

9157

I N A S S E M B L Y

March 24, 2014

Introduced by M. of A. ZEBROWSKI -- read once and referred to the
Committee on Labor

AN ACT to amend the labor law, in relation to retaliation against other
jurisdictions which discriminate against hiring New York state resi-
dents

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The labor law is amended by adding a new section 44 to read
2 as follows:
3 S 44. PROVISIONS RELATING TO RETALIATING AGAINST OTHER JURISDICTIONS
4 WHICH DISCRIMINATE AGAINST HIRING NEW YORK STATE RESIDENTS. 1. FOR THE
5 PURPOSES OF THIS SECTION:
6 A. "DISCRIMINATORY JURISDICTION" SHALL MEAN ANY STATE THAT HAS LAWS
7 THAT DISCRIMINATE AGAINST NEW YORK STATE RESIDENTS BY PROHIBITING PUBLIC
8 EMPLOYERS IN SUCH STATE FROM EMPLOYING OUT OF STATE RESIDENTS.
9 B. "PRIMARY RESIDENCE" SHALL MEAN WHERE A PERSON SPENDS THE MAJORITY
10 OF HIS OR HER NON-WORKING TIME; AND WHICH IS MOST CLEARLY THE CENTER OF
11 HIS OR HER DOMESTIC LIFE; AND WHICH IS DESIGNATED AS HIS OR HER LEGAL
12 ADDRESS AND LEGAL RESIDENCE FOR VOTING.
13 C. "PUBLIC EMPLOYERS" SHALL MEAN THE FOLLOWING EMPLOYERS:
14 (1) THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCH OF THIS STATE;
15 (2) AN AUTHORITY, BOARD, BODY, AGENCY, COMMISSION, OR INSTRUMENTALITY
16 OF THE STATE INCLUDING ANY STATE COLLEGE, UNIVERSITY, OR OTHER HIGHER
17 EDUCATIONAL INSTITUTION, AND, TO THE EXTENT CONSISTENT WITH LAW, ANY
18 INTERSTATE AGENCY TO WHICH THE STATE IS A PARTY;
19 (3) A COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE
20 STATE OR AN AUTHORITY, BOARD, BODY, AGENCY, DISTRICT, COMMISSION, OR
21 INSTRUMENTALITY OF THE COUNTY, MUNICIPALITY, OR SUBDIVISION;
22 (4) A SCHOOL DISTRICT OR AN AUTHORITY, BOARD, BODY, AGENCY, COMMIS-
23 SION, OR INSTRUMENTALITY OF THE DISTRICT.
24 2. THE COMMISSIONER SHALL HAVE THE POWER AND IT SHALL BE HIS OR HER
25 DUTY TO PREPARE A LIST OF ALL DISCRIMINATORY JURISDICTIONS. THE COMMIS-
26 SIONER SHALL ADD TO OR DELETE FROM SAID LIST ANY JURISDICTION UPON
27 CHANGES IN OTHER JURISDICTION'S LAWS. THE COMMISSIONER SHALL DELIVER A

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD14452-01-4

1 COPY OF THE LIST TO ALL PUBLIC EMPLOYERS IN THE STATE OF NEW YORK AS
2 DEFINED IN THIS SECTION AND DETAIL THE EFFECTIVE DATE OF SUCH LIST.

3 3. UPON THE EFFECTIVE DATE OF A LIST OF DISCRIMINATORY JURISDICTIONS,
4 A PUBLIC EMPLOYER SHALL NOT HIRE ANY PERSON WHOSE PRIMARY RESIDENCE IS
5 LOCATED IN A DISCRIMINATORY JURISDICTION. THE PUBLIC EMPLOYER, UPON
6 RECEIPT OF THE LIST OR UPDATED LIST OF ALL DISCRIMINATORY JURISDICTIONS,
7 SHALL REVISE ALL RELEVANT HIRING STANDARDS TO ACCOUNT FOR SUCH CHANGES
8 AND DISSEMINATE TO ALL NECESSARY AUTHORITIES.

9 4. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY PERSON WHO IS
10 EMPLOYED BY A PUBLIC EMPLOYER IN THIS STATE ON THE EFFECTIVE DATE OF AN
11 UPDATED LIST OF DISCRIMINATORY JURISDICTIONS BY THE COMMISSIONER AND
12 WHERE SUCH PERSON'S PRIMARY RESIDENCE IS LOCATED IN A JURISDICTION WHICH
13 HAS BEEN DESIGNATED A DISCRIMINATORY JURISDICTION BY THE SECRETARY OF
14 STATE. THE PROVISIONS OF THIS SECTION WILL CONTINUE TO NOT APPLY
15 PROVIDED SUCH PERSON CONTINUES TO HOLD EMPLOYMENT BY A PUBLIC EMPLOYER
16 IN THE STATE WITHOUT A BREAK IN PUBLIC SERVICE OF GREATER THAN THIRTY
17 DAYS.

18 5. THE PROVISIONS OF THIS SECTION MAY BE WAIVED THROUGH AN APPLICATION
19 THAT IS APPROVED BY THE COMMISSIONER AND THE PUBLIC EMPLOYER WHOM THE
20 PERSON IS SEEKING EMPLOYMENT. THE APPLICATION MUST DETAIL THE HARDSHIP
21 CREATED BY THE PROVISIONS OF THIS SECTION AND HOW A WAIVER IS THE LAST
22 RESORT TO ALLEVIATE SUCH HARDSHIP. IF THE APPLICATION IS DENIED, AN
23 APPEAL MAY BE GRANTED AT THE DISCRETION OF THE COMMISSIONER.

24 S 2. The commissioner of labor is authorized to promulgate rules and
25 regulations necessary for the implementation of the provisions of this
26 act on or before its effective date.

27 S 3. This act shall take effect January 1, 2015.