

4936

2015-2016 Regular Sessions

I N   S E N A T E

April 24, 2015

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Introduced by Sen. AVELLA -- 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 implementing a state policy of fair and equal pay for equivalent value of work

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 28  
2     to read as follows:  
3     S 28. POLICY OF THE STATE. 1. IT IS THE POLICY OF NEW YORK STATE AND  
4     ALL POLITICAL SUBDIVISIONS THEREOF TO COMPLY WITH THE LETTER AND SPIRIT  
5     OF THE FEDERAL "EQUAL PAY ACT OF 1963," PUB. L. 88-38 (29 U.S.C. S 206)  
6     WHICH REQUIRES THAT EMPLOYEES OF BOTH SEXES RECEIVE EQUAL PAY FOR EQUAL  
7     WORK, THE FEDERAL "CIVIL RIGHTS ACT OF 1964," PUB. L. 88-352 (42 U.S.C.  
8     S 2000E-2) WHICH PROHIBITS DISCRIMINATION ON THE BASIS OF SEX, RACE OR  
9     NATIONAL ORIGIN IN ALL TERMS OF EMPLOYMENT, ARTICLE FIFTEEN OF THE EXEC-  
10    UTIVE LAW AND SECTION FORTY-C OF THE CIVIL RIGHTS LAW, WHICH PROHIBIT  
11    DISCRIMINATION ON THE BASIS OF SEX, RACE OR NATIONAL ORIGIN IN ALL TERMS  
12    OF EMPLOYMENT. CONSISTENT WITH THESE LAWS, IT IS THE POLICY OF THE STATE  
13    TO ENSURE A FAIR, NON-BIASED COMPENSATION STRUCTURE FOR ALL EMPLOYEES IN  
14    WHICH SEX, RACE OR NATIONAL ORIGIN IS NOT A CONSIDERATION EITHER DIRECT-  
15    LY OR INDIRECTLY IN DETERMINING THE PROPER WAGES FOR A TITLE OR IN  
16    DETERMINING THE PAY FOR ANY INDIVIDUAL OR GROUP OF EMPLOYEES. FOR THE  
17    PURPOSE OF THIS SECTION, THE TERMS "WAGES" AND "WAGE RATES" SHALL  
18    INCLUDE ALL COMPENSATION IN ANY FORM THAT AN EMPLOYER PROVIDES TO  
19    EMPLOYEES IN PAYMENT FOR WORK DONE OR SERVICES RENDERED, INCLUDING BUT  
20    NOT LIMITED TO BASE PAY, BONUSES, COMMISSIONS, AWARDS, TIPS, OR VARIOUS  
21    FORMS OF NON-MONETARY COMPENSATION IF PROVIDED IN LIEU OF OR IN ADDITION  
22    TO MONETARY COMPENSATION AND THAT HAVE ECONOMIC VALUE TO AN EMPLOYEE. IN  
23    ORDER TO ATTRACT UNUSUAL MERIT AND ABILITY TO THE SERVICE OF THE POLI-  
24    TICAL SUBDIVISIONS OF NEW YORK, TO STIMULATE HIGHER EFFICIENCY AMONG THE  
25    PERSONNEL, TO PROVIDE SKILLED LEADERSHIP IN ADMINISTRATIVE DEPARTMENTS,

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

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1 TO REWARD MERIT AND TO INSURE TO THE PEOPLE AND THE TAXPAYERS OF THE  
2 STATE OF NEW YORK THE HIGHEST RETURN IN SERVICES FOR THE NECESSARY COSTS  
3 OF GOVERNMENT, IT IS THE POLICY OF THE STATE TO PROVIDE EQUAL PAY FOR  
4 EQUAL AND SIMILAR WORK AND FOR EQUIVALENT VALUE OF WORK, AND REGULAR  
5 INCREASES IN PAY IN PROPER PROPORTION TO INCREASE OF ABILITY, INCREASE  
6 OF OUTPUT AND INCREASE OF QUALITY OF WORK DEMONSTRATED IN SERVICE. FOR  
7 THE PURPOSE OF THIS SECTION, THE TERM "POLITICAL SUBDIVISION" IS  
8 CONSISTENT WITH THE DEFINITION IN SECTION ONE HUNDRED OF THE GENERAL  
9 MUNICIPAL LAW.

10 2. THE PRINCIPLE OF FAIR AND EQUAL PAY FOR SIMILAR WORK AND FOR EQUIV-  
11 ALENT VALUE OF WORK SHALL BE FOLLOWED IN THE CLASSIFICATION AND RECLAS-  
12 SIFICATION AND THE ALLOCATION AND REALLOCATION OF POSITIONS AND ALL  
13 POSITIONS HAVING THE SAME TITLE SHALL BE ALLOCATED TO THE SAME SALARY  
14 GRADE. EQUIVALENT VALUE OF WORK SHALL MEAN TITLES OR POSITION CLASSI-  
15 FICATIONS THAT ARE EQUAL WITHIN THE MEANING OF THE "EQUAL PAY ACT OF  
16 1963", PUB. L. 88-38 (29 U.S.C. 206(D)), OR TITLES OR POSITION CLASSI-  
17 FICATIONS THAT ARE DISSIMILAR BUT WHOSE REQUIREMENTS ARE EQUIVALENT,  
18 WHEN VIEWED AS A COMPOSITE OF SKILLS, EFFORT, RESPONSIBILITY AND WORKING  
19 CONDITIONS. THE PRINCIPLE OF FAIR AND EQUAL PAY FOR EQUIVALENT VALUE OF  
20 WORK REQUIRES THAT CONSIDERATION OF SEX, RACE OR NATIONAL ORIGIN SHALL  
21 NOT INFLUENCE DIRECTLY OR INDIRECTLY THE ESTABLISHMENT OF WAGES.

22 IT SHALL NOT BE AN UNLAWFUL EMPLOYMENT PRACTICE FOR AN EMPLOYER TO PAY  
23 DIFFERENT WAGE RATES TO EMPLOYEES, WHERE SUCH PAYMENTS ARE MADE PURSUANT  
24 TO:

25 (A) A BONA FIDE SENIORITY OR MERIT SYSTEM;  
26 (B) THE GEOGRAPHIC LOCATION OF THE JOB; OR  
27 (C) ANY OTHER BONA FIDE FACTOR OTHER THAN SEX, RACE OR NATIONAL  
28 ORIGIN, PROVIDED HOWEVER, THAT SUCH FACTOR DOES NOT RESULT IN DISCRIMI-  
29 NATION BASED ON SEX, RACE OR NATIONAL ORIGIN.

30 NOTHING SET FORTH IN THIS SECTION SHALL BE CONSTRUED TO IMPEDE,  
31 INFRINGE OR DIMINISH THE RIGHTS AND BENEFITS WHICH ACCRUE TO EMPLOYEES  
32 THROUGH COLLECTIVE BARGAINING AGREEMENTS, OR OTHERWISE DIMINISH THE  
33 INTEGRITY OF THE EXISTING COLLECTIVE BARGAINING RELATIONSHIP.

34 3. THE COMMISSION SHALL PROMULGATE REGULATIONS SPECIFYING THE METHOD-  
35 OLOGY FOR DETERMINING EQUIVALENT VALUE OF WORK BASED ON SKILL, EFFORT,  
36 RESPONSIBILITY, AND WORKING CONDITIONS. ANY METHODOLOGY PRESCRIBED BY  
37 THE COMMISSION, SUCH AS A SYSTEMATIC POINT EVALUATION SYSTEM, SHALL  
38 ENSURE THAT COMPARISON SYSTEMS DO NOT IGNORE OR UNDERVALUE THE WORTH OF  
39 JOBS WHERE WOMEN AND MINORITIES ARE DISPROPORTIONATELY REPRESENTED. FOR  
40 THE PURPOSES OF THIS SECTION, A SEGREGATED TITLE SHALL CONSTITUTE ANY  
41 TITLE IN WHICH THE TOTAL PERCENTAGE OF EMPLOYEES IN THE TITLE OF A  
42 PARTICULAR SEX, RACE OR NATIONAL ORIGIN IS EQUAL TO OR GREATER THAN ONE  
43 HUNDRED TWENTY PERCENT OF THE PERCENTAGE OF THAT SEX, RACE OR NATIONAL  
44 ORIGIN IN THE EMPLOY OF THE POLITICAL SUBDIVISION. THE DEPARTMENT SHALL,  
45 UPON THE REQUEST OF ANY LOCAL CIVIL SERVICE ADMINISTRATION, RENDER  
46 SERVICE OR TECHNICAL ADVICE AND ASSISTANCE RELATIVE TO THE POSITION  
47 CLASSIFICATION AND PAY EQUITY COMPENSATION ASSESSMENT OF OFFICES AND  
48 EMPLOYMENTS UNDER THE JURISDICTION OF SUCH LOCAL CIVIL SERVICE ADMINIS-  
49 TRATION PURSUANT TO SUBDIVISION ONE OF SECTION TWENTY-THREE OF THIS  
50 TITLE.

51 4. BY OCTOBER FIRST, TWO THOUSAND SIXTEEN, AND EVERY FIVE YEARS THERE-  
52 AFTER, ALL LOCAL CIVIL SERVICE ADMINISTRATIONS PURSUANT TO SECTION  
53 FIFTEEN OF THIS TITLE, SHALL SUBMIT TO THE PRESIDENT OF THE COMMISSION A  
54 LIST SHOWING, BY NEGOTIATING UNIT AND FOR MANAGEMENT/CONFIDENTIAL  
55 EMPLOYEES, THOSE SEGREGATED TITLES FOR WHICH A DISPARITY EXISTS BASED ON  
56 THE EQUIVALENT VALUE OF THE WORK. THE PRESIDENT OF THE COMMISSION SHALL

1 COMPILE THE LISTS PROVIDED TO THEM BY THE LOCAL CIVIL SERVICE ADMINIS-  
2 TRATIONS AND, BY JANUARY FIRST, TWO THOUSAND SEVENTEEN, AND EVERY FIVE  
3 YEARS THEREAFTER, SUBMIT TO THE LEGISLATURE AND THE GOVERNOR'S OFFICE OF  
4 EMPLOYEE RELATIONS, A LIST SHOWING, BY NEGOTIATING UNIT AND FOR  
5 MANAGEMENT/CONFIDENTIAL EMPLOYEES, THOSE SEGREGATED TITLES FOR WHICH A  
6 DISPARITY EXISTS BASED ON THE EQUIVALENT VALUE OF THE WORK AS REPORTED  
7 BY THE LOCAL CIVIL SERVICE ADMINISTRATIONS.

8 5. WHEN A LOCAL CIVIL SERVICE ADMINISTRATION CREATES NEW TITLES OR,  
9 BECAUSE OF MERGERS OR TAKEOVERS, TRANSFERS WORKFORCE FROM ONE TITLE TO  
10 ANOTHER TITLE, IT SHALL RE-SUBMIT TO THE PRESIDENT OF THE COMMISSION A  
11 LIST OF ANY SEGREGATED TITLES FOR WHICH A DISPARITY EXISTS BASED ON THE  
12 EQUIVALENT VALUE OF WORK, WHO WILL THEN SUBMIT THE LIST TO THE LEGISLA-  
13 TURE.

14 6. UPON THE DISCOVERY OF THE EXISTENCE OF SEGREGATED TITLES FOR WHICH  
15 A DISPARITY EXISTS BASED ON THE EQUIVALENT VALUE OF WORK, THE EMPLOYER  
16 AND THE LOCAL CIVIL SERVICE ADMINISTRATION SHALL CORRECT THE DISPARITY.  
17 AN EMPLOYER WHO IS IN VIOLATION OF THIS SECTION, AS DETERMINED BY THE  
18 COMMISSION, SHALL NOT, IN ORDER TO COMPLY WITH THIS SECTION, REDUCE THE  
19 WAGES OF ANY EMPLOYEE OR REDUCE THE WAGE RATE FOR ANY POSITION.

20 S 2. This act shall take effect immediately.