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

5049

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

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

AN ACT to amend the public officers law, in relation to activities by former state officers

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

Section 1. Paragraph (b) of subdivision 8 of section 73 of the public officers law, as amended by chapter 299 of the laws of 1995, subparagraph (i) as amended by chapter 561 of the laws of 1998, is amended to read as follows:

(b) (i) The provisions of subparagraph (i) of paragraph (a) of this subdivision shall not apply to any state officer or employee whose employment was terminated on or after January first, nineteen hundred ninety-five and before April first, nineteen hundred ninety-nine OR ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE AND BEFORE APRIL FIRST, TWO THOUSAND ELEVEN because of economy, consolidation or abolition of functions, curtailment of activities or other reduction in the state work force. On or before the date of such termination of employment, the state agency shall provide to the terminated employee a written certification that the employee has been terminated because of economy, consolidation or abolition of functions, curtailment of activities or other reduction in the state work force, and that such employee is covered by the provisions of this paragraph. The written certification shall also contain a notice describing the rights and responsibilities of the employee pursuant to the provisions of this section. The certification and notice shall contain the information and shall be in the form set forth below:

CERTIFICATION AND NOTICE

TO: Employee's Name: _____

State agency: _____

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

LBD05297-01-9

Date of Termination: _____

I, (name and title) of (state agency), hereby certify that your termination from State service is because of economy, consolidation or abolition of functions, curtailment of activities or other reduction in the State work force. Therefore, you are covered by the provisions of paragraph (b) of subdivision eight of section seventy-three of the Public Officers Law.

You were designated as a policy maker: YES ____ NO ____

_____
(TITLE)

TO THE EMPLOYEE:

This certification affects your right to engage in certain activities after you leave state service.

Ordinarily, employees who leave State service may not, for two years, appear or practice before their former agency or receive compensation for rendering services on a matter before their former agency. However, because of this certification, you may be exempt from this restriction.

If you were not designated as a Policymaker by your agency, you are automatically exempt. You may, upon leaving State service, immediately appear, practice or receive compensation for services rendered before your former agency.

If you were designated as a Policymaker by your agency, you are eligible to apply for an exemption to the [State Ethics Commission] COMMISSION ON PUBLIC INTEGRITY at [39 Columbia Street] 540 BROADWAY, Albany, New York 12207.

Even if you are or become exempt from the two year bar, the lifetime bar of the revolving door statute will continue to apply to you. You may not appear, practice, communicate or otherwise render services before any State agency in relation to any case, proceeding, application or transaction with respect to which you were directly concerned and in which you personally participated during your State service, or which was under your active consideration.

If you have any questions about the application of the post-employment restrictions to your circumstances, you may contact the [State Ethics Commission] COMMISSION ON PUBLIC INTEGRITY at (518) [432-8207] 408-3976 or 1-800-87ETHIC (1-800-873-8442).

(ii) The provisions of subparagraph (i) of this paragraph shall not apply to any such officer or employee who at the time of or prior to such termination had served in a policymaking position as determined by the appointing authority, which determination had been filed with the state ethics commission OR THE COMMISSION ON PUBLIC INTEGRITY, provided that such officer or employee may so appear or practice or receive such compensation with the prior approval of the state ethics commission OR THE COMMISSION ON PUBLIC INTEGRITY. In determining whether to grant such approval the state ethics commission OR THE COMMISSION ON PUBLIC INTEGRITY shall consider:

A. whether the employee's prior job duties involved substantial decision-making authority over policies, rule or contracts;

B. the nature of the duties to be performed by the employee for the prospective employer;

C. whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee;

D. whether the prospective employment may be beneficial to the state or the public; and

E. the extent of economic hardship to the employee if the application is denied.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on or after January 1, 2009.