S T A T E  O F  N E W  Y O R K

1119

2009-2010 Regular Sessions

I N  A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DESTITO, LIFTON, MILLMAN, GALEF, COLTON, CLARK, FIELDS, ROSENTHAL -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, BOYLAND, GOTTFRIED, JACOBS, McENENY, PHEFFER -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, in relation to making it a discriminatory practice for public employers to compensate employees of different sexes differently for work that is of comparable worth

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

Section 1. The civil service law is amended by adding a new section 153 to read as follows:

S 153. WAGE DISCRIMINATION BY SEX PROHIBITED. 1. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR ANY PUBLIC EMPLOYER IN THIS STATE TO DISCRIMINATE BETWEEN EMPLOYEES IN ITS EMPLOY ON THE BASIS OF SEX, BY COMPENSATING ANY EMPLOYEE IN ANY OCCUPATION AT A SALARY OR RATE LESS THAN THE SALARY OR RATE AT WHICH OTHER EMPLOYEES OF THE OPPOSITE SEX ARE COMPENSATED FOR POSITIONS OR TITLES WHICH HAVE COMPARABLE WORTH AS MEASURED BY THE SKILL, EFFORT AND RESPONSIBILITY NORMALLY REQUIRED IN THE PERFORMANCE OF WORK AND THE CONDITIONS UNDER WHICH THE WORK IS NORMALLY PERFORMED.

2. NOTHING IN SUBDIVISION ONE OF THIS SECTION SHALL PROHIBIT DIFFERING COMPENSATION TO EMPLOYEES WHERE SUCH COMPENSATION IS CALCULATED PURSUANT TO A BONA FIDE SENIORITY SYSTEM.

3. A PUBLIC EMPLOYER WHO IS IN VIOLATION OF THIS SECTION SHALL NOT, IN ORDER TO COMPLY WITH THIS SECTION, REDUCE THE COMPENSATION OF ANY EMPLOYEE OR REDUCE THE RATE OF COMPENSATION FOR ANY POSITION.

4. AN AGREEMENT BY ANY EMPLOYEE TO WORK FOR LESS THAN THE COMPENSATION TO WHICH THE EMPLOYEE IS ENTITLED UNDER THIS SECTION SHALL NOT BE A BAR TO ANY ACTION TO WHICH THE EMPLOYEE WOULD OTHERWISE BE ENTITLED TO ENFORCE THE PROVISIONS OF THIS SECTION.

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

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

6. NO PUBLIC EMPLOYER SHALL BE FOUND TO BE IN VIOLATION OF THIS SECTION FOR COMPENSATING EMPLOYEES OF DIFFERENT SEXES DIFFERENTLY FOR WORK THAT IS OF COMPARABLE WORTH DURING THE THREE YEAR PERIOD BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION, PROVIDED SUCH EMPLOYER HAS INSTITUTED A PLAN THAT WILL LEAD TO COMPLIANCE WITH THIS SECTION AFTER SUCH THREE YEAR PERIOD EXPIRES.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.