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Job Posting Changes for Employees Working in Washington – Employers Must Disclose Wage Scale & Benefits Information!

By Nicole Elgin

Beginning January 1, 2023, amendments to Washington’s Equal Pay and Opportunities Act (RCW 49.58) go into effect. The amendments create additional wage disclosure obligations for employers’ job postings for Washington-based employees.

Requirements

If an employer has 15 or more employees, job postings for Washington-based employees must include a wage scale or salary range for the job opening, and a general description of all of the benefits and other compensation to be offered to the hired applicant. The “general description of all benefits” includes, but is not limited to: health care benefits, retirement benefits, any benefits permitting paid days off (including more generous paid sick leave accruals, parental leave, and paid time off or vacation benefits), and any other benefits that must be reported for federal tax purposes, such as fringe benefits.

“Posting” means any solicitation intended to recruit job applicants and includes indirect recruitment through a third party, and to any print or electronic posting. The law also already requires employers to provide the wage scale or salary range for a specific position when requested by an internal employee who seeks transfer or promotion to a new position.

Broad Impact

Prior to this law taking effect, employers were required to disclose wage scale and general benefits descriptions upon applicant request. Beginning in January, covered employers must proactively provide this information in the posting itself.

Employers who primarily work in Oregon might be scratching their heads about why this matters to them. However, Oregon and employers in other states need to pay attention to this law! Washington’s Department of Labor & Industries (L&I) is currently drafting its guidance for changes to the law. According to the draft proposed guidance by L&I, an employer without a physical presence in Washington could still be affected by these changes. According to this draft administrative guidance, an employer would be subject to this law if the employer recruits for jobs that can be filled by Washington-based employees, or posts for remote work that can be performed by a Washington-based employee. So, even if it’s an Oregon employer, if the employee can perform the job from Washington, or even spends time working in Washington, employers need to determine whether their job postings need to follow these requirements.

The guidance further warns that employers cannot avoid compliance by indicating they will not consider Washington-based applicants.

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The L&I Employment Standards Program has released the second draft of its proposed administrative policy and is seeking public comment. Employers can view the current draft policy and submit feedback through the Department of Labor & Industries' engagement website.

For questions on compliance with this law, contact Barran Liebman LLP attorney Nicole Elgin at nelgin@barran.com or (503) 276-2109.