

Enforcement of New York City Salary Transparency in Job Posting Law Likely Delayed Until November 2022

By **Julie Levinson Werner** and **Amy C. Schwind**

Late last week the New York City Council passed an amendment to New York City's highly anticipated salary disclosure law (which initial law we previously detailed [here](#)), which, pending New York City Mayor Eric Adams' signature, is expected to delay the effective date from May 15, 2022 to November 1, 2022. The amendment also clarifies and modifies other aspects of the law. It is anticipated Mayor Adams will sign the amendment into law before May 15.

As previously slated, New York City will require as part of the New York City Human Rights Law ("NYCHRL") that employers with four or more employees include the minimum and maximum salary for a position in its job postings, including those for promotion and transfer opportunities. In determining the salary range, the employer must list a range from the lowest to the highest salary the employer believes, in good faith at the time of the posting, that it would pay for the advertised job, promotion, or transfer opportunity.

The amendments to the law clarify that the law does not apply to positions that cannot or will not be performed, at least in part, in New York City, and confirm the law applies to both salary and hourly positions.

While smaller businesses had lobbied to be exempt from the law, those proposed amendments failed, such that the law still applies to businesses with at least four employees. However, in a win for employers, under the amendment job applicants no longer have a private right of action to sue prospective

employers under the law. Instead, only actual employees may sue their current employer for failing to provide the required information in an advertisement for a job, promotion or transfer opportunity.

The New York City Commission on Human Rights ("NYCCHR") also maintains enforcement authority under the law, although the amendment includes that there are no civil penalties for a first violation if an employer can prove to the NYCCHR's satisfaction that it has cured the alleged violation within 30 days. Financial penalties apply for any further offense.

Salary transparency laws continue to be the trend, with laws in Colorado and Connecticut already in effect, a similar law to become effective in Washington State as of January 1, 2023, and bills pending in California and other states around the country.

If you need assistance navigating the complex employment laws governing the workplace, please contact Lowenstein Sandler's Employment Counseling & Litigation practice group.

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