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

5271

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. MONTGOMERY -- 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 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:

Section 1. Section 115 of the civil service law, as added by chapter 790 of the laws of 1958, is amended to read as follows:

S 115. Policy of the state. IT IS THE POLICY OF NEW YORK STATE TO COMPLY WITH THE LETTER AND SPIRIT OF THE FEDERAL "EQUAL PAY ACT OF 1963," PUB. L. 88-38 (29 U.S.C. S 206) WHICH REQUIRES THAT EMPLOYEES OF BOTH SEXES RECEIVE EQUAL PAY FOR EQUAL WORK, THE FEDERAL "CIVIL RIGHTS ACT OF 1964," PUB. L. 88-352 (42 U.S.C. S 2000E-2) WHICH PROHIBITS DISCRIMINATION ON THE BASIS OF SEX, RACE, AND NATIONAL ORIGIN IN ALL TERMS OF EMPLOYMENT, ARTICLE FIFTEEN OF THE EXECUTIVE LAW AND SECTION FORTY-C OF THE CIVIL RIGHTS LAW, WHICH PROHIBIT DISCRIMINATION ON THE BASIS OF SEX, RACE OR NATIONAL ORIGIN IN ALL TERMS OF EMPLOYMENT. CONSISTENT WITH THESE LAWS, IT IS THE POLICY OF THE STATE TO ENSURE A FAIR, NON-BIASED WAGE STRUCTURE FOR ITS EMPLOYEES IN WHICH SEX, RACE, OR NATIONAL ORIGIN IS NOT A CONSIDERATION EITHER DIRECTLY OR INDIRECTLY IN DETERMINING THE PROPER COMPENSATION FOR A TITLE IN STATE SERVICE, NOR IN DETERMINING THE PAY FOR ANY INDIVIDUAL OR GROUP OF EMPLOYEES. In order to attract unusual merit and ability to the service of the state of New York, to stimulate higher efficiency among the personnel, to provide skilled leadership in administrative departments, to reward merit and to insure to the people and the taxpayers of the state of New York the highest return in services for the necessary costs of government, it is [hereby declared to be] the policy of the state to provide equal pay for [equal] SIMILAR work AND FOR WORK OF COMPARABLE VALUE, and regular

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

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increases in pay in proper proportion to increase of ability, increase of output and increase of quality of work demonstrated in service.

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

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

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

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

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

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

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

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

S 4. This act shall take effect immediately.