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New York State Legislature Passes Bill Requiring Wage Ranges in Job Postings

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The New York State Legislature has passed Senate Bill S9427, which will require employers with four or more employees to include in job postings – including those for promotion or transfer opportunities – the minimum and maximum salary for any position that can or will be performed within the state of New York, along with a job description. The bill now goes before Governor Kathy Hochul for consideration.

Specifically, the bill would amend the New York Labor Law to require covered employers who post a job, promotion, or transfer opportunity that can or will be performed, at least in part, in the state of New York to disclose the following:

- the compensation or a range of compensation for the job, promotion, or transfer opportunity; and
- the job description for the job, promotion, or transfer opportunity, if such description exists.

Advertisements for positions paid by commission must provide a general statement that explains the compensation will be based on commission.

The bill would not apply to job postings for temporary employment at a temporary help firm, as such firms are already required to provide wage range information in compliance with the New York State Wage Theft Prevention Act.

The bill defines range of compensation as the “minimum and maximum annual salary or hourly range of compensation for a job, promotion, or transfer opportunity that the employer in good faith believes to be accurate at the time of the posting of an advertisement for such opportunity.”

In addition to the bill's disclosure requirement, employers must also keep and maintain "necessary records," which includes, but is not limited to, "the history of compensation ranges for each job, promotion, or transfer opportunity and the job descriptions for such positions, if such descriptions exist."

Individuals adversely impacted by a violation of the bill may file a complaint with the commissioner of the Department of Labor. Employers who fail to comply with the requirements of the bill will be subject to a civil penalty. Employers may not refuse to interview, hire, promote, or otherwise retaliate against individuals who excise their rights under the bill.

As we have previously reported, New York City recently signed into law a similar salary disclosure bill, which is scheduled to take effect on November 1, 2022. The State bill explicitly provides that it shall not supersede or preempt any local law. As such, employers covered by the State and City laws would be required to comply with both. Key additional requirements in the State bill include: (i) the obligation to disclose a job description, if one exists; (ii) the requirement to provide a general statement that compensation will be based on commission, where applicable; and (iii) the requirement to maintain "necessary records" as discussed above.

If enacted, the New York State bill would take effect 270 days after it becomes law. The NYS commissioner of the Department of Labor would be authorized to promulgate rules to implement the law.

We will continue to monitor and report on further developments regarding this bill.

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Related Professionals

- **Evandro C. Gigante**
  Partner
- **Allan S. Bloom**
  Partner
- **Laura M. Fant**
  Special Employment Law Counsel