



## PHILLIPS LYTLE LLP CLIENT ALERT

### LABOR & EMPLOYMENT



JANUARY 2023

## *New York State Enacts Pay Transparency Law*

On December 21, 2022, New York State Governor Kathy Hochul signed into law the New York State Pay Transparency Law (PTL), which adds a new § 194-b to the New York State Labor Law (NYSLL). When the PTL becomes effective on September 17, 2023, it will require covered employers to disclose the salary range and job description for any job, promotion or transfer opportunity that can or will be performed, at least in part, in New York State. In enacting this new law, New York State joins the states of California and Washington and several localities around the country, including New York City, in requiring employers to disclose wage information. Employers should be familiar with the details of the new law listed below and be ready to comply with it.

### COVERED EMPLOYERS

The PTL covers all employers with at least four employees and employment agencies (temporary help firms as defined by § 916(5) of the NYSSL are excluded).

### DISCLOSURE REQUIREMENTS

When the PTL takes effect on September 17, 2023, whenever a covered employer advertises a job, promotion or transfer opportunity, it will have to disclose the minimum and maximum annual salary or hourly range of compensation for such job, promotion or transfer opportunity that the employer in good faith believes to be accurate at the time the advertisement is posted, and the applicable job description, if one exists.

For positions paid solely on commission, covered employers need only state in the posting that compensation is based on commission.

### RECORDKEEPING REQUIREMENTS

The PTL requires covered employers to keep and maintain necessary records to comply with its disclosure requirements, including, but not limited to, the history of compensation ranges for each job, promotion or transfer opportunity and any existing job description.

### PROHIBITED RETALIATION

The PTL prohibits covered employers from refusing to interview, hire, promote, employ or otherwise retaliate against an applicant or current employee for exercising any rights under the law.

### ENFORCEMENT

Persons who believe they have been aggrieved by a violation of the law may file a complaint with the New York State Commissioner of Labor (Commissioner) pursuant to § 196-a of the NYSSL, which authorizes the Commissioner to determine an appropriate remedy. Employers found in violation of the law are also subject to a civil penalty pursuant to § 218 of the NYSSL.

### INTERACTION WITH OTHER LAWS

The PTL expressly provides that it shall not be construed or interpreted to supersede or preempt any provisions of local law, rules or regulations. Thus, to the extent that any local law, such as the New York City Salary Transparency Law, may impose greater pay disclosure requirements, employers covered by such local laws must continue to comply with them. (See our prior alert, "[New York City Salary Transparency Law Takes Effect on November 1, 2022.](#)")



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#### ADDITIONAL GUIDANCE

The PTL authorizes the Commissioner to issue rules and regulations to effectuate the law's provisions. When the Commissioner does so, covered employers should have a better understanding of their compliance obligations.

#### Additional Assistance

*For further assistance, please contact any of the attorneys on our [Labor & Employment Practice Team](#) or the [Phillips Lytle attorney](#) with whom you have a relationship. ■*



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