

## Publication

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### Client Alert: Recap of Top Illinois' Employment Law Developments: Summer 2023

The Illinois legislature has been active in recent months and has passed a number of new laws that expand employee workplace rights and place additional burdens on employers. These new employment laws are discussed below. Illinois employers should take the time to review and update their relevant employment policies in order to ensure compliance with these new laws:

#### Amendments to the Illinois Day and Temporary Labor Services Act

On August 4, 2023, Illinois Governor JB Pritzker signed HB 2862 into law, significantly amending the Illinois Day and Temporary Labor Services Act (IDTLA). The amendments to the IDTLA went into effect immediately.

Of particular importance, the IDTLA now contains an "Equal Pay for Equal Work" provision, which requires that temporary labor service agencies pay temporary laborers who are assigned to work at a third-party client for more than 90 cumulative days at the equivalent rate of pay and benefits as the lowest paid directed-hired comparator employee of the third-party client. In lieu of providing actual benefits to temporary laborers, temporary labor service agencies may pay the laborer the hourly cash equivalent of the actual cost of the benefits. To facilitate the calculation of the equivalent pay and benefits owed to temporary laborers, third-party

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Alexis M. Dominguez  
Alissa J. Griffin

clients are required to provide temporary labor service agencies with information related to job duties, pay and benefits of directly hired employees upon request.

The IDTLA amendments also require temporary labor service agencies and third-party clients to provide temporary laborers with worksite-specific safety training before the laborer begins an assignment. The amendments also permit laborers to refuse an assignment at a third-party client where a labor dispute – such as a strike or lockout – exists.

In addition to these and other new obligations imposed by the IDTLA amendments, the Act now contains an expanded private right of action that grants interested parties the right to initiate a civil action against temporary labor service agencies and their third-party clients. An “interested party” is defined as “an organization that monitors or is attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements.” Thus, independent compliance monitors can now assert IDTLA claims on behalf of third parties, expanding potential employer liability under the Act.

#### Amendments to the Illinois Equal Pay Act

On August 11, 2023, Illinois Governor J.B. Pritzker signed HB 3129 into law which soon will require covered employers to include pay ranges in all job postings. Beginning January 1, 2025, the Equal Pay Act will require employers with at least fifteen (15) employees to include in each job posting the “pay scale and benefits” for the position in question. “Pay scale and benefits” is defined as “the wage or salary, or wage or salary range, and a general description of the benefits and other compensation...that the employer reasonably expects in good faith to offer for the position.” The posting requirement will apply to any positions that either (i) are

physically performed, at least in part, in Illinois, or (ii) report to a supervisor, office or other work site in Illinois.

#### Electronic Access to Work-Related Notices and Information

On June 30, 2023, the Illinois legislature passed HB 3733, which amended several existing laws, including the Illinois Minimum Wage Law and Illinois Personnel Records Review Act, to ensure that remote and other workers receive information required under Illinois law. In particular, the Illinois Minimum Wage Law will soon require Illinois employers to provide employees who do not regularly report to the office with required work-related notices and summaries of the State's minimum wage, equal pay, child labor and wage payment laws, either on the employer's website or via email. The Illinois Personnel Record Review Act further will permit all employees to receive a copy of their personnel file via email upon request. These requirements go into effect January 1, 2024.

#### Transportation Benefits Program Act

On July 28, 2023, Governor Pritzker signed the Transportation Benefits Program Act (HB 2068) into law. The Act takes effect on January 1, 2024, and will require covered employers with 50 or more employees in the Chicago metropolitan area to implement a program that allows covered employees to elect to exclude the employee's commuting costs from his or her taxable wages and compensation, up to the maximum amount permitted by federal tax law. This benefit must be offered to all covered employees starting on the employee's first full pay period after 120 days of employment.

#### Paid Leave for All Workers Act

In March 2023, Governor Pritzker signed the Paid Leave for All Workers Act (SB 208) into law, making Illinois the



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third state in the nation, and the first in the Midwest, to require employers to provide employees with paid time off to be used for any reason. The Act allows employees to earn and use up to a minimum of 40 hours of paid leave per 12-month period. Paid leave will accrue at a rate of one hour of paid leave for every 40 hours worked, up to a minimum of 40 hours of paid leave per 12-month period. For purposes of accrual, employees who are considered "exempt" under the Fair Labor Standards Act are deemed to work 40 hours in each workweek. Employees are permitted to carry over accrued, unused paid leave into the next 12-month period. In lieu of calculating paid leave accrual and carryover, employers may choose to frontload 40 hours of paid leave on an employee's first day of work, and at the beginning of each successive 12-month period. Employers that choose to frontload paid leave are not required to carry over paid leave from the prior 12-month period. The Paid Leave for All Workers Act takes effect January 1, 2024.

#### Next Steps

Because the foregoing laws either have already gone into effect, or soon will go into effect, Illinois employers immediately should review, and update as needed, their existing workplace policies to ensure compliance with these new requirements. If you have any questions regarding these new laws or any other labor and employment issues, please contact Alex M. Dominguez, Alissa J. Griffin, or your Neal Gerber Eisenberg attorney.

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