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

S. 6918 A. 9809

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

April 11, 2012

IN SENATE -- Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

IN ASSEMBLY -- Introduced by M. of A. JEFFRIES -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to enacting the "save New York call center jobs act of 2012"

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

Section 1. Short title. This act shall be known and may be cited as the "save New York call center jobs act of 2012".

S 2. The labor law is amended by adding a new article 21 to read as follows:

ARTICLE 21

SAVE NEW YORK CALL CENTER JOBS ACT

SECTION 770. DEFINITIONS.
771. LIST OF RELOCATED CALL CENTERS.
772. GRANTS, GUARANTEED LOANS AND TAX BENEFITS.
773. PROCUREMENT CONTRACTS.
774. STATE BENEFITS FOR WORKERS.
775. NO PRIVATE RIGHT OF ACTION.

S 770. DEFINITIONS. AS USED IN THIS ARTICLE:

1. THE TERM "CALL CENTER" MEANS A FACILITY OR OTHER OPERATION WHEREBY EMPLOYEES RECEIVE TELEPHONE CALLS OR OTHER ELECTRONIC COMMUNICATION FOR THE PURPOSE OF PROVIDING CUSTOMER ASSISTANCE OR OTHER SERVICE.

2. (A) THE TERM "EMPLOYER" MEANS ANY BUSINESS ENTITY THAT EMPLOYS FIFTY OR MORE EMPLOYEES, EXCLUDING PART-TIME EMPLOYEES; OR FIFTY OR MORE EMPLOYEES THAT IN THE AGGREGATE WORK AT LEAST FIFTEEN HUNDRED HOURS PER WEEK, EXCLUDING OVERTIME HOURS, FOR THE PURPOSE OF STAFFING A CALL CENTER.

(B) THE TERM "PART-TIME EMPLOYEE" MEANS AN EMPLOYEE WHO IS EMPLOYED FOR AN AVERAGE OF FEWER THAN TWENTY HOURS PER WEEK OR WHO HAS BEEN EMPLOYED FOR FEWER THAN SIX OF THE TWELVE MONTHS PRECEDING THE DATE ON WHICH NOTICE IS REQUIRED UNDER THIS ARTICLE.

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

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S 771. LIST OF RELOCATED CALL CENTERS. 1. A CALL CENTER EMPLOYER THAT INTENDS TO RELOCATE A CALL CENTER, OR ONE OR MORE FACILITIES OR OPERATING UNITS WITHIN A CALL CENTER COMPRISING AT LEAST THIRTY PERCENT OF THE CALL CENTER'S, OR OPERATING UNIT'S, TOTAL VOLUME WHEN MEASURED AGAINST THE PREVIOUS TWELVE MONTH AVERAGE CALL VOLUME OF OPERATIONS OR SUBSTANTIALLY SIMILAR OPERATIONS, FROM NEW YORK STATE TO A FOREIGN COUNTRY SHALL NOTIFY THE COMMISSIONER AT LEAST ONE HUNDRED DAYS BEFORE SUCH RELOCATION.

2. A CALL CENTER EMPLOYER THAT VIOLATES SUBDIVISION ONE OF THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED TEN THOUSAND DOLLARS FOR EACH DAY OF SUCH VIOLATION, EXCEPT THAT THE COMMISSIONER MAY REDUCE SUCH AMOUNT FOR JUST CAUSE SHOWN.

3. THE COMMISSIONER SHALL COMPILE A SEMIANNUAL LIST OF ALL CALL CENTER EMPLOYERS THAT RELOCATE A CALL CENTER, OR ONE OR MORE FACILITIES OR OPERATING UNITS WITHIN A CALL CENTER COMPRISING AT LEAST THIRTY PERCENT OF THE CALL CENTER'S TOTAL VOLUME OF OPERATIONS, FROM NEW YORK STATE TO A FOREIGN COUNTRY.

4. THE COMMISSIONER SHALL DISTRIBUTE THE LIST REQUIRED IN THIS SECTION TO ALL AGENCIES IN THE STATE.

S 772. GRANTS, GUARANTEED LOANS AND TAX BENEFITS. 1. EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A CALL CENTER EMPLOYER THAT APPEARS ON THE LIST DESCRIBED IN SECTION SEVEN HUNDRED SEVENTY-ONE OF THIS ARTICLE SHALL BE INELIGIBLE FOR ANY DIRECT OR INDIRECT STATE GRANTS, STATE GUARANTEED LOANS, TAX BENEFITS OR OTHER FINANCIAL GOVERNMENTAL SUPPORT FOR A PERIOD OF FIVE YEARS FROM THE DATE SUCH LIST IS PUBLISHED.

2. EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A CALL CENTER EMPLOYER THAT APPEARS ON THE LIST DESCRIBED IN SECTION SEVEN HUNDRED SEVENTY-ONE OF THIS ARTICLE SHALL REMIT THE UNAMORTIZED VALUE OF ANY GRANT OR GUARANTEED LOANS, OR ANY TAX BENEFITS OR OTHER GOVERNMENTAL SUPPORT IT HAS PREVIOUSLY RECEIVED TO THE COMMISSIONER. THE PROVISIONS OF THIS SUBDIVISION SHALL APPLY TO GRANTS, LOANS, TAX BENEFITS AND FINANCIAL GOVERNMENTAL ASSISTANCE THAT IS RECEIVED ON OR AFTER THE EFFECTIVE DATE OF THIS ARTICLE.

3. THE COMMISSIONER, IN CONSULTATION WITH THE APPROPRIATE AGENCY PROVIDING A LOAN OR GRANT, MAY WAIVE THE REQUIREMENT PROVIDED UNDER SUBDIVISION TWO OF THIS SECTION IF THE EMPLOYER DEMONSTRATES THAT SUCH REQUIREMENT WOULD:

(A) THREATEN STATE OR NATIONAL SECURITY;

(B) RESULT IN SUBSTANTIAL JOB LOSS IN THE STATE OF NEW YORK; OR

(C) HARM THE ENVIRONMENT.

S 773. PROCUREMENT CONTRACTS. THE HEAD OF EACH STATE AGENCY SHALL ENSURE THAT ALL STATE-BUSINESS-RELATED CALL CENTER AND CUSTOMER SERVICE WORK BE PERFORMED BY STATE CONTRACTORS OR OTHER AGENTS OR SUBCONTRACTORS ENTIRELY WITHIN THE STATE OF NEW YORK. STATE CONTRACTORS WHO CURRENTLY PERFORM SUCH WORK OUTSIDE THE STATE OF NEW YORK SHALL HAVE TWO YEARS FOLLOWING THE EFFECTIVE DATE OF THIS ARTICLE TO COMPLY WITH THIS SECTION; PROVIDED, THAT IF ANY SUCH CONTRACTORS WHICH PERFORM WORK OUTSIDE THIS STATE ADDS CUSTOMER SERVICE EMPLOYEES WHO WILL PERFORM WORK ON SUCH CONTRACTS, THOSE NEW EMPLOYEES SHALL IMMEDIATELY BE EMPLOYED WITHIN THE STATE OF NEW YORK.

S 774. STATE BENEFITS FOR WORKERS. NO PROVISION OF THIS ARTICLE SHALL BE CONSTRUED TO PERMIT WITHHOLDING OR DENIAL OF PAYMENTS, COMPENSATION, OR BENEFITS UNDER ANY OTHER STATE LAW, INCLUDING BUT NOT LIMITED TO STATE UNEMPLOYMENT COMPENSATION, DISABILITY PAYMENTS OR WORKER RETRAIN-

ING OR READJUSTMENT FUNDS, TO WORKERS EMPLOYED BY EMPLOYERS THAT RELOCATE TO A FOREIGN COUNTRY.

S 775. NO PRIVATE RIGHT OF ACTION. NOTHING SET FORTH IN THIS ARTICLE SHALL BE CONSTRUED AS CREATING, ESTABLISHING, OR AUTHORIZING A PRIVATE CAUSE OF ACTION BY AN AGGRIEVED PERSON AGAINST AN EMPLOYER WHO HAS VIOLATED, OR IS ALLEGED TO HAVE VIOLATED, ANY PROVISION OF THIS ARTICLE.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law.