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

S. 11 A. 11

Twentieth Extraordinary Session

S E N A T E - A S S E M B L Y

November 18, 2009

IN SENATE -- Introduced by Sens. SAVINO, BRESLIN, ONORATO, LANZA -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Destito, Abbate, John, Silver, Farrell, Canestrari, Galef, Reilly, Benedetto, Peoples-Stokes, Lancman, Koon, Alessi, Arroyo, Aubry, Benjamin, Boyland, Brodsky, Brook-Krasny, Carrozza, Christensen, Clark, Colton, Cook, Crespo, Cusick, Cymbrowitz, DelMonte, DenDekker, Englebright, Fields, Gabryszak, Gianaris, Gibson, Gordon, Gottfried, Gunther, Heastie, Hevesi, Hoyt, Hyer-Spencer, Jaffee, Jeffries, Kavanagh, Kellner, Lentol, Lifton, Lupardo, Magee, Magnarelli, Mayersohn, McEneny, Meng, M. Miller, Millman, Morelle, Nolan, O'Donnell, Ortiz, Paulin, Peralta, Perry, Pheffer, Pretlow, Ramos, P. Rivera, Rosenthal, Scarborough, Schroeder, Skartados, Spano, Stirpe, Sweeney, Thiele, Titone, Titus, Towns, Weinstein, Weprin, Wright, Zebrowski) -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the civil service law, in relation to authorizing term appointments without examination for certain information technology positions and providing for the repeal of such provisions upon expiration thereof

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 66 to read as follows:

S 66. TERM APPOINTMENTS IN INFORMATION TECHNOLOGY. 1. THE DEPARTMENT MAY AUTHORIZE A TERM APPOINTMENT WITHOUT EXAMINATION TO A TEMPORARY POSITION REQUIRING SPECIAL EXPERTISE OR QUALIFICATIONS IN INFORMATION TECHNOLOGY. SUCH APPOINTMENT MAY BE AUTHORIZED ONLY IN A CASE WHERE THE APPOINTING AUTHORITY CERTIFIES TO THE DEPARTMENT THAT BECAUSE OF THE

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

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TYPE OF SERVICES TO BE RENDERED OR THE TEMPORARY OR OCCASIONAL CHARACTER OF SUCH SERVICES, IT WOULD NOT BE PRACTICABLE TO HOLD AN EXAMINATION OF ANY KIND. SUCH CERTIFICATION SHALL BE A PUBLIC DOCUMENT PURSUANT TO THE PUBLIC OFFICERS LAW AND SHALL IDENTIFY THE SPECIAL EXPERTISE OR QUALIFICATIONS THAT ARE REQUIRED AND WHY THEY CANNOT BE OBTAINED THROUGH AN APPOINTMENT FROM AN ELIGIBLE LIST. THE MAXIMUM PERIOD FOR SUCH TERM APPOINTMENT ESTABLISHED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED SIXTY MONTHS AND SHALL NOT BE EXTENDED, AND THE MAXIMUM NUMBER OF SUCH APPOINTMENTS SHALL NOT EXCEED FIVE HUNDRED. AT LEAST FIFTEEN DAYS PRIOR TO MAKING A TERM APPOINTMENT PURSUANT TO THIS SECTION THE APPOINTING AUTHORITY SHALL PUBLICLY AND CONSPICUOUSLY POST IN ITS OFFICES INFORMATION ABOUT THE TEMPORARY POSITION AND THE REQUIRED QUALIFICATIONS AND SHALL ALLOW ANY QUALIFIED EMPLOYEE TO APPLY FOR SAID POSITION. AN EMPLOYEE APPOINTED PURSUANT TO THIS PROVISION WHO HAS COMPLETED TWO YEARS OF CONTINUOUS SERVICE UNDER THIS PROVISION SHALL BE ABLE TO COMPETE IN ONE PROMOTIONAL EXAMINATION THAT IS ALSO OPEN TO OTHER EMPLOYEES WHO HAVE PERMANENT CIVIL SERVICE APPOINTMENTS AND APPROPRIATE QUALIFICATIONS.

2. A TEMPORARY POSITION ESTABLISHED PURSUANT TO SUBDIVISION ONE OF THIS SECTION MAY BE ABOLISHED FOR REASONS OF ECONOMY, CONSOLIDATION OR ABOLITION OF FUNCTIONS, CURTAILMENT OF ACTIVITIES OR OTHERWISE. UPON SUCH ABOLITION OR AT THE END OF THE TERM OF THE APPOINTMENT, THE PROVISIONS OF SECTIONS SEVENTY-EIGHT, SEVENTY-NINE, EIGHTY AND EIGHTY-ONE OF THIS CHAPTER SHALL NOT APPLY. IN THE EVENT OF A REDUCTION OF WORKFORCE PURSUANT TO SECTION EIGHTY OF THIS CHAPTER AFFECTING INFORMATION TECHNOLOGY POSITIONS, THE TERM APPOINTMENTS PURSUANT TO THIS SECTION AT AN AGENCY SHALL BE ABOLISHED PRIOR TO THE ABOLITION OF PERMANENT COMPETITIVE CLASS INFORMATION TECHNOLOGY POSITIONS AT SUCH AGENCY INVOLVING COMPARABLE SKILLS AND RESPONSIBILITIES.

S 2. Notwithstanding any provision of law to the contrary, the department of civil service may limit certification from the following eligible lists to those eligibles identified as having knowledge, skills or certifications, or any combination thereof, identified by the appointing authority as necessary to perform the duties of certain positions:

35-382	Information Technology Specialist 4	G-25
35-383	Information Technology Specialist 4 (Data Communications)	G-25
35-384	Information Technology Specialist 4 (Database)	G-25
35-386	Information Technology Specialist 4 (Systems Programming)	G-25
35-387	Manager Information Technology Services 1	G-27
35-388	Manager Information Technology Services 1 (Data Communications)	G-27
35-389	Manager Information Technology Services 1 (Database)	G-27
35-391	Manager Information Technology Services 1 (Systems Programming)	G-27
35-392	Manager Information Technology Services 1 (Technical)	G-27

No such limitation on certification shall occur until a skill-set inventory is conducted for all persons on any list so limited.

S 3. Six months from the effective date of this act, and every six months thereafter, the director of the budget will report to the speaker of the assembly and the temporary president of the senate and to any employee organization that is the certified collective bargaining representative of state information technology employees, on the progress of efforts to in-source information technology positions. The report shall state: (1) any efforts to reduce the number of information technology consultants contracted by the state, including an estimate of the number of such consultants replaced by public employees; (2) the number of

information technology employees hired by the state to replace work performed under consultant contracts, including the number of term appointments made under section 66 of the civil service law; (3) an estimate of the savings achieved by efforts to in-source information technology work; and (4) suggestions on how to further improve the processes for hiring and promoting the state's information technology staff to reduce reliance on consultants.

S 4. This act shall take effect immediately; provided, however, that sections one and three of this act shall expire and be deemed repealed December 31, 2011, provided that any employees appointed prior to that date may continue to be employed for a period not to exceed sixty months from the date of appointment, and further provided, however, that section two of this act shall expire and be deemed repealed December 31, 2011 or upon the establishment of appropriate new eligible lists, whichever is earlier.