



Eye On Washington

Legislative Update



A more human resource.®

NJ Expands Equal Pay Protections

New Jersey has enacted legislation (Senate Bill 104) that significantly expands the state's equal pay law. Senate Bill 104 is effective **July 1, 2018**.

Senate Bill 104:

Senate Bill 104 amends the New Jersey Law Against Discrimination (LAD) to prohibit employers from paying an employee who is a "member of a protected class" less than employees who are not members of the protected class for substantially similar work, when viewed as a composite of skill, effort, and responsibility. Employers with unlawful pay differentials are prohibited from reducing the pay of an employee to comply with the law.

Comparisons of compensation must be based on rates in all of an employer's operations or facilities. Compensation constitutes all forms of pay, including benefits.

Protected Classes:

Under the law, protected classes include: race, creed, color, national origin, nationality, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, pregnancy, sex, gender identity or expression, disability or atypical hereditary cellular or blood trait of any individual, or liability for service in the armed forces.

Pay Differentials:

Differentials in compensation are permitted only if the differential is made pursuant to a seniority or merit system, or the employer demonstrates that:

- The differential is based on one or more legitimate, bona fide factors other than the characteristics of members of the protected class, such as training, education or experience, or the quantity or quality of production;
- The factor(s) are not based on, and do not perpetuate, a differential in compensation based on any characteristic of members of a protected class;
- Each of the factors is applied reasonably;
- One or more of the factors account for the entire wage differential; and
- The factors are job-related and based on a legitimate business necessity and there are no alternative business practices that would serve the same business purpose without producing the wage differential.

Right to Discuss and Disclose Wages:

Existing law prohibits employers from taking adverse action against an employee for requesting certain information from another employee or former co-worker, including job title, occupational category, rate of compensation, gender, race, ethnicity, military status, and national origin. Senate Bill 104 clarifies that employees are also protected if they discuss or disclose such information with/ to a current or former employee. Employees are also protected from adverse action if they request,



Eye On Washington

Legislative Update



A more human resource.®

discuss, or disclose such information from/with/to any government agency or a lawyer from whom the employee seeks legal advice.

The law also prohibits employers from requiring, as a condition of employment, any employee or prospective employee to agree to not make such requests or disclosures.

State Contractors:

Senate Bill 104 requires an employer entering into a contract with the state to provide certain information concerning employees employed in connection with the contract, including information regarding the compensation and hours worked of employees by gender, race, ethnicity, and job category.

Compliance Recommendations:

New Jersey employers should review their pay practices and policies and consider training supervisors and others involved in making compensation decisions. Employers may also want to consider working with their legal counsel to complete an equal pay analysis.

http://www.njleg.state.nj.us/2018/Bills/S0500/104_R2.HTM

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.

ADP is committed to assisting businesses with increased compliance requirements resulting from rapidly evolving legislation. Our goal is to help minimize your administrative burden across the entire spectrum of employment-related payroll, tax, HR and benefits, so that you can focus on running your business. This information is provided as a courtesy to assist in your understanding of the impact of certain regulatory requirements and should not be construed as tax or legal advice. Such information is by nature subject to revision and may not be the most current information available. ADP encourages readers to consult with appropriate legal and/or tax advisors. Please be advised that calls to and from ADP may be monitored or recorded.

If you have any questions regarding our services, please call 855-466-0790.