

One Minute Memo®



New Jersey Governor Christie Enacts Amendment to NJLAD Designed to Fight Pay Inequity

On August 29, 2013, Governor Christie signed legislation that amends New Jersey's Law Against Discrimination ("LAD") to add a new protected class of individuals. Effective immediately, employers are prohibited from retaliating against employees who request current or former colleagues to provide information about their job title, occupational category or pay, if the purpose of the request is to assist in investigating or challenging potential discrimination concerning pay, compensation, bonuses, or other compensation or benefits.

Specifically, under this amendment to the LAD, it is unlawful:

For any employer to take reprisals against any employee for requesting from any other employee or former employee of the employer information regarding the job title, occupational category, and rate of compensation, including benefits, of any employee or former employee of the employer, or the gender, race, ethnicity, military status, or national origin of any employee or former employee of the employer, regardless of whether the request was responded to, if the purpose of the request for the information was to assist in investigating the possibility of the occurrence of, or in taking of legal action regarding, potential discriminatory treatment concerning pay, compensation, bonuses, other compensation, or benefits. Nothing in this subsection shall be construed to require an employee to disclose such information about the employee herself to any other employee or former employee of the employer or to any authorized representative of the other employee or former employee.

Last year Governor Christie conditionally vetoed an earlier version of this bill which would have added this new protected class to New Jersey's Conscientious Employee Protection Act ("CEPA") rather than the LAD "[b]ecause workplace discrimination claims in New Jersey are brought under LAD, this amendment of CEPA is inconsistent with the original intent of that law, and is more consistent with the underlying goals of LAD." The Legislature then reintroduced the bill earlier this year as amending the LAD, and Governor Christie signed it into law. According to one of the legislation's sponsors, State Senator Linda Greenstein, "If the employees know they can ask each other about their salaries or benefits, they will discuss more freely these topics and discriminatory practices will be harder to hide."

This amendment follows another recently passed law designed to shed light on employers' pay practices. As part of legislation Governor Christie signed into law last year amending New Jersey's Equal Pay Act, effective November 21, 2012. New Jersey employers with 50 or more employees are required provide written notification to employees informing them of their right to gender equality in pay, compensation, benefits and other terms and conditions of employment. Although the law passed in 2012, the New Jersey Department of Labor has yet to issue a form of notice, thus the notification and posting requirement is not yet effective.

Additionally, New Jersey's General Assembly is currently considering the Unfair Wage Recovery Act which would bring New Jersey law into alignment with the federal Lilly Ledbetter Fair Pay Act of 2009, which provides that an unlawful discriminatory compensation occurs each time an employee receives a paycheck.

All of this legislation demonstrates the continued focus of the New Jersey legislature on enacting legislation designed to combat pay inequality, and employers should take note.

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