File #: Int 0808-2024, **Version:** *

Int. No. 808

By Council Members Brooks-Powers, Farías, Louis, Hanks, Krishnan, Avilés, Ayala, Ossé, Won, Hudson, Salaam, Joseph and Brannan

A Local Law to amend the administrative code of the city of New York, in relation to information required in job listings

Be it enacted by the Council as follows:

Section 1. Subdivision 32 of section 8-107 of the administrative code of the city of New York, as amended by local law 59 for the year 2022, is amended to read as follows:

32. Employment; minimum and maximum salary in job listings; position description and non-wage compensation. a. It shall be an unlawful discriminatory practice for an employment agency, employer, or employee or agent thereof to advertise a job, promotion or transfer opportunity without stating the minimum and maximum annual salary or hourly wage for such position in such advertisement. In stating the minimum and maximum annual salary or hourly wage for a position, the range may extend from the lowest to the highest annual salary or hourly wage the employer [in good faith believes at the time of the posting it] would pay for the advertised job, promotion or transfer opportunity. The employer shall base such range on the amount it actually believes it will pay for a particular job, promotion, or transfer opportunity based on factors such as relevant qualifications, the budgeted amount available for the position, applicable pay scale or compensation model relied upon by the employer, the actual range of compensation for those currently holding the position or equivalent positions, or other operational considerations. If an employer offers a base salary outside the posted range, the employer shall reissue the job advertisement with the revised range. The employer is not required to reopen the position to additional application based on the revised job advertisement.

b. It shall be an unlawful discriminatory practice for an employment agency, employer, or employee or agent thereof to advertise a job, promotion or transfer opportunity without stating a description of the job, promotion or transfer opportunity.

c. It shall be an unlawful discriminatory practice for an employment agency, employer, or employee or agent thereof to advertise a job, promotion or transfer opportunity without stating the minimum and maximum range for any known forms of non-salary or non-wage compensation and a general description of any other discretionary forms of compensation for which a range cannot be calculated at the time of posting. Such compensation information shall include but is not limited to bonuses, stocks, bonds, options, and equity or ownership.

d. It shall be an unlawful discriminatory practice for an employment agency, employer, or employee or agent thereof to advertise a job, promotion or transfer opportunity without stating a general description of core benefits that will be offered to an employee including health insurance benefits, paid time off, paid disability insurance, and paid family leave.

e. It shall be an unlawful discriminatory practice for an employment agency, employer, or employee or agent thereof to fail to disclose to current employees upon request, but no more frequently than annually, the current range of compensation, including base salary and other forms of compensation for such employee's current job title. For non-cash compensation the range shall be calculated using the units of such non-cash compensation.

f. It shall be an unlawful discriminatory practice for an employment agency, employer, or employee or agent thereof who does not issue an advertisement for a job, promotion or transfer opportunity to refuse to disclose the minimum and maximum salary or hourly wage for said position upon the request of any prospective candidate at any point during the hiring process. g. This subdivision does not apply to:

(1) A job advertisement for temporary employment at a temporary help firm as such term is defined by

subdivision 5 of section 916 of article 31 of the labor law[.]; and

(2) Positions that cannot or will not be performed, at least in part, in the city of New York.

[c] h. No person shall have a cause of action pursuant to section 8-502 for an alleged violation of this subdivision, except that an employee may bring such an action against their current employer for an alleged violation of this subdivision in relation to an advertisement by their employer for a job, promotion or transfer opportunity with such employer.

[d] i. Notwithstanding the penalties outlined in section 8-126, an employment agency, employer, or employee or agent thereof shall be subject to a civil penalty of $0 for a first violation of this subdivision, or any rule promulgated thereunder, if such employment agency, employer, employee or agent thereof proves to the satisfaction of the commission, within 30 days of the service of a copy of the applicable complaint pursuant to section 8-109, that the violation of this subdivision has been cured. The submission of proof of a cure, if accepted by the commission as proof that the violation has been cured, shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any service of a copy of an applicable complaint pursuant to section 8-109 to an employment agency, employer, or employee or agent thereof for the violation of this subdivision, or any rule promulgated thereunder, for the first time. The commission shall permit such proof to be submitted electronically or in person. An employment agency, employer, or employee or agent thereunder may seek review with the commission of the determination that proof of a cure has not been submitted within 15 days of receiving written notice of such determination.

§ 2. This local law takes effect 120 days after it becomes law.

Session 13
JG
LS #6433
04/09/24 12:48 PM

JG

LS #6433
Int. 907-2023
06/01/2022 3:46 PM