



Compliance Considerations **FOR 2018**



Last year was a busy year for HR, and 2018 looks like more of the same.



Changes in legislation bring cascading effects to organizations and their HR leaders – and understanding how to comply with new legislation and then implement those changes can be overwhelming.

Compliance is especially top of mind this year, following major changes to the tax code passed in late 2017, state minimum wage laws, and other potential legislative and administrative actions that will require HR leaders to stay attentive and ready to act.

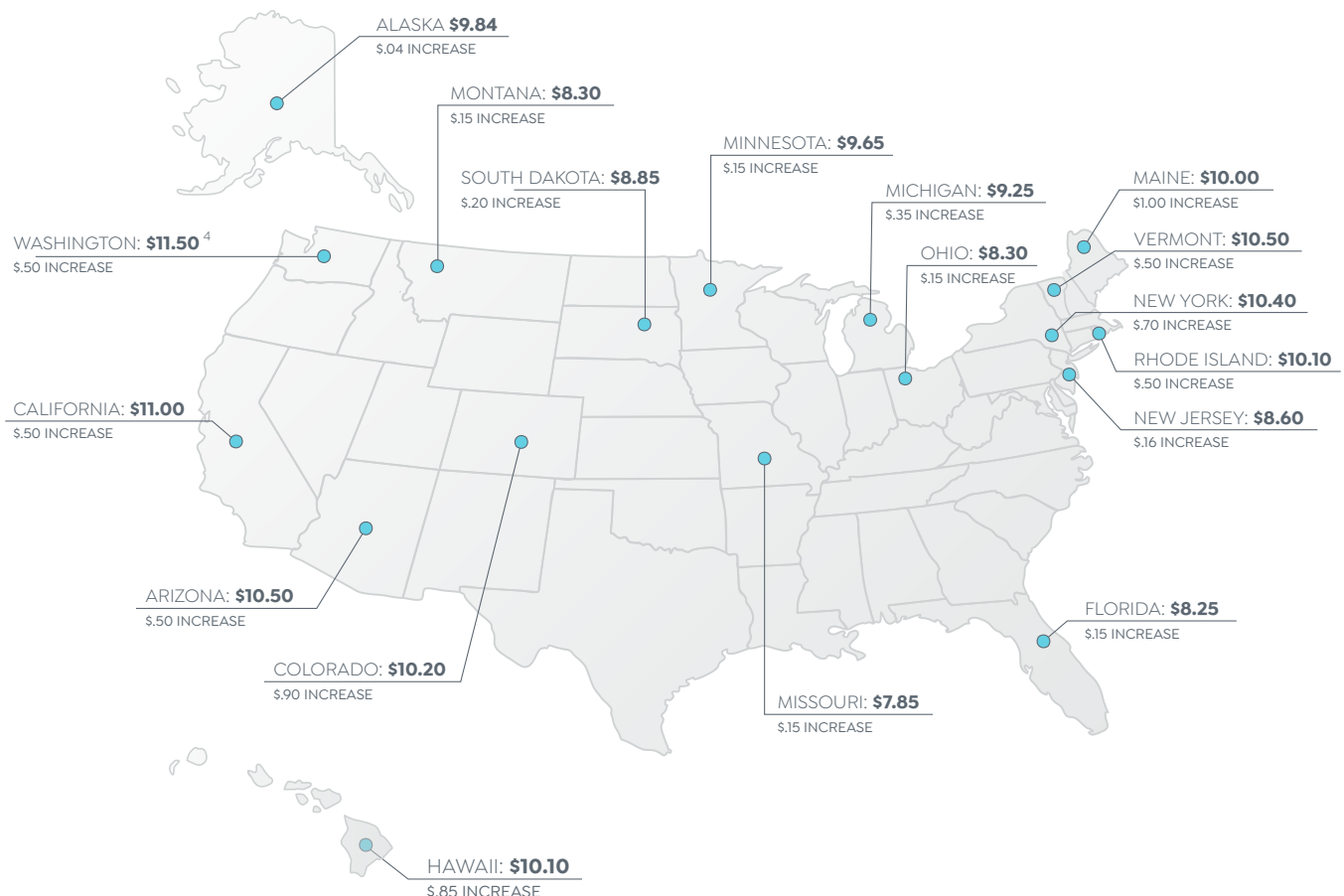
A few topics rise above the others for staying compliant this year.



Minimum Wage Rulings Affecting 2018

First, some 2017 rulings take effect in 2018. These include minimum wage laws and minimum salary requirements for many states.¹ California, for example, raised its minimum weekly salary requirement for large employers (26 or more employees) from \$840 to \$880², and New York City (for employers with 11 or more employees) raised its minimum weekly salary requirement to \$975.³

With each state having its own increases and at different intervals, HR leaders need to take the time to understand how different laws might affect their employees – and their labor costs – in various ways.



1 Minimum Wage Laws in the States. U.S. Department of Labor. Jan. 1, 2018. <https://www.dol.gov/whd/minwage/america.htm>

2 What Do the Overtime Regulations Mean for California Employers? June 6, 2016. <https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/what-do-the-overtime-regulations-mean-for-california-employers.aspx>

3 What to Expect for HR Compliance in 2018. ClearCompany. <https://blog.clearcompany.com/what-to-expect-for-hr-compliance-in-2018>

4 Dave Jamison. Minimum Wage Increases for 18 States in 2018. Inc. Jan. 2, 2018. <https://www.inc.com/huffington-post/minimum-wage-changes-new-law-2018.html>



A BETTER WAY

Whether for state-specific regulations or your own organizational policies, it's important to have software that can keep up. Imagine a world in which all your employee data could be stratified by the state in which people work, and then automatically adjusted for wage increases and limits. This could include application of OT rules, Sick Leave accruals, and benefit eligibility and cost share, all varied by multiple work and pay types so that total compensation meets each state's minimum requirements.

That's a world worth fighting for.





New Legislation for 2018

New legislation in the works will keep HR leaders on their toes.

This includes ***three categories of laws*** across the nation: medical marijuana laws, salary history bans, and Ban the Box laws.⁵

Medical Marijuana Laws

So far, 29 states have adopted medical marijuana laws; some of those also included employment protections for employees. Eight states currently allow recreational use: Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon, and Washington, plus Washington, D.C.⁶

Since 2016, nine states have legalized some form of marijuana, according to Sterling Talent Solutions, while 14 states amended existing marijuana laws.⁷

What makes this wave of legalization particularly difficult for HR leaders in midsize to large businesses is that each state has different laws, language, and requirements. Multistate corporations need to be particularly careful to setup policies that offer a consistent and manageable expectation, while ensuring you don't violate employees' rights or specific state legislation.



5 Debbie Lamb. HR Compliance in 2018: Are You Ready? Sterling Talent Solutions. Nov. 8, 2017. <https://www.sterlingtalentsolutions.com/blog/2017/11/2018-hr-compliance-ready>

6 National Conference of State Legislature. Aug 30, 2017. <http://www.ncsl.org/research/civil-and-criminal-justice/marijuana-overview.aspx>

7 Debbie Lamb. HR in the Stoned Age: Marijuana and the Law. Sterling Talent Solutions. April 28, 2017. <https://www.sterlingtalentsolutions.com/blog/2017/04/marijuana-and-the-law/>



Salary History Bans



It is now unlawful in some states to ask about salary history and past benefits and compensation packages; if the candidate offers the information, however, HR leaders should tread carefully to avoid possible litigation.

Why are these laws such an important issue? In a word: fairness. We're all aware of pay discrimination and the wage gap between men and women. These laws aim to ensure better internal and external pay equity.

States recently passing legislation include Delaware, Oregon, and California. New York City and Philadelphia passed their own laws as well. It's important to note that some of these laws don't take full effect this year, but they will bring about changes in the next few years.

For example, Oregon's House Bill 2005 §14 states that litigation cannot be pursued in a court of law until January 2019.⁸

Ban the Box Laws

The last of these categories is Ban the Box legislation, which bars some states' employers from asking a candidate about criminal history until later in the hiring process. The purpose is to equalize the hiring opportunity for each candidate. That way, everyone gets a fair shot before potential elimination from the talent pool for prior convictions.



What makes these rulings particularly challenging for employers is the often drastic variance in legislation from one jurisdiction to the next. Details such as private versus public organizations, size, certain type of employee, and even different municipalities within cities and states all affect how the law applies in each circumstance. There are also federal Ban the Box considerations, for which the EEOC has published a guide to help employers stay ahead.⁹

Compliance with such granular detail is a real challenge for employers in 2018, but there's a better way forward.

⁸ Debbie Lamb. Salary History Bans Laws Expand Across U.S. Sterling Talent Solutions. Oct. 25, 2017. <https://www.sterlingtalentsolutions.com/blog/2017/10/salary-history-bans-laws-expand-across-us>

⁹ Debbie Lamb. Ban the Box: Where Are We Now? Sterling Talent Solutions. May 3, 2017. <https://www.sterlingtalentsolutions.com/blog/2017/05/ban-the-box-laws-in-2017>



A BETTER WAY

To keep pace with the varying laws, the way HR collects and maintains data must continually adapt to the changing compliance context. The best technological approach is adding custom tables to employee records – while maintaining a singular ledger of HR and employee data.

With a single ledger, HR can readily apply system-wide or narrow condition-based rules to support variable compliance, workflow, and audits

For example, for Ban the Box laws, HR can set up a rule to move the box inquiring of an applicant's criminal history farther down the onboarding workflow, e.g., after an organization provides a conditional offer to a candidate.



Keep a Close Eye on Immigration and Healthcare

As of this writing, Congress has legislation in various stages of formation and debate that can impact employers across the country regarding immigration and healthcare. States and localities have been and will be active on these fronts as well. If your company operates in multiple states, keep an eye out for federal, state, and local changes, and plan accordingly.

Immigration Laws

Little has changed in federal law since Ronald Reagan signed the Immigration Reform and Control Act in 1986. States have thus taken the initiative and are increasing legislation on immigration at a tremendous pace. The year 2017 saw 90 percent more bills enacted than in 2016 for all but three states, according to the National Conference of State Legislatures (NCSL).



Some of the pending topics to be addressed this year include:

- In-state tuition and driver's licenses for unauthorized immigrants
- Sanctuary laws that limit cooperation with federal immigration authorities
- State law enforcement efforts to control unauthorized immigration
- Funding for immigrant services like English language and citizenship classes
- Use of the E-Verify database to confirm work authorization
- Immigrants' eligibility for higher education financial aid, health insurance, or professional licenses ¹⁰

¹⁰ Julie Lays, The Road Ahead Is Packed with Big Issues, and Here Are 10 of the Biggest. NCSL. Jan. 1, 2018. <http://www.ncsl.org/bookstore/state-legislatures-magazine/federalism-hot-legislative-issues-2018.aspx>



Healthcare Legislation

No topic has been so mired in political intrigue over the last few years as this one.

Although Congress tried and failed to pass new healthcare reforms in 2017, as

summarized by the NCSL, the Trump administration has used administrative powers

and “shortened the enrollment period for the federally run exchanges,

substantially cut enrollment assistance and advertising, discontinued

payments to insurance companies to cover their losses for enrollees

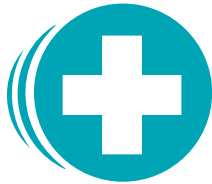
who qualify for cost-sharing subsidies, and issued rules to roll

back a federal requirement that employers include birth control

coverage in health insurance plans.”¹¹ However, with the recent

delivery of IRS 226J Notification letters, we can assume the employer

reporting requirements under ACA are alive and well.¹²



Other changes this year include:

- Evaluating how to respond to potential federal preemption of state regulations that protect insurance consumers
- Using Section 1332 innovation waivers to modify provisions in the current federal law
- Exploring the potential for lowering the cost of prescription drugs through purchasing agreements and rebates
- Shifting care toward prevention and wellness services
- Expanding the scope of practice of some midlevel providers
- Increasing the use of telehealth¹³

¹¹ Julie Lays. The Road Ahead Is Packed with Big Issues, and Here Are 10 of the Biggest. NCSL. Jan. 1, 2018. <http://www.ncsl.org/bookstore/state-legislatures-magazine/federalism-hot-legislative-issues-2018.aspx>

¹² Stephen Miller. IRS Starts to Send ACA Penalty Letter. Nov. 15, 2017. <https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/irs-prepares-aca-penalty-letters.aspx>

¹³ Julie Lays. The Road Ahead Is Packed with Big Issues, and Here Are 10 of the Biggest. NCSL. Jan. 1, 2018. <http://www.ncsl.org/bookstore/state-legislatures-magazine/federalism-hot-legislative-issues-2018.aspx>



A BETTER WAY

A good compliance track record requires good record keeping, effective data governance, auditable transactions, and effective HR systems. For instance, it should not be a struggle to confirm that I-9 forms have been completed for all required employees. Likewise, accessing new-hire and termination reports with EEO information should be a single click or delivered on a scheduled basis.





How ExponentHR Can Help

You may have experienced it before, but a single flaw in your system can have you reeling – and paying – for years to come. Make sure you have a partner that provides the tools to help you manage your compliance, protects your data, and gives you the confidence that comes from accurate outcomes.

About ExponentHR

Those who expect the best choose ExponentHR. We deliver human capital management solutions you can count on. Growing a business demands HR competence. That's what we offer. With every customer every day, we exemplify the highest standard in HR.

ExponentHR provides expert tax and compliance tools and a single-source platform for HR, Payroll, and Benefits – which includes manager and employee self-service. Our foundation in excellence began over 40 years ago, with the development of the first transactional Software-as-a-Service professional tax product. That entrepreneurial mindset continues to fuel our investment in our people and HR solution today.

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