



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

### SB2038

Introduced 2/9/2023, by Sen. Cristina H. Pacione-Zayas

#### SYNOPSIS AS INTRODUCED:

820 ILCS 112/12 new  
820 ILCS 112/20  
820 ILCS 112/30

Amends the Equal Pay Act of 2003. Provides that an employer or employment agency shall disclose in each public and internal posting for each job, promotion, transfer, or other employment opportunity the wage or salary, or the wage or salary range, and a general description of the benefits and other compensation to be offered for the job, promotion, transfer, or other employment opportunity. Provides that an employer shall announce, post, or otherwise make known all opportunities for promotion to all current employees on the same calendar day and prior to making a promotion decision. Provides that an employer shall provide an employee the current wage or salary range and a general description of the benefits and other compensation for the position in which the employee is employed upon hire, promotion, or transfer and at least annually thereafter and upon the employee's request. Provides that the Department of Labor may initiate its own investigations and file its own complaints in response to a violation of the Act. Makes other changes. Effective January 1, 2024.

LRB103 29069 SPS 55455 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Equal Pay Act of 2003 is amended by changing  
5 Sections 20 and 30 and by adding Section 12 as follows:

6 (820 ILCS 112/12 new)

7 Sec. 12. Equal opportunities for employment.

8 (a) As used in the Section, "wage or salary range" means  
9 the minimum and maximum wage or salary for a position set in  
10 good faith by reference to any applicable pay scale, the  
11 previously determined range for the position, the actual range  
12 of others currently holding equivalent positions, or the  
13 budgeted amount for the position, as applicable. The  
14 difference between the minimum and maximum of the wage or  
15 salary range provided by the employer or employment agency to  
16 an employee or applicant is relevant to the analysis of  
17 whether the wage or salary range has been set in good faith.

18 (b) An employer or employment agency shall disclose in  
19 each public and internal posting for each job, promotion,  
20 transfer, or other employment opportunity the wage or salary,  
21 or the wage or salary range, and a general description of the  
22 benefits and other compensation to be offered for the job,  
23 promotion, transfer, or other employment opportunity.

1       (c) An employer or employment agency shall disclose to an  
2 applicant for employment the wage or salary, or the wage or  
3 salary range, and a general description of the benefits and  
4 other compensation to be offered for the job, promotion,  
5 transfer, or other employment opportunity prior to any offer  
6 or discussion of compensation and at any time at the  
7 applicant's request, if a public or internal posting for the  
8 job, promotion, transfer, or other employment opportunity has  
9 not been made available to the applicant.

10       (d) An employer shall announce, post, or otherwise make  
11 known all opportunities for promotion to all current employees  
12 on the same calendar day and prior to making a promotion  
13 decision.

14       (e) An employer shall provide an employee the current wage  
15 or salary range and a general description of the benefits and  
16 other compensation for the position in which the employee is  
17 employed upon hire, promotion, or transfer and at least  
18 annually thereafter and upon the employee's request.

19       (f) An employer shall not refuse to interview, hire,  
20 promote, or employ, and shall not otherwise retaliate against,  
21 an applicant for employment or employee for exercising any  
22 rights under this Section.

23       (820 ILCS 112/20)

24       Sec. 20. Recordkeeping requirements. An employer subject  
25 to any provision of this Act shall make and preserve records

1 that document the name, address, and occupation of each  
2 employee, the wages paid to each employee, a statement  
3 confirming that the wage or salary, or the wage or salary  
4 range, and a general description of benefits and other  
5 compensation were disclosed to each employee for each  
6 employment opportunity, and any other information the Director  
7 may by rule deem necessary and appropriate for enforcement of  
8 this Act. An employer subject to any provision of this Act  
9 shall preserve those records for a period of not less than 5  
10 years and shall make reports from the records as prescribed by  
11 rule or order of the Director, unless the records relate to an  
12 ongoing investigation or enforcement action under this Act, in  
13 which case the records must be maintained until their  
14 destruction is authorized by the Department or by court order.  
15 (Source: P.A. 96-467, eff. 8-14-09.)

16 (820 ILCS 112/30)

17 Sec. 30. Violations; fines and penalties.

18 (a) If an employee is paid by his or her employer less than  
19 the wage to which he or she is entitled in violation of Section  
20 10 or 11 of this Act, the employee may recover in a civil  
21 action the entire amount of any underpayment together with  
22 interest, compensatory damages if the employee demonstrates  
23 that the employer acted with malice or reckless indifference,  
24 punitive damages as may be appropriate, injunctive relief as  
25 may be appropriate, and the costs and reasonable attorney's

1 fees as may be allowed by the court and as necessary to make  
2 the employee whole. At the request of the employee or on a  
3 motion of the Director, the Department may make an assignment  
4 of the wage claim in trust for the assigning employee and may  
5 bring any legal action necessary to collect the claim, and the  
6 employer shall be required to pay the costs incurred in  
7 collecting the claim. Every such action shall be brought  
8 within 5 years from the date of the underpayment. For purposes  
9 of this Act, "date of the underpayment" means each time wages  
10 are underpaid.

11 (a-5) If an employer or employment agency violates  
12 subsection (b), (b-5), (b-10), or (b-20) of Section 10 or  
13 Section 12, the employee or applicant may recover in a civil  
14 action any damages incurred, special damages not to exceed  
15 \$10,000, injunctive relief as may be appropriate, and costs  
16 and reasonable attorney's fees as may be allowed by the court  
17 and as necessary to make the employee or applicant whole. If  
18 special damages are available, an employee or applicant may  
19 recover compensatory damages only to the extent such damages  
20 exceed the amount of special damages. Such action shall be  
21 brought within 5 years from the date of the violation.

22 (a-10) The Department has the authority to administer,  
23 carry out, and enforce all of the provisions of this Act. The  
24 Department may initiate its own investigations and file its  
25 own complaints in response to a violation of this Act.

26 (a-15) Any individual who believes the employer or

1 employment agency is in violation of Section 12 of this Act may  
2 file a complaint with the Department within one year after the  
3 date the individual learned of the violation.

4 (b) The Director is authorized to supervise the payment of  
5 the unpaid wages under subsection (a) or damages under  
6 subsection (b), (b-5), (b-10), or (b-20) of Section 10 and  
7 Section 12 owing to any employee or employees or applicants  
8 under this Act and may bring any legal action necessary to  
9 recover the amount of unpaid wages, damages, and penalties or  
10 to seek injunctive relief, and the employer shall be required  
11 to pay the costs. Any sums recovered by the Director on behalf  
12 of an employee or applicant under this Section shall be paid to  
13 the employee or employees or applicant or applicants affected.

14 (c) Employers or employment agencies who violate any  
15 provision of this Act or any rule adopted under the Act are  
16 subject to a civil penalty for each employee or applicant  
17 affected as follows:

18 (1) An employer or employment agency with fewer than 4  
19 employees: first offense, a fine not to exceed \$500;  
20 second offense, a fine not to exceed \$2,500; third or  
21 subsequent offense, a fine not to exceed \$5,000.

22 (2) An employer or employment agency with between 4  
23 and 99 employees: first offense, a fine not to exceed  
24 \$2,500; second offense, a fine not to exceed \$3,000; third  
25 or subsequent offense, a fine not to exceed \$5,000.

26 (3) An employer or employment agency with 100 or more

1 employees who violates any Section of this Act except for  
2 Section 11 shall be fined up to \$10,000 per employee  
3 affected. An employer with 100 or more employees that is a  
4 business as defined under Section 11 and commits a  
5 violation of Section 11 shall be fined up to \$10,000.

6 Before any imposition of a penalty under this subsection,  
7 an employer with 100 or more employees who violates item (b) of  
8 Section 11 and inadvertently fails to file an initial  
9 application or recertification shall be provided 30 calendar  
10 days by the Department to submit the application or  
11 recertification.

12 An employer or person who violates subsection (b), (b-5),  
13 (b-10), (b-20), or (c) of Section 10 is subject to a civil  
14 penalty not to exceed \$5,000 for each violation for each  
15 employee affected.

16 (d) In determining the amount of the penalty, the  
17 appropriateness of the penalty to the size of the business of  
18 the employer or employment agency charged and the gravity of  
19 the violation shall be considered. The penalty may be  
20 recovered in a civil action brought by the Director in any  
21 circuit court.

22 (Source: P.A. 101-177, eff. 9-29-19; 102-36, eff. 6-25-21.)

23 Section 99. Effective date. This Act takes effect January  
24 1, 2024.