

10730

I N   A S S E M B L Y

April 16, 2010

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Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to prohibiting the state from entering into contracts with companies requiring employees to stipulate to binding arbitration for all disputes

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

1     Section 1. The executive law is amended by adding a new section 170-c  
2     to read as follows:  
3     S 170-C. PROHIBITING THE STATE AND CERTAIN STATE ENTITIES FROM ENTER-  
4     ING INTO CONTRACTS WITH CERTAIN COMPANIES REQUIRING EMPLOYEES TO STIPU-  
5     LATE TO BINDING ARBITRATION AGREEMENTS. 1. NOTWITHSTANDING ANY INCON-  
6     SISTENT PROVISIONS OF ANY GENERAL OR SPECIAL LAW OR RESOLUTION, NEITHER  
7     THE STATE NOR ANY STATE AGENCY INCLUDING: (I) ANY STATE DEPARTMENT, OR  
8     (II) ANY DIVISION, BOARD, COMMISSION, OR BUREAU OF ANY STATE DEPARTMENT,  
9     OR (III) THE STATE UNIVERSITY OF NEW YORK AND THE CITY UNIVERSITY OF NEW  
10    YORK, INCLUDING ALL THEIR CONSTITUENT UNITS, EXCEPT COMMUNITY COLLEGES  
11    AND THE INDEPENDENT INSTITUTIONS OPERATING STATUTORY OR CONTRACT  
12    COLLEGES ON BEHALF OF THE STATE, OR (IV) A BOARD, A MAJORITY OF WHOSE  
13    MEMBERS ARE APPOINTED BY THE GOVERNOR OR WHO SERVE BY VIRTUE OF BEING  
14    STATE OFFICERS OR EMPLOYEES AS DEFINED IN SUBPARAGRAPH (I), (II) OR  
15    (III) OF PARAGRAPH (I) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE OF  
16    THE PUBLIC OFFICERS LAW, (V) ANY PUBLIC AUTHORITY, OTHER THAN  
17    MULTI-STATE AUTHORITIES, PUBLIC BENEFIT CORPORATIONS, AND COMMISSIONS AT  
18    LEAST ONE OF WHOSE MEMBERS IS APPOINTED BY THE GOVERNOR, NOR THE LEGIS-  
19    LATIVE AND JUDICIAL BRANCHES OF GOVERNMENT, NOR ANY FUND OF ANY OF THE  
20    FOREGOING, NOR ANY OFFICER OF ANY OF THE FOREGOING, SHALL CONTRACT OR  
21    RENEW A CONTRACT FOR THE SUPPLY OF GOODS, SERVICES, OR CONSTRUCTION WITH  
22    ANY OVERSEAS CONTRACTOR WHO DOES NOT AGREE TO STIPULATE TO THE FOLLOWING  
23    AS A MATERIAL CONDITION OF THE CONTRACT: THE CONTRACTOR, ANY SUBSIDIARY  
24    OF A CONTRACTOR, ANY FRANCHISER OF THE CONTRACTOR, AND ANY SUBCONTRACTOR  
25    TO BE EMPLOYED BY THE CONTRACTOR SHALL NOT UTILIZE AN EMPLOYMENT  
26    CONTRACT CONTAINING CLAUSES WHICH REQUIRE EMPLOYEES TO STIPULATE TO

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

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1 BINDING ARBITRATION AGREEMENTS FOR ALL DISPUTES UNLESS DISPUTES INVOLV-  
2 ING SEXUAL ASSAULT OR OTHER ASSAULT ARE EXCLUDED.

3 2. ANY CONTRACTOR, ANY SUBSIDIARY OF A CONTRACTOR, FRANCHISER OF THE  
4 CONTRACTOR, AND ANY SUBCONTRACTOR TO BE EMPLOYED BY THE CONTRACTOR SHALL  
5 CERTIFY THAT IT IS IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.  
6 SUCH CERTIFICATION SHALL BE FILED WITH THE STATE GOVERNMENTAL CONTRACT-  
7 ING PARTY AND MADE A PART OF ITS CONTRACT FILE.

8 3. UPON RECEIVING INFORMATION THAT A CONTRACTOR WHO HAS MADE THE STIP-  
9 ULATION AND CERTIFICATION REQUIRED BY THIS SECTION IS IN VIOLATION  
10 THEREOF, THE STATE GOVERNMENTAL CONTRACTING PARTY SHALL REVIEW SUCH  
11 INFORMATION AND OFFER THE CONTRACTOR AN OPPORTUNITY TO RESPOND. IF THE  
12 STATE GOVERNMENTAL CONTRACTING PARTY FINDS THAT A VIOLATION HAS  
13 OCCURRED, IT SHALL TAKE SUCH ACTION AS MAY BE APPROPRIATE AND PROVIDED  
14 FOR BY LAW, RULE OR REGULATION, OR CONTRACT, INCLUDING, BUT NOT LIMITED  
15 TO, IMPOSING SANCTIONS, SEEKING COMPLIANCE, RECOVERING DAMAGES, DECLAR-  
16 ING THE CONTRACTOR IN DEFAULT, AND SEEKING DEBARMENT OR SUSPENSION OF  
17 THE CONTRACTOR.

18 S 2. If any provision of this act or the application thereof is held  
19 invalid, the remainder of this act and the application thereof to other  
20 persons or circumstances shall not be affected by such holding and shall  
21 remain in full force and effect.

22 S 3. This act shall take effect immediately.