

May 12, 2022

New York City Amends Salary Disclosure Law and Delays Its Effective Date to November 1, 2022

On January 15, 2022, New York City amended the New York City Human Rights Law to require employers to include the minimum and maximum salary when advertising any job, promotion or transfer opportunity (the “NYC Salary Disclosure Law”).¹ While the NYC Salary Disclosure Law was scheduled to become effective on May 15, 2022, the New York City Council (the “Council”) on April 28, 2022 approved a bill to amend several aspects of the law, including postponing its effective date to November 1, 2022.² On May 12, 2022, Mayor Eric Adams signed the bill into law.³

Background

The NYC Salary Disclosure Law, originally set to become effective on May 15, 2022, prohibited an employer or employment agency from advertising “a job, promotion or transfer opportunity without stating the minimum and maximum salary for such position in such advertisement.”⁴ As we reported in our [February 4, 2022 Memorandum](#), the law left open several questions. Most importantly, it did not define “salary,” nor did it define the law’s geographic reach (e.g., whether its provisions applied to any job posting advertised within New York City, or whether its scope was limited only to positions located within New York City). The law also did not address how, if it all, it applied to remote workers.⁵

On March 28, 2022, the New York City Commission on Human Rights issued guidance (the “Guidance”) providing additional details about the NYC Salary Disclosure Law, including the definition of “salary.”⁶ The Guidance stated that the term “salary” in the law includes “the base wage or rate of pay, regardless of the frequency of payment” and does not include other forms of compensation or benefits, such as health insurance, paid or unpaid time off work, severance or overtime pay or bonuses.⁷ The Guidance provided that the law applied to all “advertisements,” which means “a written description of an available job,

¹ Act of Jan. 15, 2022, N.Y.C. Int. No. 1208-B, § 2, Enactment No. 2022/032, available at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3713951&GUID=E7B03ABA-8F42-4341-A0D2-50E2F95320CD>.

² N.Y.C. Int. No. 0134-2022, available at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=5528005&GUID=4544EE38-4659-44F6-9092-19D965A680AE&Options=ID|Text|&Search=>.

³ New York City, Mayor Adams Signs Legislation to Form two new Business Improvement Districts and Promote Salary Transparency in New York City (May 12, 2022), <https://www1.nyc.gov/office-of-the-mayor/news/294-22/mayor-adams-signs-legislation-form-two-new-business-improvement-districts-promote-salary>.

⁴ *Supra* note 1 § 2.

⁵ For additional details about the previous version of the NYC Salary Disclosure Law, please refer to our [February 4, 2022 Memorandum](#).

⁶ New York City Commission on Human Rights, Salary Transparency in Job Advertisements (Mar. 28, 2022), <https://www1.nyc.gov/assets/cchr/downloads/pdf/publications/Salary-Transparency-Factsheet.pdf>.

⁷ *Id.* at 2.

promotion, or transfer opportunity that is publicized to a pool of potential applicants[,] . . . [including] postings on internal bulletin boards, internet advertisements, printed flyers distributed at job fairs, and newspaper advertisements.”⁸ The Guidance also provided that covered employers should comply with the NYC Salary Disclosure Law “when advertising for positions that can or will be performed, in whole or in part, in New York City, whether from an office, in the field, or remotely from the employee’s home.”⁹

After its passage, the NYC Salary Disclosure Law was met with criticism from certain business groups and government officials.¹⁰ In a letter to the Council dated April 4, 2022, the five borough chambers of commerce and the Partnership for New York City argued that requiring the inclusion of minimum and maximum salaries may not be the “most appropriate tool” for achieving gender and racial pay parity for the New York labor market.¹¹ The letter also asserted that most of approximately 200,000 businesses and 30,000 nonprofit organizations subject to the NYC Salary Disclosure Law had no knowledge of the legislation, which was introduced in the middle of a local labor shortage.¹² The letter also urged the Council to adopt a number of amendments to the law, including pushing back the effective date, exempting small businesses and nonprofit organizations from the law, clarifying that the law applies only to jobs that are located at least partly in New York, and exempting industries with “severe labor shortages.”¹³

On April 28, 2022, about three weeks before the NYC Salary Disclosure Law was scheduled to become effective, the Council voted to introduce a bill that would amend the pending law. According to the Council, the amendment “clarifies aspects of [the NYC Salary Disclosure Law] to ensure successful implementation by adding language about its application to hourly paid employees, limiting any unintended consequences for small employers lacking back-office operations, and maintaining strong salary transparency requirements.”¹⁴ The Council noted that the amended bill “resulted from broad engagement with the various stakeholders that thoughtfully addressed concerns and led to a mutually agreed-upon solution by all parties.”¹⁵

During a hearing on the proposed amendments to the NYC Salary Disclosure Law held on May 12, 2022, Mayor Adams signed the bill into law.¹⁶

The Amended NYC Salary Disclosure Law

As discussed above, the amended bill postpones the effective date of the NYC Salary Disclosure Law from May 15, 2022 to November 1, 2022.

⁸ *Id.* at 1.

⁹ *Id.* at 1.

¹⁰ Alonzo Martinez, Pay Transparency In NYC Delayed, Forbes (May 6, 2022), <https://www.forbes.com/sites/alonzomartinez/2022/05/06/pay-transparency-in-nyc-delayed/?sh=697a902b7205>.

¹¹ The Partnership for New York City, Employers Call on City Council to Amend Salary Posting Law (Apr. 4, 2022), <https://pfny.org/news/employers-call-on-city-council-to-amend-salary-posting-law/>.

¹² *Id.*

¹³ *Id.*

¹⁴ New York City Council, Council’s Civil and Human Rights Committee Chair Nantasha Williams, Co-Sponsor of Original Salary Transparency Law Council Member Justin Brannan, and Women’s Caucus Co-Chair Amanda Farias Announce Amended Legislation Supported by Advocates & Small Business Community (Apr. 15, 2022), <https://council.nyc.gov/press/2022/04/15/2167/>.

¹⁵ *Id.*

¹⁶ *Supra* note 3.

The amended bill clarifies that the term “salary” covers both hourly and salaried positions. It now declares it an unlawful discriminatory practice for an employer or employment agency “to advertise a job, promotion or transfer opportunity without stating the minimum and maximum *annual salary or hourly wage* for such position in such advertisement.”¹⁷

The amended bill (i) added a provision stating the law does not apply to “[p]ositions that cannot or will not be performed, at least in part, in the city of New York,”¹⁸ to “ensure jobs performed virtually in New York or for New York employers are all covered”¹⁹; (ii) allows an employer to cure non-compliance before a monetary fine is issued for first-time violations²⁰; (iii) provides that “no person shall have a cause of action [under the NYC Salary Disclosure Law], except that an employee may bring such an action against their current employer for an alleged violation of the law with respect to an advertisement by their employer for a job, promotion or transfer opportunity²¹; and (iv) maintains that all employers with four or more employees are subject to the NYC Salary Disclosure Law.

Implications for Employers

- Covered employers in New York City may want to take steps to ensure compliance with the amended pay transparency requirements before they go into effect on November 1, 2022.
- Employers should consider informing managers, human resources personnel, and legal and compliance departments of the changes in the amended bill. In addition, employers should consider reviewing existing job posting templates—including internal postings for promotions and transfers—and creating new templates, as necessary, that include the salary information required under the NYC Salary Disclosure Law as amended.
- Covered employers may want to continue to monitor the implementation of the NYC Salary Disclosure Law for any further updates and guidance.
 - The original version of the NYC Pay Disclosure Law can be found [here](#).
 - The amended bill can be found [here](#).
 - The Guidance can be found [here](#).

* * *

¹⁷ *Supra* note 2 § 1 (emphasis added).

¹⁸ *Supra* note 2 § 1(b)(2).

¹⁹ *Supra* note 14.

²⁰ *Id.* § 1(d).

²¹ *Id.* § 1(c).

This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

Allan J. Arffa
+1-212-373-3203
aarffa@paulweiss.com

David W. Brown
+1-212-373-3504
dbrown@paulweiss.com

Jay Cohen
+1-212-373-3163
jaycohen@paulweiss.com

Michele Hirshman
+1-212-373-3747
mhirshman@paulweiss.com

Brad S. Karp
+1-212-373-3316
bkarp@paulweiss.com

Jean M. McLoughlin
+1-212-373-3135
jmcloughlin@paulweiss.com

Liza M. Velazquez
+1-212-373-3096
lvelazquez@paulweiss.com

Lawrence I. Witdorchic
+1-212-373-3237
lwitdorchic@paulweiss.com

Maria Helen Keane
1-212-373-3202
mkeane@paulweiss.com

Associate Leah J. Park contributed to this Client Memorandum.