



## Why Insurers May Worry About New York's Salary Transparency Law

The salary transparency law passed by the New York City Council serves as a wake-up call, even if it gets postponed.

By Aaron Smith | May 11, 2022

Life insurance workers in the New York metro area will probably have to wait a little longer to find out what their companies pay to fill open roles.

The New York City Council, after passing a law last year that requires salary ranges be disclosed in job postings, has voted to postpone the date it takes effect from May 15 to Nov. 1. The amendment has gone to the desk of **Mayor Eric Adams**, who has scheduled a hearing with the council tomorrow.

A postponement would give insurers operating in the city more time to prepare for a requirement that has the potential to be disruptive. It could spur workers to look for greener pastures when they see what competitors are paying, or could cause a backlash among employees who suspect discrimination.

"This should be a wake-up call, if you've got some embarrassing practices," said **Alan Johnson**, managing director and founder of **Johnson Associates**, a compensation consulting firm for the financial services industry in New York.

"I think if the company is doing a decent job of managing their pay this probably won't be a big deal," he said in an interview. "But if you've got problems, racial or gender or other problems, this is going to be not good news. This is going to highlight your discrepancies."

The Local Law 32 is also known as the Salary Act. It would affect life insurance companies that are headquartered in New York, like **New York Life**, **MetLife**, **American International Group**, **Haven Life** and **Guardian Life**, as well as out-of-state insurers like **Prudential Financial** that have employees in New York.

The mandate could cause some employers to temporarily pump the brakes on recruitment.

"We expect that some employers will simply take a break from posting jobs in New York City while they work out with counsel how they can best comply with the new law," said **Robin Samuel**, a labor and employment lawyer at **Baker McKenzie** in Los Angeles.

He said in an email that a pause in hiring occurred in Colorado when its salary transparency law was implemented in 2019, as employers not only scrutinized the new law, but also observed how other employers were complying.

### Salary Transparency

Local Law 32 would make it an “unlawful discriminatory practice” to not include salary ranges in job listings, which “would extend from the lowest salary to the highest salary that the employer in good faith believes it would pay,” according to the Salary Act.

The posting of a range presents the employer with a conundrum, especially in a tight job market: The applicant is likely to request a salary at the top of range, while ignoring the bottom. For example, if the pay range is \$60,000 to \$90,000, the applicant might draw the line at \$90,000.

“The problem is, we’re still in the midst of the Great Resignation, so employee retention is still a major issue,” **David Gabor**, a labor lawyer with the law firm **Wagner Group**, said in an interview. “They want \$90,000, but if you’re only going to pay \$60,000, you’re going to have trouble filling the position.”

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Some states, like Colorado, Nevada, Connecticut and Rhode Island, already require salary transparency for posted jobs. For example, Prudential posted an opening for an actuarial job called “Manager, PRT Contract Financial Services” with a pay range of \$113,400 to \$153,000. The job allows someone to work remotely from different states, including Colorado.

“Prudential is required by Colorado law to include the salary range for this role when hiring a Colorado resident,” reads the job description.

### Auditing for Discrimination

When salary transparency does come to New York, there’s the potential that it could fuel envy among workers when they found out how much their peers get paid.

The Partnership for New York City, a business group, and the chambers of commerce from the five boroughs sent the city council a letter highlighting the concern. They said existing employees will be watching these salary ranges and “will inevitably question how that relates to their own compensation.”

“During a labor shortage, or in the context of achieving diversity goals, the posted maximum may be significantly higher than the historical salary ranges, creating dissatisfaction in the workforce and demands to adjust existing pay scales that the employer may be unable to afford,” reads the letter.

A range could also reveal pay disparities between different races or different genders.

Gabor, the labor lawyer, said this could level the playing field for workers while spelling potential trouble for employers. For example, a woman who’s getting a salary of \$60,000 might find out that a male counterpart with the same job is getting paid \$80,000.

“She can argue pay violation and she may very well have a viable case now,” he said.

The best way to head off this problem is for insurers to identify and remedy such disparities on their own, he said.

“If this start date is pushed back to Nov. 1, that gives employers an opportunity to audit and find out if there’s pay disparity,” Gabor said. “Don’t wait until Nov. 1. It costs a lot less to fix the problem yourself.”

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