

1271

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sen. PERKINS -- read twice and ordered printed, and when  
printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the civil service law, in relation to requiring certain  
state agencies to employ a competitive class affirmative action officer or administrator

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

1     Section 1. Article 2 of the civil service law is amended by adding a  
2     new title A-1 to read as follows:

3                                   TITLE A-1  
4                   STATE AFFIRMATIVE ACTION OFFICERS  
5                   AND ADMINISTRATORS

6     SECTION 12.     DEFINITION.  
7             12-A. AFFIRMATIVE ACTION OFFICERS AND ADMINISTRATORS.

8     S 12. DEFINITION. FOR THE PURPOSES OF THIS ARTICLE, "STATE AGENCY"  
9     SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH TERM BY PARAGRAPH (A)  
10    OF SUBDIVISION ELEVEN OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.  
11    S 12-A. AFFIRMATIVE ACTION OFFICERS AND ADMINISTRATORS. 1. EVERY  
12    AFFIRMATIVE ACTION OFFICER OR AFFIRMATIVE ACTION ADMINISTRATOR EMPLOYED  
13    BY THE STATE OR A STATE AGENCY SHALL BE DEEMED TO BE IN STATE SERVICE IN  
14    A COMPETITIVE POSITION. THE DEPARTMENT BY RULE AND REGULATION SHALL  
15    ESTABLISH QUALIFICATIONS AND EXAM FOR EMPLOYMENT AND PROMOTION WITHIN  
16    THE AFFIRMATIVE ACTION CLASSIFICATION.  
17    2. EVERY AFFIRMATIVE ACTION OFFICER AND AFFIRMATIVE ACTION ADMINISTRA-  
18    TOR EMPLOYED BY A STATE AGENCY SHALL BE EMPLOYED BY AND REPORT DIRECTLY  
19    TO THE HEAD OF SUCH STATE AGENCY, AND SHALL NOT REPORT TO ANY OTHER  
20    PERSON OR PART OF ANY DEPARTMENT OF SUCH AGENCY.

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

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1 3. THE DEPARTMENT SHALL, WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF  
2 THIS SUBDIVISION, ESTABLISH A CONTINUING EDUCATION PROGRAM FOR AFFIRMA-  
3 TIVE ACTION OFFICERS AND AFFIRMATIVE ACTION ADMINISTRATORS IN STATE  
4 SERVICE. SUCH PROGRAM SHALL PROVIDE INFORMATION ON AND A COURSE OF  
5 INSTRUCTION IN THE NECESSARY SKILLS FOR AFFIRMATIVE ACTION OFFICERS AND  
6 ADMINISTRATORS, AND THE LAW, RULES AND REGULATIONS RELATING TO AFFIRMA-  
7 TIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY AND HUMAN RIGHTS. EVERY AFFIR-  
8 MATIVE ACTION OFFICER AND AFFIRMATIVE ACTION ADMINISTRATOR SHALL  
9 SUCCESSFULLY COMPLETE AFFIRMATIVE ACTION CONTINUING EDUCATION AT LEAST  
10 ONCE EVERY CALENDAR YEAR. THE DEPARTMENT SHALL SCHEDULE AND PROVIDE FOR  
11 THE PROVISION OF SUCH PROGRAM IN EACH REGION OF THE STATE AT LEAST TWICE  
12 A MONTH.

13 4. EVERY STATE AGENCY WHICH EMPLOYS ONE HUNDRED OR MORE EMPLOYEES  
14 SHALL EMPLOY A FULL-TIME AFFIRMATIVE ACTION OFFICER OR FULL-TIME AFFIR-  
15 MATIVE ACTION ADMINISTRATOR. PROVIDED, THAT NO PERSON SHALL BE REQUIRED  
16 TO TAKE AN EXAMINATION FOR A COMPETITIVE POSITION OF AFFIRMATIVE ACTION  
17 OFFICER OR AFFIRMATIVE ACTION ADMINISTRATOR UNTIL THE CONTINUING EDUCA-  
18 TION PROGRAM ESTABLISHED PURSUANT TO SUBDIVISION THREE OF THIS SECTION  
19 SHALL HAVE BEEN AVAILABLE FOR NOT LESS THAN TEN MONTHS. THE EXAMINATIONS  
20 FOR THE COMPETITIVE POSITIONS OF AFFIRMATIVE ACTION OFFICER AND AFFIRMA-  
21 TIVE ACTION ADMINISTRATOR SHALL BE INTERNALLY PREPARED BY THE DEPART-  
22 MENT, IN CONSULTATION WITH A COMMITTEE, ESTABLISHED BY THE DEPARTMENT,  
23 COMPOSED OF ETHNICALLY AND GENDER DIVERSE EXAMINATION WRITERS. A MAJORI-  
24 TY OF THE MEMBERS OF SUCH COMMITTEE SHALL BE PERSONS HOLDING PERMANENT  
25 COMPETITIVE POSITIONS IN STATE SERVICE.

26 5. EACH STATE AGENCY AFFIRMATIVE ACTION OFFICER OR STATE AGENCY AFFIR-  
27 MATIVE ACTION ADMINISTRATOR SHALL APPOINT SUCH NUMBER OF DEPUTY AFFIRMA-  
28 TIVE ACTION OFFICERS OR DEPUTY AFFIRMATIVE ACTION ADMINISTRATORS AS  
29 SHALL BE NECESSARY TO ENABLE THE STATE AGENCY AFFIRMATIVE ACTION OFFICER  
30 OR STATE AGENCY AFFIRMATIVE ACTION ADMINISTRATOR TO PERFORM HIS OR HER  
31 DUTIES PURSUANT TO THIS TITLE. EVERY DEPUTY AFFIRMATIVE ACTION OFFICER  
32 AND DEPUTY AFFIRMATIVE ACTION ADMINISTRATOR SHALL REPORT DIRECTLY TO THE  
33 STATE AGENCY AFFIRMATIVE ACTION OFFICER OR STATE AGENCY AFFIRMATIVE  
34 ACTION ADMINISTRATOR. A DEPUTY AFFIRMATIVE ACTION OFFICER OR DEPUTY  
35 AFFIRMATIVE ACTION ADMINISTRATOR SHALL BE PRESENT AT, ACTIVELY ENGAGED  
36 IN AND CONSULTED ON THE RECRUITMENT, APPOINTMENT AND PROMOTION OF  
37 EMPLOYEES IN CLASSIFIED POSITIONS IN THE STATE AGENCY. SUCH PARTIC-  
38 IPATION IN THE APPOINTMENT AND PROMOTION OF CLASSIFIED EMPLOYEES BY  
39 DEPUTY AFFIRMATIVE ACTION OFFICERS AND DEPUTY AFFIRMATIVE ACTION ADMIN-  
40 ISTRATORS SHALL INCLUDE THE ACTIVE INVOLVEMENT AND PRESENCE OF SUCH AN  
41 OFFICER OR ADMINISTRATOR AT EVERY INTERVIEW, FOLLOW-UP INTERVIEW AND  
42 DETERMINATION OF THE PERSON TO BE APPOINTED OR PROMOTED TO A CLASSIFIED  
43 POSITION OF STATE SERVICE IN THE AGENCY.

44 S 2. This act shall take effect on the ninetieth day after it shall  
45 have become a law; provided, that subdivision 4 of section 12-a of the  
46 civil service law, as added by section one of this act, shall take  
47 effect on the one hundred eightieth day after it shall have become a  
48 law; provided, further, that any act or acts necessary to implement the  
49 provisions of this act on its effective date are authorized and directed  
50 to be completed on or before such date.