

Proposed Amendments Clarify Reach of Upcoming New York State Pay Transparency Law to Remote Workers

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On February 13, 2023, the New York State Legislature approved an amendment, [S1326](#) (the “Amendment”), to the upcoming New York State Pay Transparency Law [S9427A](#) (the “Law”), clarifying that the Law’s requirement that employers to disclose a minimum and maximum salary range in advertisements and postings for job opportunities applies, with limited exception, to remote positions. In addition, the Amendment would also eliminate one of the Law’s recordkeeping obligations and define the term “advertisement.” If signed by the Governor, as is expected, the Amendment will be part of the Law when it takes effect this Fall.

Current New York State Law

As we [previously explained](#), as of September 17, 2023, the Law will require New York State employers to disclose the “minimum and maximum annual salary or hourly range of compensation” that the employer in “good faith believes to be accurate” for a job, promotion, or transfer opportunity “that will be performed, at least in part, in the state of New York.” For commission-based positions, employers need only state that compensation is based on commission.

As enacted, the Law require employers to disclose a job description for each opportunity, if one already exists and to keep records of the history of compensation ranges and job descriptions for each employment opportunity.

What’s New Under the Amendment?

To the extent the Law’s application to remote positions may previously have been unclear, the Amendment expressly clarifies that the disclosure requirements encompass “a job, promotion, or transfer opportunity **that will be physically performed outside of New York but reports to a supervisor, office, or other work site in New York.**” (Emphasis added). As remote work has become increasingly common, this Amendment is meant to resolve a potential ambiguity in the Law that employers could exploit to avoid salary disclosure requirements by advertising for remote

positions that do not require the job to be performed within New York State.

On the plus side for employers, the Amendment would remove the requirement that employers keep and maintain necessary records of compensation ranges and job descriptions (if they exist) for each job, promotion, or transfer opportunity.

Finally, the Amendment defines the term “advertisement” as meaning the making “available to a pool of potential applicants for internal or public viewing, including electronically, a written description of an employment opportunity.” This aligns with the definition in [New York City’s salary disclosure law](#), which has been in effect since November 1, 2022.

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