

New York State Amends Pay Transparency Law

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New York Governor Kathy Hochul has signed an amendment to the New York State Pay Transparency Law that modifies the applicability of the law, lessens an employer's recordkeeping requirements, and clarifies what constitutes an "advertisement." The *September 17, 2023*, effective date remains unchanged, as does the requirement to include the job description in an advertisement, if one exists.

Enactment of the New York law followed other states and cities, like California, Washington, and New York City. This kind of legislation generally requires covered employers to include a good-faith minimum and maximum annual salary or hourly range of compensation in any advertisement for a job, promotion, or transfer opportunity, among other requirements.

Scope of Jobs Covered

The original enactment applied its advertisement requirements to any position that "can or will be performed in the state of New York."

The amendment modifies the obligation to cover advertisements for jobs, promotions, or transfer opportunities that "will physically be performed, at least in part" in New York, as well as jobs "that will physically be performed outside of New York but report[] to a supervisor, office, or other work site in New York." The second concept is unique and broader in some respects than an employer's obligations under the New York City Pay Transparency Law in that jobs that may not require any physical presence in New York can still be covered if they report to a supervisor or office in New York.

Recordkeeping Requirements

The amendment eliminates the requirement to maintain records related to the "history of compensation ranges for each job, promotion, or transfer opportunity and the job descriptions for such positions." While no longer required, covered employers may want to consider preserving these records to defend compensation decisions, if needed.

"Advertise" Definition

The December 2022 version of the law did not define job "advertisement." The amendment clarifies this ambiguity and defines "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." Consequently, the law will apply to both internal and external job opportunities.

The New York Pay Transparency Law does not preempt other local laws or regulations. Covered employers with operations in other states, or New York City, will need to comply with all applicable state and local laws. Please contact a Jackson Lewis attorney about questions on compliance with pay transparency laws.

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