

2016--A

2015-2016 Regular Sessions

I N S E N A T E

January 21, 2015

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- 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;

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

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1 (3) A COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE
2 STATE OR AN AUTHORITY, BOARD, BODY, AGENCY, DISTRICT, COMMISSION, OR
3 INSTRUMENTALITY OF THE COUNTY, MUNICIPALITY, OR SUBDIVISION;

4 (4) A SCHOOL DISTRICT OR AN AUTHORITY, BOARD, BODY, AGENCY, COMMIS-
5 SION, OR INSTRUMENTALITY OF THE DISTRICT.

6 D. "UNDUE HARDSHIP" SHALL MEAN AN ACCOMMODATION WHICH REQUIRES SIGNIF-
7 ICANT EXPENSE AND DIFFICULTY TO OBTAIN, AND PLACES AN UNAVOIDABLE BURDEN
8 ON THE HEALTH AND WELLBEING OF THE PROSPECTIVE EMPLOYEE AND/OR THEIR
9 IMMEDIATE FAMILY MEMBERS.

10 2. THE COMMISSION SHALL ANNUALLY PREPARE A LIST OF ALL DISCRIMINATORY
11 JURISDICTIONS. THE COMMISSION SHALL ADD TO OR DELETE FROM SAID LIST ANY
12 JURISDICTION UPON CHANGES IN SUCH JURISDICTION'S LAWS THAT DEEM A CHANGE
13 IN DESIGNATION. THE COMMISSION SHALL DELIVER A COPY OF THE LIST BY THE
14 END OF EACH CALENDAR YEAR TO ALL PUBLIC EMPLOYERS IN THE STATE OF NEW
15 YORK AS DEFINED IN THIS SECTION AND DETAIL THE EFFECTIVE DATE OF SUCH
16 LIST.

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

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

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

1 SECTION. A PERSON MAY REAPPLY FOR A WAIVER UPON THE EXPIRATION OF A
2 PREVIOUSLY GRANTED WAIVER.

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

6 S 3. This act shall take effect January 1, 2017.