542

2013-2014 Regular Sessions

IN SENATE

(PREFILED)

January 9, 2013

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to enacting the "save New York call center jobs act of 2013"

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

1 2	Section 1. Short title. This act shall be known and may be cited as the "save New York call center jobs act of 2013".
∠ 3	S 2. The labor law is amended by adding a new article 21 to read as
3 4	
	follows:
5	ARTICLE 21
6	SAVE NEW YORK CALL CENTER JOBS ACT
7	SECTION 770. DEFINITIONS.
8	771. LIST OF RELOCATED CALL CENTERS.
9	772. GRANTS, GUARANTEED LOANS AND TAX BENEFITS.
10	773. PROCUREMENT CONTRACTS.
11	774. STATE BENEFITS FOR WORKERS.
12	775. NO PRIVATE RIGHT OF ACTION.
13	S 770. DEFINITIONS. AS USED IN THIS ARTICLE:
14	1. THE TERM "CALL CENTER" MEANS A FACILITY OR OTHER OPERATION WHEREBY
15	EMPLOYEES RECEIVE TELEPHONE CALLS OR OTHER ELECTRONIC COMMUNICATION FOR
16	THE PURPOSE OF PROVIDING CUSTOMER ASSISTANCE OR OTHER SERVICE.
17	2. (A) THE TERM "EMPLOYER" MEANS ANY BUSINESS ENTITY THAT EMPLOYS
18	FIFTY OR MORE EMPLOYEES, EXCLUDING PART-TIME EMPLOYEES; OR FIFTY OR MORE
19	EMPLOYEES THAT IN THE AGGREGATE WORK AT LEAST FIFTEEN HUNDRED HOURS PER
20	WEEK, EXCLUDING OVERTIME HOURS, FOR THE PURPOSE OF STAFFING A CALL
21	CENTER.
22	(B) THE TERM "PART-TIME EMPLOYEE" MEANS AN EMPLOYEE WHO IS EMPLOYED
23	FOR AN AVERAGE OF FEWER THAN TWENTY HOURS PER WEEK OR WHO HAS BEEN
	EXPLANATIONMatter in ITALICS (underscored) is new; matter in brackets
	[] is old law to be omitted.

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1 EMPLOYED FOR FEWER THAN SIX OF THE TWELVE MONTHS PRECEDING THE DATE ON 2 WHICH NOTICE IS REQUIRED UNDER THIS ARTICLE.

3 S 771. LIST OF RELOCATED CALL CENTERS. 1. A CALL CENTER EMPLOYER THAT 4 INTENDS TO RELOCATE A CALL CENTER, OR ONE OR MORE FACILITIES OR OPERAT-5 ING UNITS WITHIN A CALL CENTER COMPRISING AT LEAST THIRTY PERCENT OF THE 6 CALL CENTER'S, OR OPERATING UNIT'S, TOTAL VOLUME WHEN MEASURED AGAINST 7 THE PREVIOUS TWELVE MONTH AVERAGE CALL VOLUME OF OPERATIONS OR SUBSTAN-8 TIALLY SIMILAR OPERATIONS, FROM NEW YORK STATE TO A FOREIGN COUNTRY SHALL NOTIFY THE COMMISSIONER AT LEAST ONE HUNDRED DAYS BEFORE SUCH 9 10 RELOCATION.

12 2. A CALL CENTER EMPLOYER THAT VIOLATES SUBDIVISION ONE OF THIS 12 SECTION SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED TEN THOUSAND 13 DOLLARS FOR EACH DAY OF SUCH VIOLATION, EXCEPT THAT THE COMMISSIONER MAY 14 REDUCE SUCH AMOUNT FOR JUST CAUSE SHOWN.

3. THE COMMISSIONER SHALL COMPILE A SEMIANNUAL LIST OF ALL CALL CENTER
EMPLOYERS THAT RELOCATE A CALL CENTER, OR ONE OR MORE FACILITIES OR
OPERATING UNITS WITHIN A CALL CENTER COMPRISING AT LEAST THIRTY PERCENT
OF THE CALL CENTER'S TOTAL VOLUME OF OPERATIONS, FROM NEW YORK STATE TO
A FOREIGN COUNTRY.

4. THE COMMISSIONER SHALL DISTRIBUTE THE LIST REQUIRED IN THIS SECTIONTO ALL AGENCIES IN THE STATE.

22 772. GRANTS, GUARANTEED LOANS AND TAX BENEFITS. S 1. EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION AND NOTWITHSTANDING ANY 23 24 OTHER PROVISION OF LAW, A CALL CENTER EMPLOYER THAT APPEARS ON THE LIST 25 DESCRIBED IN SECTION SEVEN HUNDRED SEVENTY-ONE OF THIS ARTICLE SHALL BE 26 INELIGIBLE FOR ANY DIRECT OR INDIRECT STATE GRANTS, STATE GUARANTEED LOANS, TAX BENEFITS OR OTHER FINANCIAL GOVERNMENTAL SUPPORT FOR A PERIOD 27 OF FIVE YEARS FROM THE DATE SUCH LIST IS PUBLISHED. 28

29 2. EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A CALL CENTER EMPLOYER THAT 30 APPEARS ON THE LIST DESCRIBED IN SECTION SEVEN HUNDRED SEVENTY-ONE OF 31 32 THIS ARTICLE SHALL REMIT THE UNAMORTIZED VALUE OF ANY GRANT OR GUARAN-33 TEED LOANS, OR ANY TAX BENEFITS OR OTHER GOVERNMENTAL SUPPORT IT HAS PREVIOUSLY RECEIVED TO THE COMMISSIONER. THE PROVISIONS OF THIS SUBDIVI-34 SION SHALL APPLY TO GRANTS, LOANS, TAX BENEFITS AND FINANCIAL GOVERN-35 MENTAL ASSISTANCE THAT IS RECEIVED ON OR AFTER THE EFFECTIVE DATE OF 36 37 THIS ARTICLE.

38 3. THE COMMISSIONER, IN CONSULTATION WITH THE APPROPRIATE AGENCY 39 PROVIDING A LOAN OR GRANT, MAY WAIVE THE REQUIREMENT PROVIDED UNDER 40 SUBDIVISION TWO OF THIS SECTION IF THE EMPLOYER DEMONSTRATES THAT SUCH 41 REQUIREMENT WOULD:

42 (A) THREATEN STATE OR NATIONAL SECURITY;

43 (B) RESULT IN SUBSTANTIAL JOB LOSS IN THE STATE OF NEW YORK; OR

44 (C) HARM THE ENVIRONMENT.

45 S 773. PROCUREMENT CONTRACTS. THE HEAD OF EACH STATE AGENCY SHALL ENSURE THAT ALL STATE-BUSINESS-RELATED CALL CENTER AND CUSTOMER SERVICE 46 47 WORK BE PERFORMED BY STATE CONTRACTORS OR OTHER AGENTS OR SUBCONTRACTORS 48 ENTIRELY WITHIN THE STATE OF NEW YORK. STATE CONTRACTORS WHO CURRENTLY 49 PERFORM SUCH WORK OUTSIDE THE STATE OF NEW YORK SHALL HAVE TWO YEARS 50 FOLLOWING THE EFFECTIVE DATE OF THIS ARTICLE TO COMPLY WITH THIS SECTION; PROVIDED, THAT IF ANY SUCH CONTRACTORS WHICH PERFORM WORK 51 OUTSIDE THIS STATE ADDS CUSTOMER SERVICE EMPLOYEES WHO WILL PERFORM WORK 52 ON SUCH CONTRACTS, THOSE NEW EMPLOYEES SHALL IMMEDIATELY BE 53 EMPLOYED 54 WITHIN THE STATE OF NEW YORK.

55 S 774. STATE BENEFITS FOR WORKERS. NO PROVISION OF THIS ARTICLE SHALL 56 BE CONSTRUED TO PERMIT WITHHOLDING OR DENIAL OF PAYMENTS, COMPENSATION, 1 OR BENEFITS UNDER ANY OTHER STATE LAW, INCLUDING BUT NOT LIMITED TO 2 STATE UNEMPLOYMENT COMPENSATION, DISABILITY PAYMENTS OR WORKER RETRAIN-3 ING OR READJUSTMENT FUNDS, TO WORKERS EMPLOYED BY EMPLOYERS THAT RELO-4 CATE TO A FOREIGN COUNTRY.

5 S 775. NO PRIVATE RIGHT OF ACTION. NOTHING SET FORTH IN THIS ARTICLE 6 SHALL BE CONSTRUED AS CREATING, ESTABLISHING, OR AUTHORIZING A PRIVATE 7 CAUSE OF ACTION BY AN AGGRIEVED PERSON AGAINST AN EMPLOYER WHO HAS 8 VIOLATED, OR IS ALLEGED TO HAVE VIOLATED, ANY PROVISION OF THIS ARTICLE. 9 S 3. This act shall take effect on the one hundred eightieth day after 10 it shall have become a law.