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I N   A S S E M B L Y

March 24, 2014

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Introduced by M. of A. ZEBROWSKI -- read once and referred to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil service law, in relation to retaliation against other jurisdictions which discriminate against hiring New York state residents

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

1     Section 1. The civil service law is amended by adding a new section 12  
2     to read as follows:

3     S 12. 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    D. "UNDUE HARDSHIP" SHALL MEAN AN ACCOMMODATION WHICH REQUIRES SIGNIF-  
25    ICANT EXPENSE AND DIFFICULTY TO OBTAIN, AND PLACES AN UNAVOIDABLE BURDEN

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

LBD14452-02-4

1 ON THE HEALTH AND WELLBEING OF THE PROSPECTIVE EMPLOYEE AND/OR THEIR  
2 IMMEDIATE FAMILY MEMBERS.

3 2. THE COMMISSION SHALL ANNUALLY PREPARE A LIST OF ALL DISCRIMINATORY  
4 JURISDICTIONS. THE COMMISSION SHALL ADD TO OR DELETE FROM SAID LIST ANY  
5 JURISDICTION UPON CHANGES IN SUCH JURISDICTION'S LAWS THAT DEEM A CHANGE  
6 IN DESIGNATION. THE COMMISSION SHALL DELIVER A COPY OF THE LIST BY THE  
7 END OF EACH CALENDAR YEAR TO ALL PUBLIC EMPLOYERS IN THE STATE OF NEW  
8 YORK AS DEFINED IN THIS SECTION AND DETAIL THE EFFECTIVE DATE OF SUCH  
9 LIST.

10 3. UPON THE EFFECTIVE DATE OF A LIST OF DISCRIMINATORY JURISDICTIONS,  
11 A PUBLIC EMPLOYER SHALL NOT HIRE ANY PERSON WHOSE PRIMARY RESIDENCE IS  
12 LOCATED IN A DISCRIMINATORY JURISDICTION. HOWEVER, SUCH PERSON SHALL  
13 HAVE ONE YEAR FROM THE DATE OF HIRE TO CHANGE HIS OR HER PRIMARY RESI-  
14 DENCE TO A JURISDICTION THAT IS NOT DEEMED DISCRIMINATORY BY THE COMMIS-  
15 SION. A PERSON WHO FAILS TO SATISFY THE REQUIREMENTS OF THIS SECTION  
16 FOLLOWING THE ONE YEAR PERIOD FROM HIRE SHALL BE DEEMED UNFIT TO HOLD  
17 SUCH OFFICE, EMPLOYMENT OR POSITION AND SUCH PUBLIC EMPLOYER SHALL  
18 TERMINATE THE EMPLOYMENT IMMEDIATELY. THE PUBLIC EMPLOYER, UPON RECEIPT  
19 OF THE LIST OR UPDATED LIST OF ALL DISCRIMINATORY JURISDICTIONS, SHALL  
20 REVISE ALL RELEVANT HIRING STANDARDS TO ACCOUNT FOR SUCH CHANGES AND  
21 DISSEMINATE TO ALL NECESSARY AUTHORITIES.

22 4. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY PERSON WHO IS  
23 EMPLOYED BY A PUBLIC EMPLOYER IN THIS STATE ON THE EFFECTIVE DATE OF THE  
24 INITIAL LIST AND ANY SUBSEQUENT UPDATED LIST OF DISCRIMINATORY JURISDIC-  
25 TIONS BY THE COMMISSION AND WHERE SUCH PERSON'S PRIMARY RESIDENCE IS  
26 LOCATED IN A DISCRIMINATORY JURISDICTION WHICH WAS ON THE ORIGINAL LIST  
27 OR HAS BEEN ADDED AND WAS NOT DESIGNATED DISCRIMINATORY ON THE LIST FROM  
28 THE PREVIOUS YEAR. THE PROVISIONS OF THIS SECTION WILL CONTINUE TO NOT  
29 APPLY PROVIDED SUCH PERSON CONTINUES TO HOLD EMPLOYMENT BY A PUBLIC  
30 EMPLOYER IN THE STATE WITHOUT A BREAK IN PUBLIC SERVICE OF GREATER THAN  
31 THIRTY DAYS.

32 5. THE PROVISIONS OF THIS SECTION MAY BE WAIVED THROUGH AN APPLICATION  
33 THAT IS APPROVED BY THE COMMISSION. THE APPLICATION MUST DEMONSTRATE  
34 THE UNDUE HARDSHIP CREATED BY THE PROVISIONS OF THIS SECTION AND HOW A  
35 WAIVER WOULD ALLEVIATE SUCH HARDSHIP. THE APPLICATION MUST INCLUDE  
36 SUPPORTING DOCUMENTATION DETAILING THE UNDUE HARDSHIP, PROVIDED, THE  
37 COMMISSION MAY IN ITS DISCRETION REQUEST ADDITIONAL INFORMATION FROM THE  
38 PERSON. AN APPLICATION SHALL BE SUBMITTED IN A MANNER PRESCRIBED BY THE  
39 COMMISSION. A DETERMINATION BY THE COMMISSION MUST BE MADE IN WRITING NO  
40 LATER THAN NINETY DAYS AFTER IT WAS RECEIVED. THE COMMISSION MAY EXTEND  
41 THE PERIOD OF REVIEW FOR AN ADDITIONAL THIRTY DAYS IF IT INFORMS THE  
42 APPLICANT IN WRITING. IF THE APPLICATION IS DENIED, AN APPEAL MAY BE  
43 GRANTED AT THE DISCRETION OF THE COMMISSION. AN APPLICANT THAT WAS  
44 DENIED MAY REAPPLY FOR A WAIVER NO SOONER THAN SIX MONTHS AFTER SUCH  
45 DENIAL. A WAIVER THAT IS GRANTED BY THE COMMISSION SHALL BE VALID FOR A  
46 PERIOD OF ONE YEAR OR UNTIL SUCH APPLICANT HAS BEEN HIRED BY A PUBLIC  
47 EMPLOYER WHEREIN HE OR SHE SHALL BE CONSIDERED NOT SUBJECT TO THE  
48 PROVISIONS OF THIS SECTION AS PROVIDED IN SUBDIVISION FOUR OF THIS  
49 SECTION. A PERSON MAY REAPPLY FOR A WAIVER UPON THE EXPIRATION OF A  
50 PREVIOUSLY GRANTED WAIVER.

51 S 2. The civil service commission is authorized to promulgate rules  
52 and regulations necessary for the implementation of the provisions of  
53 this act on or before its effective date.

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