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New York State and City Pay Transparency Laws Continue to Evolve

New York employers will now face more changes in compliance with state and city pay laws. The New York State legislature recently amended the state's pay transparency law, which is scheduled to take effect on September 17. As we previously reported, the pay transparency law will require employers to disclose the range of compensation in any advertisement for a job, promotion or transfer opportunity. On March 3, Gov. Hochul signed the amendments into law. In addition to the amendment to the New York State law, there is also a bill pending in the New York City Council that would amend the New York City pay transparency law. Here is everything employers need to know about the recent changes to the state law and the proposed amendment to the city law.

New York State Pay Transparency Law

Employees Covered Under the Law

Gov. Hochul signed the New York State pay transparency law on December 21, 2022, with the law scheduled to take effect on September 17, 2023. The effective date remains September 17, but the March 2023 amendment to the law changed some of its provisions. Before the recent amendment to the state pay transparency law, the law would have required employers to include the range of compensation in an advertisement for a job, promotion or transfer that can or will be performed in New York State. Instead, the recent amendment will require that the range of compensation be included in an advertisement for a position that "will physically be performed, at least in part, in the state of New York." The law also now provides that positions that will physically be performed outside of New York but report to a supervisor, office or other work site in New York be included.

Accordingly, the scope of the amended New York State pay transparency law will be different from the New York City pay transparency law, which applies to positions that can or will be performed, at least in part, in New York City.

Definition of "'Advertise'"

Although the state law prohibits employers from advertising jobs without disclosing their compensation ranges, the law previously did not define "advertise" or "advertisement." Now, the law has been amended to define "advertise" as "to make available to a pool of potential applicants for internal or public viewing, including electronically, a written description of an employment opportunity."

Removal of Record-Keeping Requirement

The law no longer requires employers to comply with a record-keeping requirement. Before the recent amendments, the law would have required employers to keep and maintain certain records, including the history of compensation ranges for each job, promotion or transfer opportunity, and the job descriptions for such positions. The law has been amended to eliminate the record-keeping requirement.

New York City Pay Transparency Law

Pending Legislation

On February 3, the New York City Council introduced a bill that would make several changes to the New York City pay transparency law. As we previously reported, the New York City pay transparency law went into effect on November 1, 2022, and requires all covered New York City employers to list the minimum and maximum salaries or hourly wages, determined in good faith at the time of the posting, for all advertised job, promotion and transfer opportunities if the positions can or will be performed, at least in part, in New York City.

If passed, the bill would require a job advertisement for a position that could or will be performed, at least in part, in New York City to also include a description of the job, promotion or transfer opportunity and a description of the nonwage compensation, including bonuses, benefits, stocks, bonds, options, and equity or ownership. In addition, the bill would require employers to provide current employees, annually and upon request, with the ranges of salary and nonwage compensation for those employees' job titles.

Takeaways

In sum, New York employers should be aware of the changing state and city pay transparency laws. Employers should review their policies and practices and prepare to comply with the state law before its September 17 effective date, and consult with employment counsel to ensure that they remain up to date.

Authors



Heather Weine Brochin
Partner

Parsippany, NJ | (973) 966-8199

New York, NY | (212)-297-5800

hbrochin@daypitney.com



Howard Fetner
Counsel

New Haven, CT | (203) 752-5012

hfetner@daypitney.com



Glenn W. Dowd
Partner

Hartford, CT | (860) 275-0570

gwdowd@daypitney.com



Francine Esposito
Partner

Parsippany, NJ | (973) 966-8275

fesposito@daypitney.com



Rachel A. Gonzalez
Partner

Parsippany, NJ | (973) 966-8201

New York, NY | (212) 297-5800

rgonzalez@daypitney.com



Theresa A. Kelly
Partner

Parsippany, NJ | (973) 966-8168

tkelly@daypitney.com



James M. Leva
Partner

Parsippany, NJ | (973) 966-8416

Stamford, CT | (973) 966-8416

jleva@daypitney.com



Daniel L. Schwartz
Partner

Stamford, CT | (203) 977-7536

New York, NY | (212) 297-5800

dlschwartz@daypitney.com