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City Council Amends New York City Pay Transparency Law

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On April 28, 2022, the New York City Council amended the City's pay transparency law, which was scheduled to go into effect on May 15. The amendments delay the effective date of the law until November 1, 2022. The amendments also make additional key changes that are noteworthy for employers.

Brief Summary of Law

The pay transparency law makes it an "unlawful discriminatory practice" under the New York City Human Rights Law for an employer to advertise a job, promotion, or transfer opportunity without stating the position's minimum and maximum salary in the advertisement. The law applies to all employers with at least four employees in New York City, and independent contractors are counted towards that threshold. The law does not apply, however, to temporary positions advertised by temporary staffing agencies. The New York City Commission on Human Rights is authorized to take action to implement the law.

Recent Amendments

First, the new amendments clarify that *only current employees* may pursue a private right of action against their employers for an alleged violation of the law in relation to an advertisement for a job, promotion, or transfer opportunity. This important change eliminates the risk of applicants pursuing private claims against prospective employers.

Second, an employer will now have 30 days from receipt of an initial complaint of non-compliance to cure the employer's "first time" violation of the law before facing a fine from the NYC Commission on Human Rights.

Third, the amendments clarify that either annual salary or hourly wage information must be disclosed in the required postings.

And finally, the new amendments expressly state that positions that cannot or will not be performed, at least in part, in New York City are exempt from the posting requirement.

Takeaways

The amendments were passed in response to concerns raised by the business community that the law was unclear, too burdensome, and could lead to an avalanche of litigation. All covered employers in New York City should ensure they are prepared to comply with the amended law effective November 1, 2022.

The following Gibson Dunn attorneys assisted in preparing this client update: Harris Mufson, Danielle Moss, Gabrielle Levin, and Hayley Fritchie.

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Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding these developments. To learn more about these issues, please contact the Gibson Dunn lawyer with whom you usually work, any member of the firm's Labor and Employment practice group, or the following:

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