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2009-2010 Regular Sessions

I N A S S E M B L Y

March 11, 2009

Introduced by M. of A. ROSENTHAL, JOHN, JAFFEE, ESPAILLAT, ROBINSON, PAULIN, CARROZZA, SCHIMEL, WRIGHT, GOTTFRIED, ALFANO, GORDON, GABRYSZAK, GALEF, BOYLAND, LIFTON, LANCMAN -- Multi-Sponsored by -- M. of A. BARRA, BRENNAN, CHRISTENSEN, COLTON, COOK, DESTITO, DINOWITZ, FARRELL, GLICK, HEASTIE, JACOBS, KOON, LUPARDO, MAISEL, McENENY, MENG, MILLMAN, O'DONNELL, PHEFFER, N. RIVERA, SPANO, WEINSTEIN, WEISENBERG -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, in relation to implementing a state policy of setting salaries on the basis of comparability of value of the work

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

1 Section 1. Section 115 of the civil service law, as added by chapter
2 790 of the laws of 1958, is amended to read as follows:
3 S 115. Policy of the state. IT IS THE POLICY OF NEW YORK STATE TO
4 COMPLY WITH THE LETTER AND SPIRIT OF THE FEDERAL "EQUAL PAY ACT OF
5 1963," PUB. L. 88-38 (29 U.S.C. S 206) WHICH REQUIRES THAT EMPLOYEES OF
6 BOTH SEXES RECEIVE EQUAL PAY FOR EQUAL WORK, THE FEDERAL "CIVIL RIGHTS
7 ACT OF 1964," PUB. L. 88-352 (42 U.S.C. S 2000E-2) WHICH PROHIBITS
8 DISCRIMINATION ON THE BASIS OF SEX, RACE, AND NATIONAL ORIGIN IN ALL
9 TERMS OF EMPLOYMENT, ARTICLE FIFTEEN OF THE EXECUTIVE LAW AND SECTION
10 FORTY-C OF THE CIVIL RIGHTS LAW, WHICH PROHIBIT DISCRIMINATION ON THE
11 BASIS OF SEX, RACE OR NATIONAL ORIGIN IN ALL TERMS OF EMPLOYMENT.
12 CONSISTENT WITH THESE LAWS, IT IS THE POLICY OF THE STATE TO ENSURE A
13 FAIR, NON-BIASED WAGE STRUCTURE FOR ITS EMPLOYEES IN WHICH SEX, RACE, OR
14 NATIONAL ORIGIN IS NOT A CONSIDERATION EITHER DIRECTLY OR INDIRECTLY IN
15 DETERMINING THE PROPER COMPENSATION FOR A TITLE IN STATE SERVICE, NOR IN
16 DETERMINING THE PAY FOR ANY INDIVIDUAL OR GROUP OF EMPLOYEES. In order
17 to attract unusual merit and ability to the service of the state of New
18 York, to stimulate higher efficiency among the personnel, to provide
19 skilled leadership in administrative departments, to reward merit and to

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

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1 insure to the people and the taxpayers of the state of New York the
2 highest return in services for the necessary costs of government, it is
3 [hereby declared to be] the policy of the state to provide equal pay for
4 [equal] SIMILAR work AND FOR WORK OF COMPARABLE VALUE, 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.

7 S 2. Paragraph (c) of subdivision 1 of section 118 of the civil
8 service law, as added by chapter 790 of the laws of 1958, is amended to
9 read as follows:

10 (c) The principle of fair and equal pay for similar work AND FOR WORK
11 OF COMPARABLE VALUE shall be followed in the classification and reclas-
12 sification and the allocation and reallocation of positions pursuant to
13 this article and all positions having the same title shall be allocated
14 to the same salary grade. COMPARABLE VALUE SHALL BE DETERMINED BY
15 COMPARING JOB TITLES ON THE BASIS OF STANDARDS WHICH INCLUDE THE COMPOS-
16 ITE OF SUCH BASIC ELEMENTS OF A JOB AS THE KNOWLEDGE, SKILLS, ACCOUNT-
17 ABILITY, MENTAL OR PHYSICAL STRESS AND EFFORT, EXTRAORDINARY DANGERS AND
18 RESPONSIBILITIES NORMALLY REQUIRED TO SATISFACTORILY PERFORM THE JOB.
19 THE PRINCIPLE OF FAIR AND EQUAL PAY FOR WORK OF COMPARABLE VALUE
20 REQUIRES THAT CONSIDERATION OF SEX, RACE OR NATIONAL ORIGIN SHALL NOT
21 INFLUENCE DIRECTLY OR INDIRECTLY THE ESTABLISHMENT OF SALARIES.

22 S 3. The civil service law is amended by adding a new section 119 to
23 read as follows:

24 S 119. COMPARABILITY OF VALUE OF WORK; SEGREGATED JOB TITLES REVIEWED
25 AND ADJUSTED. 1. THE LEGISLATURE FINDS THAT DESPITE THE POLICY OF NEW
26 YORK STATE AS DECLARED IN SECTION ONE HUNDRED FIFTEEN OF THIS ARTICLE,
27 JOB TITLES WHICH ARE SEGREGATED BY SEX, RACE, OR NATIONAL ORIGIN MAY
28 HAVE BEEN UNDERVALUED AND ASSIGNED WAGES WHICH DO NOT REFLECT THE RELA-
29 TIVE WORTH OF THE JOB. IT IS THE INTENT OF THE LEGISLATURE TO REMEDY
30 SUCH UNDERVALUATION AND TO CORRECT SUCH DISPARITIES.

31 2. FOR PURPOSES OF THIS SECTION SEGREGATED TITLES (X) MEANS TITLES OR
32 ANY CLASS OF TITLES IN WHICH THE NUMBER OF INCUMBENTS OF A SEX, RACE OR
33 NATIONAL ORIGIN IS GREATER THAN THE SUM OF THE PERCENTAGE OF THAT SEX,
34 RACE OR NATIONAL ORIGIN IN THE STATE SERVICE (P) PLUS TWENTY PERCENT OF
35 THAT PERCENTAGE (.2(P)). THIS IS REPRESENTED BY THE FORMULA $(X = P +$
36 $.2(P))$.

37 3. THE PRESIDENT OF THE COMMISSION SHALL, BY JANUARY FIRST OF EACH
38 YEAR, SUBMIT TO THE LEGISLATURE AND THE GOVERNOR'S OFFICE OF EMPLOYEE
39 RELATIONS, A LIST SHOWING, BY NEGOTIATING UNIT AND FOR
40 MANAGEMENT/CONFIDENTIAL EMPLOYEES, THOSE SEGREGATED TITLES FOR WHICH A
41 DISPARITY EXISTS BASED ON THE COMPARABILITY OF THE VALUE OF THE WORK.
42 SUCH PRESIDENT SHALL ALSO SUBMIT TO THE LEGISLATURE, THE GOVERNOR'S
43 OFFICE OF EMPLOYEE RELATIONS AND THE DIVISION OF THE BUDGET ALONG WITH
44 THE LIST, AN ESTIMATE OF THE APPROPRIATION NECESSARY TO CORRECT SUCH
45 DISPARITIES.

46 4. BEGINNING WITH THE BUDGET REQUESTS FOR THE SECOND FISCAL YEAR
47 COMMENCING AFTER THE EFFECTIVE DATE OF THIS SECTION, THE GOVERNOR SHALL
48 INCLUDE THE APPROPRIATION NECESSARY TO ENSURE THAT SALARIES ARE SET IN
49 ACCORDANCE WITH SUBDIVISION ONE OF THIS SECTION AND SECTION ONE HUNDRED
50 FIFTEEN, AND PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION ONE HUNDRED
51 EIGHTEEN OF THIS ARTICLE.

52 5. NO SALARY SHALL BE REDUCED TO ACHIEVE COMPARABLE COMPENSATION UNDER
53 THE PROVISIONS OF THIS SECTION.

54 S 4. This act shall take effect immediately.