



Update

New Pay Equity Reporting Requirements Effective for Large Illinois Employers

Illinois' Equal Pay Act of 2003 now requires Illinois employers with 100 or more employees (who are required to file an EEO-1 report with the federal Equal Employment Opportunity Commission ("EEOC")) to apply for an Equal Pay Registration Certificate ("EPRC") from the Illinois Department of Labor ("IDOL"). As part of this certification process, covered employers must provide a copy of their latest EEO-1 filing, in addition to a list of all employees employed during the past calendar year, categorized by gender, race, and ethnicity, and including start dates, the total wages paid, and "any other information the Department [of Labor] deems necessary to determine if pay equity exists among employees". The IDOL has issued explanatory FAQs, which are available [here](#) to provide further clarification.

However, here is what large Illinois employers need to know today.

Expanded Pay Equity Reporting Coverage – Calculating the Threshold

Only large employers operating in the State of Illinois—those private entities with 100 or more employees who are also required to file an EEO-1 with the federal EEOC—are subject to the expanded reporting requirements and EPRC obligation. In determining this employee threshold, private employers must include all employees who worked in or were based in the State of Illinois on December 31 in the 12-month calendar year immediately preceding the submission of the application for the EPRC, regardless of whether the work performed was beyond Illinois. If employees are based in Illinois, they must be counted; and business with multiple locations need only include employees whose base location is Illinois.

Reporting Obligations for Covered Employers

Covered employers must apply for and obtain an EPRC, requiring the submission of the following to the IDOL: (1) a \$150 filing fee, which may be paid by electronic payment online; (2) wage records, including a copy of the employer's most recent EEO-1 filing; (3) an equal pay compliance statement signed by a corporate officer, legal counsel, or authorized agent; and (4) a list of all employees during the 12-month calendar year immediately prior to the application or recertification due date separated by gender, race, and ethnicity categories as reported in the employer's most recent EEO-1 report in a text-searchable, sortable Microsoft Excel file, or comma-separated values file format, as well as the county in which each employee works, the total wages paid to each employee in the previous year (excluding retirement, health, or other fringe benefits), and any other information required by IDOL on the application form used to verify pay equity.

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The required equal pay compliance statement must be submitted as part of an application for an EPRC in writing and certify the following:

1. That the covered employer complies with the Illinois Equal Pay Act of 2003 and other relevant laws, including Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), the Illinois Human Rights Act (775 ILCS 5), the federal Equal Pay Act of 1963 (29 U.S.C. 206(d)), and the Illinois Equal Wage Act (820 ILCS 110);
2. That the average compensation for the covered employer's female and minority employees is not consistently below the average compensation for its male and non-minority employees within each major job category in the EEO-1 report;
3. That the covered employer does not restrict employees of one sex to certain job classifications and makes retention and promotions without regard to sex;
4. That the covered employer corrects wage disparities when identified; and
5. The approach the covered employer takes when making pay determinations.

The IDOL has provided a template equity pay compliance statement [here](#).

The Application Process and Biannual Re-Certification

Covered employers are now required to submit their initial applications for an EPRC between March 24, 2022 and March 23, 2024 if starting operations in Illinois on or prior to March 23, 2021, or within three years, but not prior to January 1, 2024 if starting operations after March 23, 2021. According to the IDOL's FAQs, the IDOL will assign covered employers an application due date that is within this timeframe and provide notice at least 120 days before the application will be due. Applications will be filed via the EPRC Portal online, which can be accessed [here](#). Information on how to create the required Illinois Public ID Account is also available [here](#).

Covered employers must re-certify every two years after submitting an initial EPRC application, and the IDOL will provide notice of the re-certification due date 180 days or more in advance. Covered Employers should conduct regular audits of compensation to avoid pay inequities and ease of access to information in advance of re-certification.

Penalties for Non-Compliance and Next Steps

Covered employers that fail to comply with the new reporting requirements or falsify/misrepresent data may be fined up to \$10,000 and/or have their EPRC suspended or revoked by the IDOL. Furthermore, the IDOL may institute its own investigation if pay inequality is shown in the data provided.

Accordingly, large Illinois employers should promptly review workforce size to determine application of these reporting and certification obligations, and train human resources personnel to collect, organize, and prepare application filings in accordance with these amendments to the Illinois Equal Pay Act of 2003.

Our team continues to monitor and review emerging laws in Illinois and across the nation impacting the home care industry. For guidance, please do not hesitate to reach out to us directly.



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