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Labor & Employment Alert

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New York State pay transparency law effective September 17, 2023

By Tara E. Daub and Christopher J. Moro¹

Employers should take action now to prepare to comply with the new law.



What's the Impact?

- / As expected, on December 21, 2022, Governor Hochul signed New York State's pay transparency bill
- / The law impacts advertisements for any job, promotion, or transfer opportunity for all positions "that can or will be performed, at least in part" in New York State
- / The New York State law will not preempt local pay transparency laws, such as those enacted in New York City, the City of Ithaca, and Westchester County

New York State will become the latest jurisdiction to enact pay transparency requirements. As we [previously reported](#), the New York State legislature passed the pay transparency bill on June 2, 2022, and it had been pending signature with Governor Hochul for several months.

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This morning, Governor Hochul signed the bill into law. The law will go into effect 270 days after her signature today, on September 17, 2023. The New York Commissioner of Labor is directed to promulgate rules and regulations to effectuate the law, so more information is expected to come.

Employer coverage

New York State's law applies to most employers with four or more employees. However, similar to the New York City pay transparency law, temporary help firms are excluded from the definition of "employer" under this law. The law will become part of New York Labor Law Article 6 once effective. Governmental agencies are also excluded from the definition of employer under Article 6.

To comply, employers will need to post the following information in advertisements for any job, promotion, or transfer opportunity for all positions "that can or will be performed, at least in part" in New York State:

- / The compensation or a range of compensation for such job, promotion, or transfer opportunity
- / The job description for such job, promotion, or transfer opportunity if such description exists
- / A general description of other forms of compensation to be offered if applicable, including, but not limited to, fringe benefits, bonuses, stock options, or commissions

Violations

Parties aggrieved under this law may file a complaint with the New York Commissioner of Labor. There is no private right of action. Employers are prohibited from retaliating against an individual for filing a complaint. Violations of the state law could result in a civil penalty of up to \$3,000.

Employer action

Employers that post or advertise for positions involving duties that "can or will be" performed in New York State will need to comply with this new pay transparency law. Importantly, the state law expressly states that it will not preempt local laws or rules regarding pay transparency, so employers in New York City, Westchester County, and Ithaca should review the interaction of these local laws.

In preparation for the law's effective date, employers should begin reviewing internal salary policies and posting practices for new hires, promotions, and transfers. Lastly, employers should take notice of future guidance and regulations that are expected to be issued by the NYS Department of Labor.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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