

2016

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

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.

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

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

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

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

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

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

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

56 S 3. This act shall take effect January 1, 2016.