to employees at the time of separation. Maine law requires that an employee leaving employment must be paid in full no later than the employee's next established payday.

Note: Employers with 10 or fewer employees and public employers are exempt from the requirement. In addition, if the employee's employment is governed by a collective bargaining agreement that includes provisions addressing payment of vacation pay upon termination, the collective bargaining agreement supersedes the payout requirement.

Next Steps:

Maine employers should review their policies and practices to help ensure compliance with H.P. 160.

Massachusetts Supreme Court Rules Triple Pay for Late Final Wage Payment

On April 4, 2022, the Massachusetts Supreme Judicial Court ruled in [Reuter v. The City of Methuen](#) that discharged employees must be paid all wages due to the employee, including accrued unused vacation time, or the employer is liable for treble damages.

The Details:

Mass. Gen. L. Ch. 149 § 148 stipulates that terminated employees must be paid in full on the day of discharge, while employees who resign may be paid on the following regular payday. Under previous rulings by Massachusetts courts, when an employer paid final wages untimely to a terminated employee but paid those wages in full, the employer was only liable for interest accrued between the date of termination and the date of payment.

In [Reuter v. The City of Methuen](#), the Massachusetts Supreme Judicial Court overturned that precedent, awarding a terminated employee treble damages for the late payment of her accrued unused vacation time. This case expands the employer's liability to pay all wages, including accrued unused vacation time, in full or face triple penalties if a complaint is filed.

Next Steps:

Employers in Massachusetts should ensure that they pay involuntarily terminated employees all wages due including accrued unused vacation days on the date the employee is terminated.

Nebraska Requires Exemptions from COVID-19 Vaccine Mandates

Nebraska has enacted legislation (LB 906e) that requires employers to provide medical and religious exemptions if they mandate COVID-19 vaccinations. Legislative Bill 906e took effect on March 1, 2022.

The Details:

Under the law, employers with one or more employees, or a party whose business is financed at least in part under the Nebraska Investment Finance Authority Act, must exempt applicants or employees who provide a completed [vaccine exemption form](#) from COVID-19 vaccination mandates on medical or religious grounds.

Medical Exemptions:

An individual may claim an exemption if receiving a vaccination against COVID-19 is medically contraindicated, or the vaccination needs to be postponed for medical reasons.

Note: Medical exemption forms must be documented in a signed, written statement by a healthcare practitioner, and the individual must provide a copy to their employer.

Religious Exemptions:

An individual may also claim an exemption if receiving a vaccination against COVID-19 conflicts with their sincerely held religious belief, practice or observance.

Post-exemption Requirements:

Employers may require individuals that are exempted from vaccination requirements to undergo periodic COVID-19 testing and wear personal protective equipment (PPE) if the employer pays for the testing and supplies the PPE.

Suppliers, federal contractors, or Medicare or Medicaid certified providers may add other accommodations, documentation or processes to ensure compliance under federal law and the rules and regulations of the federal Centers for Medicare and Medicaid Services.

Next Steps:

Nebraska employers should consult legal counsel to discuss the impact of LB 906e on their vaccination policies and practices.

State of New York Adds Protections Against Sexual Harassment and Retaliation

New York has enacted legislation (Assembly Bill 2035B and Senate Bill 5870), which will require employers to provide employees with information on the new sexual harassment prevention hotline and classifies the release of certain employee information as retaliation.

The Details:

Hotline for Workplace Harassment Prevention:

Under Assembly Bill 2035B, the New York State Division of Human Rights will create a hotline staffed by experienced, pro bono attorneys to assist callers with their workplace sexual harassment complaints and inform them of their rights under the law.

The Division will also work with the Department of Labor to include information on the hotline in the materials employers must post or provide to their employees on sexual harassment. Employers should anticipate further materials on the hotline from the Department of Labor by July 14, 2022.

Non-retaliation:

Senate Bill 5870 has expanded the definition of retaliation to include disclosing an employee's personnel files because they have filed a complaint, participated in a proceeding, or opposed any practices that are in violation of the New York Human Rights law. The law is effective immediately. An employer may disclose personnel files when they must comply with an investigation or an administrative or judicial proceeding.

Next Steps

New York employers should review their policies, procedures and supervisor trainings to help ensure compliance with Assembly Bill 2035B and Senate Bill 5870. Employers should also anticipate updated sexual harassment training materials by July 14, 2022.

New York Ends Designation of COVID-19 Under the HERO Act

The New York State Commissioner of Health has ended the designation of COVID-19 as an airborne infectious disease that presents a serious risk of harm to the public health under the HERO Act (Health and Essential Rights Act). While this change in designation means private sector employers are no longer required to implement their workforce safety plans under the HERO Act, employers will still be required to comply with the other obligations under the HERO Act.

By way of background, airborne infectious disease exposure prevention plans must go into effect when an airborne infectious disease is designated by the New York State Commissioner of Health as a highly contagious communicable disease that presents a serious risk of harm to the public health. As a result of that designation, all private sector employers in New York State were required to implement an Infectious Disease Exposure Prevention Plan (IDEPP) tailored to address COVID-19 in the workplace in accordance with the HERO Act, which was signed into law on May 5, 2021.

Although employers are no longer required to implement an IDEPP, employers must still:

- Keep in place an IDEPP (though actual implementation of the plan is no longer required);
- Provide employees and new hires with written notice of the IDEPP;
- Include a copy of the IDEPP in employee handbooks (if you have one); and
- Post a copy of the IDEPP in a visible prominent location within each worksite.

New York City employers should keep in mind that the City's vaccine mandate remains in effect for all employers.

Ohio Exempts Overtime Requirements for Travel To and From Worksites

Ohio has enacted [Senate Bill 47](#), which exempts from the state's overtime requirements time spent engaged in traveling to and from a worksite or performing specific tasks.

The Details:

Effective July 6, 2022, the following tasks are exempt from overtime provisions when performed before the employee commences the principal activity, or after the employee stops performing the principal activity:

- (1) Walking, riding, or traveling to and from the actual place of performance of the principal activity or activities that the employee is employed to perform;
- (2) Activities that are preliminary or postliminary to the principal activity or activities;
- (3) Activities requiring insubstantial or insignificant periods of time beyond the employee's scheduled working hours.

Note: The exemption noted above does not apply when the employee performs such tasks:

- During the regular workday or during regular work hours;
- Under the direction of the employer;
- Under a contract or collective bargaining agreement; or
- The activity is customarily practiced at the place of the employment and the custom is not inconsistent with a contract.

Next Steps:

Effective July 6, 2022, an "Employer" in Ohio need not include the tasks outlined in numbers (1) through (3) above when calculating overtime for its employees.

Oregon Issues Final Rule on Sick Leave for Public Health Emergencies

Oregon has enacted a Final Rule (BLI 3-2022) that permanently allows an employee to use sick time for certain public health emergencies. The Final Rule is effective immediately.

Background:

The Oregon Bureau of Labor and Industries (BOLI) had previously issued an [emergency rule](#), which required employers to let their workers use accrued paid sick time when a public official ordered an emergency evacuation or made the determination that air quality and heat index exposure would jeopardize an employee's health.

The Details:

Under the Final Rule, an employer must let their employees use sick leave for the following public health emergencies if a public health official:

- Issues an emergency evacuation order of level 2 (SET) or level 3 (GO), and the affected area of the order includes either the

location of the employer's place of business or the employee's home address; or

- Determines that the air quality index or heat index is at a level where a worker's continued exposure to the event would jeopardize the employee's health.

Note: The use of sick leave for these situations does not apply to first responders.

Next Steps:

Oregon employers should review their policies, procedures and supervisor trainings to ensure compliance with the Final Rule.

Oregon Temporarily Amends Equal Pay Act

Oregon has enacted legislation (Senate Bill 1514) that temporarily redefines compensation under the state's Equal Pay Act (the Act). Senate Bill 1514 is effective immediately and is scheduled to end on September 28, 2022.

Background:

Under the Act, employers with one or more employees that perform work in the state must ensure that every worker receives equal pay for equal work regardless of their gender, race, age, or other protected characteristics, unless certain bona fide factors are met.

Under the law, "compensation" includes wages, salary, bonuses, benefits, fringe benefits, and equity-based compensation.

The Details:

Senate Bill 1514 temporarily removes the requirement for employers to consider a hiring or retention bonus as "compensation" for purposes of pay equity requirements.

Next Steps:

Oregon employers should review their pay practices, policies and procedures to help ensure compliance with the temporary changes under Senate Bill 1514.

Tennessee Amends COVID-19 Vaccination Exemptions

Tennessee has enacted legislation (Senate Bill 1823) that requires employers that mandate COVID-19 vaccinations to allow certain exemptions. Senate Bill 1823 is effective immediately.

Background:

Tennessee had previously enacted legislation (Senate Bill 9014) that, among other things, prohibited employers from compelling a person to provide proof of their vaccination from COVID-19 if the person objects to receiving the vaccine.

The Details:

Senate Bill 1823 amends Senate Bill 9014 to require employers that mandate workers to receive, or provide proof of a COVID-19 vaccination, to enact an exemption process for medical and religious reasons.

An employer may not take longer than 10 business days to grant or deny the person's request for an exemption, and they must provide a written statement that explains their decision to deny a request for exemption.

Medical Exemptions:

To claim an exemption based on medical reasons, an individual must provide a valid medical reason that is supported by a signed and dated statement from a licensed healthcare provider.

Religious Exemptions:

To claim a religious exemption, a person must state that they have a religious belief.

Note: Employers cannot require proof beyond the initial statement to grant the exemption.

Non-retaliation:

Under the law, an employer cannot discharge, threaten to discharge, or reduce the compensation of a person because that individual received an exemption.

Enforcement:

Employers that are found to have violated the law may face penalties of up to \$10,000.

Next Steps:

Tennessee employers should review their policies and procedures and train supervisors to help ensure compliance with Senate Bill 1823.

Utah Expands Exemptions from COVID-19 Vaccine Mandates

Utah has enacted legislation (House Bill 63) that requires an employer to exempt an employee from a mandatory COVID-19 vaccination if the employee provides certain medical documentation. House Bill 63 is effective immediately.

Background:

Utah had previously enacted legislation (Senate Bill 2004) where employers who required an employee or candidate to receive or provide proof of COVID-19 vaccination as a condition of employment had to provide an exemption to the vaccination requirement if the individual submitted a statement that receiving the vaccine would harm their health and well-being or conflict with a sincerely held personal or religious belief, practice or observance.

The Details:

House Bill 63 maintains the previous vaccination exemption requirements and adds the requirement for employers to exempt an employee or candidate from a COVID-19 vaccination requirement if the person submits a letter from a primary care provider that states that they were previously infected with COVID-19.

Note: If a requirement of House Bill 63 substantially impairs an employer from fulfilling a contract that they had started prior to May 4, 2022, the requirement does not apply.

Additional Covered Employers:

Federal contractors are now covered under the law. However, the law does not cover individuals subject to the Centers for Medicare and Medicaid Services (CMS) COVID-19 vaccine regulation or healthcare providers under the law that are participating providers for the CMS.

Exceptions:

Previously, the exemptions were required of employers except those with fewer than 15 employees that could establish a link between the vaccination requirement and an employee's duties and responsibilities. Under House Bill 63, an employer may require an employee or candidate to receive or show proof of COVID-19 vaccination without allowing for exemptions if:

- Reassignment of the employee is not practical; or
- The employer establishes a link between the requirement and the employee's assigned duties and responsibilities or identifies an external requirement for vaccination that is not imposed by the employer and is related to the employee's duties and responsibilities.

COVID-19 Testing Requirements:

Under the law, employers must pay for all COVID-19 testing requirements they put upon their employees, but they are prohibited from keeping or maintaining a record or copy of an employee's COVID-19 test results, with limited exceptions.

Recordkeeping Requirements:

The previous law prohibited an employer from keeping a copy of an employee's vaccination status, but it allowed them to keep a record of their employees' vaccination status.

Under House Bill 63, employers cannot keep or maintain a record or copy of an employee's proof of vaccination with limited exceptions. These include if the records are required by law or an established business practice or industry standard. However, they may make a verbal inquiry for an employee to voluntarily disclose their vaccination status.

Non-retaliation:

Under the law, employers are prohibited from taking adverse action against an employee that uses their rights under House Bill 63. The law clarifies adverse action to mean the refusal to hire, termination, demotion, or reduction of an employee's wages. However, this does not include the reassignment of an employee if the employee's vaccination status is not the only reason behind the reassignment.

Next Steps:

Employers in Utah should consult legal counsel to discuss the impact of House Bill 63 on their policies, practices and supervisor training.

Utah Enacts Hiring Legislation

Utah has enacted two pieces of legislation (Senate Bill 95 and House Bill 252), which temporarily amend certain employer hiring liabilities and add employer verification requirements. Both take effect on May 4, 2022. Senate Bill 95 is set to expire on July 1, 2025.

The Details:

Employer Hiring Liability:

Covered Employers:

Senate Bill 95 applies to employers with one or more employees in an industry or a business related to auto repair and maintenance; construction; culinary arts; manufacturing; oil, gas, or mining; retail sale of goods or services; or transportation of freight, merchandise, or other property by a commercial vehicle.

Covered Employees:

The law covers workers hired for pay but excludes independent contractors.

Limited Hiring Liability:

The law helps shield employers from negligent hire claims based solely on the evidence that the hired worker was previously convicted of an offense in Utah or another jurisdiction.

Exceptions:

This protection does not apply for claims where an employer:

- Knew, or should have known, about a worker's prior conviction, and the employer's hiring or continuing employment of that worker violated state or federal law or constituted willful misconduct or gross negligence; or
- Hires a worker previously convicted of an offense involving fraud or the misuse of funds when it's foreseeable that the role would involve managing funds or property, and the hiring results in the misuse of funds or property of a person other than the employer.

Employment Verification:

House Bill 252 amends Utah's Private Employer Verification Act to require employers with 150 or more employees (previously 15 or more employees) to use a status verification system (e.g., [E-Verify](#)) to verify the federal legal working status of new hires on or after May 4, 2022.

Next Steps:

Employers in Utah should review their hiring practices to ensure compliance with Senate Bill 95 and House Bill 252.

Virginia Overtime Wage Act Provisions Replaced with FLSA Overtime Requirements

On April 11, 2022, the Governor of Virginia signed into law [House Bill 1173](#) (HB 1173). HB 1173 largely aligns Virginia's overtime standards with federal standards. HB 1173 is effective on July 1, 2022.

The Details:

On March 30, 2021, the Virginia Overtime Wage Act (VOWA) was signed into law. Prior to the VOWA, Virginia did not have its own overtime law and utilized the federal rules under the Fair Labor Standards Act (FLSA).

While VOWA, which was effective July 1, 2021, is similar to FLSA in many ways, there are significant differences. Departures from the FLSA include how the regular rate of pay is calculated, a longer statute of limitations to bring potential claims, and the possible damages available. In particular, under VOWA, if a nonexempt employee was paid on a salary basis, their "regular rate of pay" for purposes of calculating overtime was determined by dividing that compensation by 40 hours rather than actual hours worked (the FLSA standard). The VOWA standard resulted in a higher regular rate than the FLSA standard.

Repeal of VOWA

HB 1173 stipulates that Virginia employers – effective July 1, 2022, who violate overtime requirements – will be liable for all applicable remedies, relief or damages under the FLSA. HB 1173 clarifies the state will use FLSA exemptions, overtime calculation methods (i.e. the FLSA standard for "regular rate of pay") and the definitions of "employer" and "employee" as defined under the FLSA.

Addition of § 40.1-29.3

HB 1173 also added a new section to the Virginia Code that requires an employer to compensate employees of a "derivative carrier" at a rate not less than one and one-half times the employee's regular rate of pay for any hours worked in excess of 40 hours in any one workweek and provides for the method of calculating the regular rate for overtime purposes. It is important to note that Section 13(b)(3) of the FLSA exempts from its overtime pay requirements, but not its minimum wage requirement, "any employee of a carrier by air subject to the provisions of Title II of the Railway Labor Act."

Next Steps:

Effective, July 1, 2022, Virginia employers may pay salaried nonexempt employees overtime based on the FLSA standard rather than the formula set out in the VOWA.

Virginia Clarifies Maximum Employer Fee for Child Support Orders

Virginia has enacted legislation (HB 808) that clarifies that fee of **up to** a maximum of \$5.00 may be charged and withheld by the employer from the employee's wages (in addition to the amount required to be held for child support) pursuant to an income withholding order. The purpose of the legislation was to clarify that an employer may charge a fee of less than \$5.00.

HB 808 becomes effective July 1, 2022.

The Details:

VA § 20-79.3 currently stipulates as follows:

"That a fee of \$5 for each reply or remittance on account of the obligor may be charged by the employer and withheld from the obligor's income in addition to the support amount to be withheld; however, child support withholding amounts collected from unemployment insurance benefits shall not be subject to this fee..."

HB 808 clarifies that a fee of **up to a maximum of \$5.00** for each reply or remittance on account of a support obligor may be charged by an employer and withheld from the obligor's income in addition to the support amount to be withheld pursuant to an income withholding order.

Effective July 1, 2022, VA § 20-79.3 will be revised as follows:

"That a **fee of up to a maximum of \$5** for each reply or remittance on account of the obligor may be charged by the employer and withheld from the obligor's income in addition to the support amount to be withheld; however, child support withholding amounts collected from unemployment insurance benefits shall not be subject to this fee..."

Next Steps:

The language of the Virginia statute has always stated that an employer may charge the fee in relation to employee child support orders but is not required to do so. Although the change in the language becomes effective on July 1, 2022, the intent of the legislation was a clarification that the employer has always been that an employer may withhold an amount of anywhere from \$0.00 to \$5.00. The summary of the purpose of HB 808 is as follows:

"Clarifies that a fee of up to a maximum of \$5 for each reply or remittance on account of a support obligor may be charged by an employer and withheld from the obligor's income in addition to the support amount to be withheld pursuant to an income withholding order. Currently, such amount is described only as a \$5 fee."

Virginia Replaces Emergency Temporary Standard with New Guidance

The Virginia Safety and Health Codes Board has repealed its [Emergency Temporary Standard](#) (ETS) and provided new guidance on COVID-19 safety procedures. The Board repealed the ETS on March 23, 2022.

Background:

The Virginia Safety and Health Codes Board enacted an Emergency Temporary Standard to address COVID-19 safety requirements in workplaces on July 15, 2020, which was later made permanent on January 27, 2021.

The Details:

Virginia has provided [guidance](#) that replaces the ETS, effective March 23, 2022.

Under the guidance, employers cannot discriminate against or terminate an employee for wearing (or not wearing) a mask, with limited exceptions, such as in places where masks are required by law or in certain medical situations or healthcare locations.

The guidance also instructs employers to help stop the spread of COVID-19 by having workers use employer-provided face coverings or surgical masks and encouraging workers to stay home if they are infected with COVID-19 or experience its symptoms. Workers with COVID-19 symptoms should be encouraged to seek a physician's advice on testing and treatment.

Employers should also engage workers to mitigate COVID-19 transmission by:

- Facilitating employee vaccinations and booster shots;
- Prioritizing sanitary work practices, such as frequent handwashing;

- Using languages that employees understand to teach them COVID-19 policies;
- Operating and maintaining ventilation systems to manufacturers' specifications; and
- Following VOSH recordkeeping and reporting standards for work-related COVID-19 cases, and other applicable VOSH standards, including respiratory protections, personal protective equipment, sanitation, bloodborne pathogens, and the Virginia General Duty Clause that requires employers to provide employment and a workplace free of recognized hazards.

Next Steps:

Virginia employers should continue to monitor and help ensure compliance with the new guidance and any federal, state and/or local laws and orders that pertain to vaccine and/or masking mandates when creating and enforcing their policies.

State of Washington Enacts Salary Transparency Requirements

The State of Washington has enacted legislation (Senate Bill 5671), which amends its Equal Pay and Opportunities Act to add new salary transparency requirements. Senate Bill 5671 takes effect on January 1, 2023.

Background:

Washington's equal pay law prohibits employers from retaliating against employees that ask about, compare, disclose, or otherwise discuss their, or another employee's, wages; or ask for a reason for their wages or lack of advancement opportunities.

A job posting is a solicitation (electronic and print) that includes the qualifications for desired job applicants, with the intent to recruit candidates for a specific, available role.

The Details:

Under the law, employers with 15 or more employees, including those that recruit directly or indirectly through a third party, must provide salary range or wage scale information:

- Upon the request of an employee who is offered a promotion or internal transfer to a new role; and
- In each job posting, along with a general description of all the benefits and other compensation to be offered to the hired individual.

Enforcement:

Employers found violating the law may face penalties including actual and statutory damages, civil penalties, costs and attorneys' fees. The law calculates wages and interest recovery from the first date wages were owed to an employee.

Next Steps:

Washington employers should review their job advertisements, hiring policies and practices, and train supervisors to help ensure compliance with Senate Bill 5671.

Washington Requires Employers to Reimburse Insufficient Funds Fees

The State of Washington has enacted legislation (House Bill 1794), which requires employers to reimburse employees for certain bank fees. House Bill 1794 takes effect on June 9, 2022.

The Details:

Under the law, an employer must reimburse an employee for a fee charged by the employee's financial institution when an employer pays an employee's wages with an instrument returned for nonsufficient funds.

Note: To receive reimbursement, the employee must present the returned instrument to employers within 30 days of its receipt.

Next Steps:

Washington employers should review their pay policies and procedures to help ensure compliance with House Bill 1794.

West Virginia Enacts Payroll Card Legislation

On March 23, 2022, Governor Jim Justice signed into law Senate Bill 245 (SB [245](#)) eliminating the requirements that wage payment by payroll card and direct deposit be agreed upon in writing by both employer and employee. The legislation becomes effective June 9, 2022.

The Details:

SB 245 provides that employers must pay wages at least twice every month in a “manner of the person, firm, or corporation’s choosing.” No more than 19 days are allowed between payments unless agreed to by the employee and employer. Wage payments may be made:

- (1) In lawful money of the United States;
- (2) By check or money order;
- (3) By deposit or electronic transfer of immediately available funds into an employee’s payroll card account in a federally insured depository institution; or
- (4) By direct deposit in a financial institution chosen by the employee.

Where an employer uses payroll cards for employee wage payments, the employer must:

- Provide a full written disclosure of any applicable fees associated with the payroll card.
- Ensure that the employee has the ability to make at least one withdrawal or transfer from the payroll card per pay period without cost or fee to the employee.
- Ensure that the employee has the ability to make in-network withdrawals or transfers from the payroll card without cost or fee to the employee for any amount contained on the card.
- Allow an employee to choose to have their wages deposited into a financial institution of the employee’s choosing by providing the employer with the name of the financial institution, the type of account (e.g., checking or savings) and the account number.

Should the employee fail to provide sufficient information to facilitate direct deposit, the employer may pay the employee wages owed by payroll card.

Assignment of Wages

- No assignment of or order for future wages may be valid for a period exceeding one year from the date of the assignment or order.
- An assignment or order shall be in writing and must specify the total amount due.
- Three-fourths of the periodical earnings or wages of the assignor (e.g., employee) are at all times exempt from assignment or order.

Terminated employees

- Wages owed must be paid via cash, direct deposit, payroll card or check on or before the next regular payday on which the wages would otherwise be due.
- Fringe benefit payments (e.g., vacation pay) are not due by the next regular payday but payable based on the agreement between the employer and the employee.
- If the terminated employee requests that a check be issued and mailed for their final wages, the payment will be considered to have been made on the date the mailed payment is postmarked.

Next Steps:

As of June 9, 2022, employers in West Virginia may pay employees at the employer’s choosing via the methods noted above. In cases where the employer pays its employees via payroll card, the employer must be offered the option of being paid by electronic transfer (e.g.; direct deposit) instead. Where the necessary information for direct deposit is not provided by the employee, the employer may without employee agreement, pay the employee’s wages via payroll card.



Alameda, California, Minimum Wage to Increase on July 1, 2022

The City of Alameda, California has [announced](#) that the minimum wage for the city will increase.

The Details:

Effective July 1, 2022, the minimum wage will increase from \$15.00 per hour to \$15.75 per hour. The minimum wage applies to all employers, and employees who work two hours or more a week within the City of Alameda.

Note: California does not allow the use of a tip credit when paying tipped employees.

Next Steps:

Employers in Alameda, California, should as of July 1, 2022, pay their employees at least \$15.75 per hour. In addition, employers must post a notice in the workplace advising employees of the increased minimum wage. This notice may be found at the following link once provided.

<https://www.alamedaca.gov/Departments/Community-Development/Minimum-Wage>

City of Emeryville Minimum Wage to Increase

The City of Emeryville, California has [announced](#) that the minimum wage for the city will increase.

The Details:

Effective July 1, 2022, the minimum wage for all employees will increase from \$17.13 per hour to \$17.68 per hour. The minimum wage rate applies to all businesses in the city regardless of size.

Note: California does not allow the use of a tip credit when paying tipped employees.

Next Steps:

Employers in Emeryville, California, should as of July 1, 2022, pay its employees at least \$17.68 per hour. In addition, employers must post a notice in the workplace advising employees of the increased minimum wage. This notice may be found at the following link once provided.

[Minimum Wage Ordinance | City of Emeryville, CA - Official Website](#)

New York City Clarifies Pay Transparency Law

The New York City Commission on Human Rights (NYCCHR) has released additional guidance on its pay transparency law, which takes effect on May 15, 2022.

The Details:

NYCCHR has released a [fact sheet](#) that clarifies several aspects of its pay transparency law.

Covered Employers:

The law covers employment agencies, employers with four or more employees (which counts owners and individual employers), and employers with one or more domestic workers. The workplace is covered if at least one of the four employees works in New York City. The law also applies to employers that work with temporary help firms, but it excludes temporary help firms that hire employees to perform work for other businesses.

Covered Job Listings:

The law covers any advertisement for an available job, promotion or transfer opportunity performed at least in part in New York City. An "advertisement" is defined as a written description, regardless of the medium, publicized to a pool of potential applicants. This includes a posting on an internal bulletin board, internet advertisement, printed flyer at a job fair, and a newspaper advertisement.

The law applies to advertisements for independent contractors, full-time and part-time employees, interns, domestic workers, and any other category of worker protected by the NYC Human Rights Law. Employers may hire without using an advertisement and are not required to create an advertisement to hire.

Salary Range Requirements:

Employers must include the minimum and maximum salary that they in good faith are willing to pay for an advertised job, promotion or transfer. This means the salary range they honestly believe at the time of the posting that they are willing to pay the successful applicant(s). Job ads that cover multiple opportunities can include salary ranges specific to each opportunity.

The guidance specifies that the range must include the base wage or rate of pay, regardless of the frequency of payment. For example, employers may list a dollar amount per hour or a dollar amount per year. The range cannot be open-ended, such as \$15 per hour and up or a maximum of \$50,000 per year. However, if there is no flexibility in salary, the minimum and maximum salary may be the same.

Employers may also include, but are not required to disclose, other forms of compensation and benefits such as:

- Health, life, or other employer-provided insurance;
- Time off work, such as paid sick or vacation days, leaves of absence, or sabbaticals;
- Retirement benefits, such as 401(k)s or employer-funded pension plans; or
- Severance, overtime pay, commissions, tips, bonuses, stock, the value of employer-provided meals or lodging, or other perks in pay.

Enforcement:

Covered employers that are found to have violated the law may face penalties of up to \$250,000. They may also be required, among other things, to amend their job ads and postings, create or update policies, conduct training and provide notices of rights to employees or applicants.

Next Steps:

New York City employers should review their job advertisements to help ensure compliance with the [new guidance](#).

City of Pasadena Minimum Wage to Increase

The City of Pasadena, California has [announced](#) that the minimum wage for the city will increase.

The Details:

Effective July 1, 2022, the minimum wage will increase from \$15.00 per hour to \$16.11 per hour. The Pasadena Minimum Wage ordinance applies to employees who perform at least two hours of work in a particular week within the city.

Note: California does not allow the use of a tip credit when paying tipped employees.

Next Steps:

Employers in Pasadena, California, should as of July 1, 2022, pay its employees at least \$16.11 per hour. Employers must post a notice displaying the current minimum rate in a conspicuous location at job sites. The [notice](#) must be in English and in any other language spoken by more than five percent of the workers at the worksite. A [notice](#) in Spanish is provided here as well.

Philadelphia Requires PHEL Sick Leave Again

The City of Philadelphia has enacted Bill 220051-A, which amends its Public Health Emergency law (PHEL). Bill 220051-A took effect on March 9, 2022, and is set to expire on December 31, 2023.

Background:

In September 2020, Philadelphia issued a paid sick leave ordinance, Ordinance 200303, that amended the City's paid sick and safe time law. The amendments required new public health emergency leave (PHEL) and pay protections for employees, gig workers and others that did not receive leave under the federal Families First Coronavirus Response Act (FFCRA).

The Details:

Philadelphia has passed Bill 220051-A, which requires employers **with at least 25** employees to provide paid sick leave (PHEL) to employees who:

- Work in the City, or work for an employer in the City (normally) but are teleworking from somewhere else due to COVID-19; or
- Work for their employer from multiple (or mobile) locations if they spend 51 percent or more of their time in the City.

Note: PHEL leave is in addition to all other paid leave benefits. Employers cannot reduce PHEL leave by the amount of paid leave that an employee has previously received, and they cannot require an employee to use other paid leave that's available to them before the employee is allowed to use PHEL leave.

Bill 220051-A covers all employees who are expected to report in-person to their jobs.

Covered Leave:

Employees may use PHEL leave to:

- Recover from, or avoid exposing others to, COVID-19;
- Care for family members who have COVID-19 or have symptoms that might jeopardize others' health;
- Care for a child whose school or place of care has closed due to COVID-19; or
- Receive a COVID-19 vaccine or booster shot (and address any side effects related to such vaccination).

Amount of Leave:

Employers must provide – rather than have employees accrue – up to 40 hours of paid sick leave to employees who work 40 or more hours a week, unless the employer sets a higher limit. If an employee works less than forty hours per week, the employee is entitled to leave that is equal to the amount of time that they're scheduled to work (or actually work) on average in a seven-day period (whichever is greater).

Employees whose hours fluctuate weekly must calculate leave based on the average number of daily hours they were scheduled to work over the past 90 days of work.

Policy Requirements:

If employees receive paid leave in 2022 that can be used for the same purposes and under the same conditions as COVID-19 leave, employers are not required to change any existing policies or provide additional paid leave when:

- The employees who complete a majority of their work by telework receive at least 80 hours of paid leave; or
- An employer's policy provides 120 hours (or more) of paid leave.

Pay Requirements:

Employers must compensate employees with their regular rate of pay and their regular benefits.

Notice Requirements:

Employers must provide **notice** of the updated PHEL law to employees by **March 24, 2022**. Employees must notify their employer of the need to use PHEL leave as practical and feasible when the need is foreseeable.

Next Steps:

- Read the **text of the law** in full and ensure compliance.
- Train supervisors on how to handle requests for PHEL leave.
- Post the required **notice**.
- Review and revise policies and practices if necessary.



Federal

Student Loan Relief Extended Through August 31, 2022

On April 6, 2022, President Biden announced an extension of the pause on student loan repayments through August 31, 2022.

The Details:

The Coronavirus Aid, Relief, and Economic Security ("CARES") Act was signed into law on March 27, 2020. The CARES Act was the third stimulus bill aimed at providing relief to employers and individuals affected by COVID-19. One of the provisions of the Act addressed federal student loans.

Under the CARES Act, payments on federal student loans, including direct loans, Perkins loans and Federal Family Education Loans owned by the United States Department of Education, were automatically suspended from March 13 through September 30, 2020. That meant eligible federal loan borrowers did not have to make payments. While loan payments were suspended, interest did not accrue. In addition, collection actions and wage garnishments for student loans ceased. Private student loans did not qualify for the relief.

Subsequently, relief was extended through December 31, 2020 and then again through January 31, 2021.

On January 20, 2021, President Biden via Executive Order extended the relief once again at least through September 30, 2021. During this time, payments for federal student loans were not required, the interest rate continued to be zero percent and collection actions including wage garnishments were suspended. As before, private student loans did not receive relief.

On August 6, 2021, it was initially announced in a statement by President Biden that the student loan relief measure described above would be extended through January 31, 2022.

Most recently, on December 22, 2021, President Biden announced that student loan relief would now be extended through May 1, 2022.

Latest Extension

On April 6, 2022, President Biden announced that student loan relief would subsequently be extended through August 31, 2022. The President's announcement stated in part as follows:

"If loan payments were to resume on schedule in May, analysis of recent data from the Federal Reserve suggests that millions of student loan borrowers would face significant economic hardship, and delinquencies and defaults could threaten Americans' financial stability.

Accordingly, to enable Americans to continue to get back on their feet after two of the hardest years this nation has ever faced, my Administration is extending the pause on federal student loan repayments through August 31st, 2022."

For a copy of the announcement, click on the link provided below.

<https://www.whitehouse.gov/briefing-room/statements-releases/2022/04/06/statement-by-president-biden-extending-the-pause-on-student-loan-repayment-through-august-31st-2022/>

Temporary Policy on Expired I-9 Documents Will End Soon

The Department of Homeland Security (DHS) has announced that a temporary policy regarding expired documents used for Form I-9 purposes will end on April 30, 2022. The I-9 is used to verify a new hire's identity and work authorization.

The Details:

To complete Section 2 of the I-9, employees must present unexpired documents that verify their identity and employment authorization. The I-9 Form includes a List of Acceptable Documents (List A, List B, and List C). An employee must present one document from List A, or one document from List B and one document from List C.

- List A documents: establish both identity and employment authorization
- List B documents: establish identity only
- List C documents: establish employment authorization only

On May 1, 2020, the DHS adopted a temporary policy in response to the difficulties many individuals experienced with renewing driver's licenses and other List B documents during the COVID-19 pandemic. The temporary policy allowed individuals to present expired List B documents under certain conditions. Now that document-issuing authorities have reopened and/or provided alternatives to in-person renewals, DHS is ending the temporary policy on April 30, 2022. Starting May 1, 2022, employers must accept only List B documents that have not expired.

If an employee presented an expired List B document between May 1, 2020 and April 30, 2022, employers must update the employee's Form I-9 by July 31, 2022.

Next Steps:

- Accept only unexpired List B documents beginning May 1, 2022.
- If an employee presented an expired List B document between May 1, 2020 and April 30, 2022, let them know now that they must present unexpired documentation by July 31, 2022. Keep in mind that employees have the option of presenting the renewed List B document, a different List B document, or a document from List A.
- When the employee presents an unexpired document, in the Section 2 Additional information field:
 - o Record the number and other required document information from the actual document presented; and
 - o Initial and date the change. [See example.](#)

There is no action required if:

- The employee no longer works for you, or
- The List B document's expiration date was "auto-extended" by the issuing authority, and therefore was unexpired when presented.

ADP Compliance Resources

ADP maintains a staff of dedicated professionals who carefully monitor federal and state legislative and regulatory measures affecting employment-related human resource, payroll, tax and benefits administration, and help ensure that ADP systems are updated as relevant laws evolve. For the latest on how federal and state tax law changes may impact your business, visit the *ADP Eye on Washington* Web page located at www.adp.com/regulatorynews.

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