

Certain Illinois Employers Face Demographics Filing Requirement Starting in 2023

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Beginning January 1, 2023, many Illinois corporations will be required to provide EEO-1-style annual reports to the Illinois Secretary of State.

The new requirement is contained in an amendment to the Illinois Business Corporation Act signed into law on March 23, 2021, by Governor J.B. Pritzker.

Each report must show the racial, ethnic, and gender composition of the corporation's Illinois workplace and the Secretary of State will make that demographic report public on the Secretary of State website. From this public report, employees will be able to compare the racial and gender makeup of a company's Illinois senior executives with the makeup of Illinois first-level management and Illinois entry-level employees.

The new requirement will apply to all corporations in Illinois that:

1. Are required to file annual reports under the Illinois Business Corporation Act; and
2. Are required to file an EEO-1 report with the Equal Employment Opportunity Commission (EEOC).

All employers with more than 100 employees in the United States and all federal contractors with at least 50 employees are required to file an annual EEO-1 report. The report includes data on the gender, race, and ethnicity of a snapshot in time of a corporation's Illinois workforce, broken down into categories such as Senior Executives and Officials, First/Mid-Level Managers, Service Workers, Sales Workers, Administrative Support Workers, and so on. Importantly, the EEOC maintains the privacy of a company's EEO-1 report. EEO-1 data generally is made public only as data is aggregated among employers.

The amendment requires the Illinois Secretary of State to provide employers with a sample form for companies to provide the newly required annual demographic filing.

Remedies for a company's failure to file the new report are unclear. Under the amendment, a failure to file the demographic data will be considered a failure to file an annual report. Failure to timely file an annual report results in a penalty equal to 10 percent of the corporation's franchise tax per month. There is some uncertainty about this remedy because, under current law, corporate franchise taxes are being phased out.

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