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New York City Council Votes to Amend Pay Transparency Law and Extend Effective Date to November 1, 2022

As we previously reported here, the new New York City Pay Transparency Law will require New York City employers and employment agencies to list salary ranges for all advertised job, promotion and transfer opportunities. On April 28, the New York City Council voted not only to postpone the May 15 effective date, but to implement several changes to the law in terms of coverage and enforcement.

What Changed?

The proposed amendment would extend the effective date of the law to November 1, 2022, to provide employers additional time to comply and would exclude from the requirement to disclose salary "[p]ositions that cannot or will not be performed, at least in part" in New York City. Positions that are virtual and can be performed in New York City are, however, covered. The amendment also clarifies that the pay transparency obligations would apply equally to employees who are paid hourly and those paid a salary.

With respect to enforcement, the proposed amendment would limit to current employees private rights of action for failure to post the minimum and maximum hourly wage or salary in a job, promotion or transfer opportunity advertisement. Job applicants would be able to seek enforcement only through the New York City Commission on Human Rights for a violation by a potential employer. The amendment would give all employers an opportunity to cure their first violation of the law within 30 days without assessment of a fine.

Additional information about the amendment can be found here.

Mayor Eric Adams has 30 days to sign the amendment into law, veto it or take no action; in the latter instance, the amendment would become law. The New York City Council may override a veto with a two-thirds majority vote.

What Remains the Same?

The amended law would continue to promote compensation transparency and pay equity. According to a press release from the New York City Council, one of the bill's prime co-sponsors stated, "The livelihoods of New Yorkers are not a TV game show where the true salary is hidden behind a magical door if only you guess the right one." Another council member called the amendment "an opportunity to expand on landmark measures, which were critical to the fight in economic equity."

The new Pay Transparency Law applies to employers with four or more employees and to employment agencies, but not to temporary help firms. An employer must include in job postings the minimum and maximum salary (or hourly rate) that the employer believes in good faith at the time of the posting that it is willing to pay for the advertised job, promotion or transfer opportunity. Additionally, the compensation range cannot be open-ended.

The Bottom Line

If the amendment is signed into law, employers would have additional time to ensure compliance with the Pay Transparency Law, as the effective date would be delayed until November 1, 2022. Employers should use this time to assess their pay

policies and practices. Employers should also review the salaries for current employees and compare them with the salary ranges they will publish in job advertisements for similar positions to ensure there are not any substantial pay discrepancies.

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