

## California Expands Pay Scale Disclosure Requirements

On September 27, 2022, California Governor Gavin Newsom approved [Senate Bill 1162](#) (SB 1162), expanding pay scale disclosure obligations and requiring covered employers to provide a pay scale in job postings, among other things.

**Employers Impacted:** Employers with one or more employees performing work in California.

**Effective Date:** January 1, 2023.

**Suggested Actions:**

- Review procedures and documents for hiring and promotions or transfers, including internal and external job postings, to help ensure compliance.
  - Job postings for covered employers should include an hourly or salary pay range that the employer “reasonably expects” to pay for that position. In the absence of additional rules or guidance, we recommend preparing to disclose pay scales for all new positions posted on or after January 1, 2023, and for positions posted prior to that date that are still open on that date.
  - Related documents, such as, but not limited to, job descriptions, compensation matrixes, hiring standards and similar items should be aligned to the advertised salary ranges, where applicable.
- SB 1162 does not expressly address whether pay scales must be included for positions that can be performed remotely when an employer does not have a physical presence in California. Additionally, it is unclear whether pay scale disclosure in job postings is required of employers with 15 or more employees in California or nationally. We recommend consulting with legal counsel for guidance on if and how the requirements apply to your business. We will send additional communication(s) if guidance is issued by the Department of Industrial Relations (DIR).
- Train managers, recruiting staff and all other individuals who participate in the pre-employment process or who manage California worksite employees on the requirements under the law.
- Work with legal counsel to document your effort to determine pay scales that you reasonably expect to pay for your California positions and worksite employees/applicants, including remote positions for which a California candidate or worksite employee may perform work.
  - It is also recommended that you review salary data for current worksite employees to help identify if your defined pay scales may lead to salary compression or pay inequities that could contribute to worksite employee dissatisfaction or unequal pay claims.
  - Given the growing trend of pay disclosure laws, with an existing law in Colorado that is very similar to SB 1162 and one in New York City effective November 1, 2022, you may want to consider whether making pay disclosure standard for all positions at your company is better than piecemeal compliance.

**Summary:**

Currently, California employers are:

- Prohibited from seeking salary history information, including compensation and benefits, about a job applicant orally or in writing during the hiring process;
- Prohibited from relying on a job applicant's salary history as a factor for employment or salary decisions; and
- Required to provide job applicants with the pay scale for a position upon reasonable request.

SB 1162 expands the requirement for all California employers to provide the pay scale for a position upon reasonable request to also include existing employees for their current role.

Additionally, SB 1162 requires California employers with 15 or more employees to include a position’s pay scale<sup>1</sup> in all job postings and provide the pay scale to any third parties used to “announce, post, publish or otherwise make known a job posting” so they can include it within such postings.

The chart below summarizes pay scale disclosure requirements under SB 1162:

Pay Scale Disclosure Requirement	California employers with:	
	1-14 employees	15+ employees
Provide to applicants for employment upon request during the hiring process	✓	✓
Provide to existing employees, for their current role, upon request	✓	✓
Include in any job posting (and provide to third parties to include in job postings), including internal and external job postings	✗	✓

Record Retention Requirements

SB 1162 requires employers to maintain job title and wage rate records for the period of an employee’s employment and at least three years following termination of employment.

Penalties for Violations

Individuals who believe they’ve been aggrieved may file a written complaint with the Labor Commissioner within one year after the date they learned of the violation, and/or a civil action for injunctive relief or any other relief that a court deems appropriate. Employers found to be in violation are subject to civil penalties between \$100 and \$10,000 per violation, with a penalty exemption for a first violation if the employer can demonstrate their open job postings have been updated to be in compliance.

If you have any questions, log in to TriNet ([login.TriNet.com](http://login.TriNet.com)) and click Contact TriNet. If you are unable to log in, go to TriNet ([login.TriNet.com](http://login.TriNet.com)) and select one of the following options: Forgot Password, Forgot ID, Unlock Account, Login Help.



<sup>1</sup> **“Pay scale”** is defined as “the salary or hourly wage range that the employer reasonably expects to pay for the position.”

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