

LABOR AND EMPLOYMENT LAW

INFORMATION MEMO

DECEMBER 21, 2022

New York Adopts Statewide Pay Transparency Law

On Dec. 21, 2022, Gov. Kathy Hochul signed the long-anticipated New York State pay transparency bill into law. The bill amends New York State Labor Law by adding a new section 194-b, which takes effect on Sept. 17, 2023. Labor Law § 194-b continues a recent trend toward pay transparency both nationally and locally, including similar laws in New York City, Albany County, Westchester County and Ithaca.

Employers subject to the law are broadly defined to include nearly every entity with four or more employees, as well as agents and recruiters. Only temporary help firms, as defined under New York State Labor Law § 916(5), are exempt.¹

Similar to other pay transparency laws, Labor Law § 194-b requires employers to disclose an amount or a range of compensation for any open job, promotion or transfer opportunity that can or will be performed, at least in part, in New York State. The law defines “range of compensation” as “the minimum and maximum annual salary or hourly range of compensation . . . that the employer in good faith believes to be accurate at the time of the posting of an advertisement” for the job, promotion or transfer opportunity. Advertisements for jobs, promotions or transfer opportunities that are paid solely on commission must disclose that in writing. Additionally, the law requires employers to post a job description if one exists.

Labor Law § 194-b does not define “advertisement,” so the breadth of the law’s application to activities such as direct recruitment and internal promotion is unclear. Presumably, the Commissioner of Labor will clarify the scope of coverage by regulations, which the law directs the Commissioner to promulgate.

Employers are required to keep and maintain records in connection to the law, including the history of compensation ranges for each job, promotion or transfer opportunity and the job descriptions for these positions, if such job descriptions exist.

Any person claiming to be aggrieved under Labor Law § 194-b may file a complaint with the Department of Labor, which has the authority to impose civil penalties of up to three thousand dollars for violations of the law or forthcoming regulations. Employers are prohibited from refusing to interview, hire, promote, employ or otherwise retaliate against an applicant or current employee for exercising any rights under this new law.

Finally, Labor Law § 194-b contains a provision stating that it shall not be construed or interpreted to supersede or preempt any local law, rules, or regulation. Most of the existing local pay transparency laws in New York failed to predict a parallel state law (despite the fact that one had already passed in the legislature), so employers subject to these laws will have to comply with overlapping obligations unless the local jurisdictions yield. The Westchester County Salary Transparency Law is the outlier and expressly gives way to “substantially similar” state legislation.

¹ Employers should be mindful that under the NYC Salary Transparency Law Guidance, employers there working with Temporary Help Firms are covered. We may see similar language for NYS as more rules are published.

Open questions regarding the definition of advertisement, scope of the job description requirement, and coexistence with local laws will hopefully be addressed by the Department of Labor in the near future. Bond will continue to monitor for any updates and aim to provide them to you in a clear and timely manner. If you have any questions, please contact [Seth Gilbertson](#), [Lisa Feldman](#) or any Bond [Labor and Employment attorney](#) with whom you are in regular contact.

