

3347

2009-2010 Regular Sessions

I N S E N A T E

March 17, 2009

Introduced by Sen. PERKINS -- 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 requiring certain
state agencies to employ a competitive class affirmative action officer or administrator

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

1 Section 1. Article 2 of the civil service law is amended by adding a
2 new title A-1 to read as follows:

3 TITLE A-1
4 STATE AFFIRMATIVE ACTION OFFICERS
5 AND ADMINISTRATORS

6 SECTION 12. DEFINITION.
7 12-A. AFFIRMATIVE ACTION OFFICERS AND ADMINISTRATORS.

8 S 12. DEFINITION. FOR THE PURPOSES OF THIS ARTICLE, "STATE AGENCY"
9 SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH TERM BY PARAGRAPH (A)
10 OF SUBDIVISION ELEVEN OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.
11 S 12-A. AFFIRMATIVE ACTION OFFICERS AND ADMINISTRATORS. 1. EVERY
12 AFFIRMATIVE ACTION OFFICER OR AFFIRMATIVE ACTION ADMINISTRATOR EMPLOYED
13 BY THE STATE OR A STATE AGENCY SHALL BE DEEMED TO BE IN STATE SERVICE IN
14 A COMPETITIVE POSITION. THE DEPARTMENT BY RULE AND REGULATION SHALL
15 ESTABLISH QUALIFICATIONS AND EXAM FOR EMPLOYMENT AND PROMOTION WITHIN
16 THE AFFIRMATIVE ACTION CLASSIFICATION.
17 2. EVERY AFFIRMATIVE ACTION OFFICER AND AFFIRMATIVE ACTION ADMINISTRA-
18 TOR EMPLOYED BY A STATE AGENCY SHALL BE EMPLOYED BY AND REPORT DIRECTLY
19 TO THE HEAD OF SUCH STATE AGENCY, AND SHALL NOT REPORT TO ANY OTHER
20 PERSON OR PART OF ANY DEPARTMENT OF SUCH AGENCY.

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

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1 3. THE DEPARTMENT SHALL, WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF
2 THIS SUBDIVISION, ESTABLISH A CONTINUING EDUCATION PROGRAM FOR AFFIRMA-
3 TIVE ACTION OFFICERS AND AFFIRMATIVE ACTION ADMINISTRATORS IN STATE
4 SERVICE. SUCH PROGRAM SHALL PROVIDE INFORMATION ON AND A COURSE OF
5 INSTRUCTION IN THE NECESSARY SKILLS FOR AFFIRMATIVE ACTION OFFICERS AND
6 ADMINISTRATORS, AND THE LAW, RULES AND REGULATIONS RELATING TO AFFIRMA-
7 TIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY AND HUMAN RIGHTS. EVERY AFFIR-
8 MATIVE ACTION OFFICER AND AFFIRMATIVE ACTION ADMINISTRATOR SHALL
9 SUCCESSFULLY COMPLETE AFFIRMATIVE ACTION CONTINUING EDUCATION AT LEAST
10 ONCE EVERY CALENDAR YEAR. THE DEPARTMENT SHALL SCHEDULE AND PROVIDE FOR
11 THE PROVISION OF SUCH PROGRAM IN EACH REGION OF THE STATE AT LEAST TWICE
12 A MONTH.

13 4. EVERY STATE AGENCY WHICH EMPLOYS ONE HUNDRED OR MORE EMPLOYEES
14 SHALL EMPLOY A FULL-TIME AFFIRMATIVE ACTION OFFICER OR FULL-TIME AFFIR-
15 MATIVE ACTION ADMINISTRATOR. PROVIDED, THAT NO PERSON SHALL BE REQUIRED
16 TO TAKE AN EXAMINATION FOR A COMPETITIVE POSITION OF AFFIRMATIVE ACTION
17 OFFICER OR AFFIRMATIVE ACTION ADMINISTRATOR UNTIL THE CONTINUING EDUCA-
18 TION PROGRAM ESTABLISHED PURSUANT TO SUBDIVISION THREE OF THIS SECTION
19 SHALL HAVE BEEN AVAILABLE FOR NOT LESS THAN TEN MONTHS. THE EXAMINATIONS
20 FOR THE COMPETITIVE POSITIONS OF AFFIRMATIVE ACTION OFFICER AND AFFIRMA-
21 TIVE ACTION ADMINISTRATOR SHALL BE INTERNALLY PREPARED BY THE DEPART-
22 MENT, IN CONSULTATION WITH A COMMITTEE, ESTABLISHED BY THE DEPARTMENT,
23 COMPOSED OF ETHNICALLY AND GENDER DIVERSE EXAMINATION WRITERS. A MAJORI-
24 TY OF THE MEMBERS OF SUCH COMMITTEE SHALL BE PERSONS HOLDING PERMANENT
25 COMPETITIVE POSITIONS IN STATE SERVICE.

26 5. EACH STATE AGENCY AFFIRMATIVE ACTION OFFICER OR STATE AGENCY AFFIR-
27 MATIVE ACTION ADMINISTRATOR SHALL APPOINT SUCH NUMBER OF DEPUTY AFFIRMA-
28 TIVE ACTION OFFICERS OR DEPUTY AFFIRMATIVE ACTION ADMINISTRATORS AS
29 SHALL BE NECESSARY TO ENABLE THE STATE AGENCY AFFIRMATIVE ACTION OFFICER
30 OR STATE AGENCY AFFIRMATIVE ACTION ADMINISTRATOR TO PERFORM HIS OR HER
31 DUTIES PURSUANT TO THIS TITLE. EVERY DEPUTY AFFIRMATIVE ACTION OFFICER
32 AND DEPUTY AFFIRMATIVE ACTION ADMINISTRATOR SHALL REPORT DIRECTLY TO THE
33 STATE AGENCY AFFIRMATIVE ACTION OFFICER OR STATE AGENCY AFFIRMATIVE
34 ACTION ADMINISTRATOR. A DEPUTY AFFIRMATIVE ACTION OFFICER OR DEPUTY
35 AFFIRMATIVE ACTION ADMINISTRATOR SHALL BE PRESENT AT, ACTIVELY ENGAGED
36 IN AND CONSULTED ON THE RECRUITMENT, APPOINTMENT AND PROMOTION OF
37 EMPLOYEES IN CLASSIFIED POSITIONS IN THE STATE AGENCY. SUCH PARTIC-
38 IPATION IN THE APPOINTMENT AND PROMOTION OF CLASSIFIED EMPLOYEES BY
39 DEPUTY AFFIRMATIVE ACTION OFFICERS AND DEPUTY AFFIRMATIVE ACTION ADMIN-
40 ISTRATORS SHALL INCLUDE THE ACTIVE INVOLVEMENT AND PRESENCE OF SUCH AN
41 OFFICER OR ADMINISTRATOR AT EVERY INTERVIEW, FOLLOW-UP INTERVIEW AND
42 DETERMINATION OF THE PERSON TO BE APPOINTED OR PROMOTED TO A CLASSIFIED
43 POSITION OF STATE SERVICE IN THE AGENCY.

44 S 2. This act shall take effect on the ninetieth day after it shall
45 have become a law; provided, that subdivision 4 of section 12-a of the
46 civil service law, as added by section one of this act, shall take
47 effect on the one hundred eightieth day after it shall have become a
48 law; provided, further, that any act or acts necessary to implement the
49 provisions of this act on its effective date are authorized and directed
50 to be completed on or before such date.