

4207

2011-2012 Regular Sessions

I N A S S E M B L Y

February 2, 2011

Introduced by M. of A. P. RIVERA, ARROYO, ORTIZ, PERRY, RAMOS,
N. RIVERA, WRIGHT, HOOPER, J. RIVERA, WEPRIN -- Multi-Sponsored by --
M. of A. AUBRY, BOYLAND, CAHILL, COOK, FARRELL, PEOPLES-STOKES, SWEE-
NEY -- read once and referred to the Committee on Governmental Employ-
ees

AN ACT to amend the civil service law, in relation to requiring certain
state agencies to employ a competitive class affirmative action offi-
cer or administrator

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

1 Section 1. Article 2 of the civil service law is amended by adding a
2 new title A-1 to read as follows:

3 TITLE A-1
4 STATE AFFIRMATIVE ACTION OFFICERS
5 AND ADMINISTRATORS

6 SECTION 12. DEFINITION.
7 12-A. AFFIRMATIVE ACTION OFFICERS AND ADMINISTRATORS.

8 S 12. DEFINITION. FOR THE PURPOSES OF THIS ARTICLE, "STATE AGENCY"
9 SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH TERM BY PARAGRAPH (A)
10 OF SUBDIVISION ELEVEN OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.
11 S 12-A. AFFIRMATIVE ACTION OFFICERS AND ADMINISTRATORS. 1. EVERY
12 AFFIRMATIVE ACTION OFFICER OR AFFIRMATIVE ACTION ADMINISTRATOR EMPLOYED
13 BY THE STATE OR A STATE AGENCY SHALL BE DEEMED TO BE IN STATE SERVICE IN
14 A COMPETITIVE POSITION. THE DEPARTMENT BY RULE AND REGULATION SHALL
15 ESTABLISH QUALIFICATIONS AND EXAM FOR EMPLOYMENT AND PROMOTION WITHIN
16 THE AFFIRMATIVE ACTION CLASSIFICATION.
17 2. EVERY AFFIRMATIVE ACTION OFFICER AND AFFIRMATIVE ACTION ADMINISTRA-
18 TOR EMPLOYED BY A STATE AGENCY SHALL BE EMPLOYED BY AND REPORT DIRECTLY

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

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1 TO THE HEAD OF SUCH STATE AGENCY, AND SHALL NOT REPORT TO ANY OTHER
2 PERSON OR PART OF ANY DEPARTMENT OF SUCH AGENCY.

3 3. THE DEPARTMENT SHALL, WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF
4 THIS SUBDIVISION, ESTABLISH A CONTINUING EDUCATION PROGRAM FOR AFFIRMA-
5 TIVE ACTION OFFICERS AND AFFIRMATIVE ACTION ADMINISTRATORS IN STATE
6 SERVICE. SUCH PROGRAM SHALL PROVIDE INFORMATION ON AND A COURSE OF
7 INSTRUCTION IN THE NECESSARY SKILLS FOR AFFIRMATIVE ACTION OFFICERS AND
8 ADMINISTRATORS, AND THE LAW, RULES AND REGULATIONS RELATING TO AFFIRMA-
9 TIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY AND HUMAN RIGHTS. EVERY AFFIR-
10 MATIVE ACTION OFFICER AND AFFIRMATIVE ACTION ADMINISTRATOR SHALL
11 SUCCESSFULLY COMPLETE AFFIRMATIVE ACTION CONTINUING EDUCATION AT LEAST
12 ONCE EVERY CALENDAR YEAR. THE DEPARTMENT SHALL SCHEDULE AND PROVIDE FOR
13 THE PROVISION OF SUCH PROGRAM IN EACH REGION OF THE STATE AT LEAST TWICE
14 A MONTH.

15 4. EVERY STATE AGENCY WHICH EMPLOYS ONE HUNDRED OR MORE EMPLOYEES
16 SHALL EMPLOY A FULL-TIME AFFIRMATIVE ACTION OFFICER OR FULL-TIME AFFIR-
17 MATIVE ACTION ADMINISTRATOR. PROVIDED, THAT NO PERSON SHALL BE REQUIRED
18 TO TAKE AN EXAMINATION FOR A COMPETITIVE POSITION OF AFFIRMATIVE ACTION
19 OFFICER OR AFFIRMATIVE ACTION ADMINISTRATOR UNTIL THE CONTINUING EDUCA-
20 TION PROGRAM ESTABLISHED PURSUANT TO SUBDIVISION THREE OF THIS SECTION
21 SHALL HAVE BEEN AVAILABLE FOR NOT LESS THAN TEN MONTHS. THE EXAMINATIONS
22 FOR THE COMPETITIVE POSITIONS OF AFFIRMATIVE ACTION OFFICER AND AFFIRMA-
23 TIVE ACTION ADMINISTRATOR SHALL BE INTERNALLY PREPARED BY THE DEPART-
24 MENT, IN CONSULTATION WITH A COMMITTEE, ESTABLISHED BY THE DEPARTMENT,
25 COMPOSED OF ETHNICALLY AND GENDER DIVERSE EXAMINATION WRITERS. A MAJORI-
26 TY OF THE MEMBERS OF SUCH COMMITTEE SHALL BE PERSONS HOLDING PERMANENT
27 COMPETITIVE POSITIONS IN STATE SERVICE.

28 5. EACH STATE AGENCY AFFIRMATIVE ACTION OFFICER OR STATE AGENCY AFFIR-
29 MATIVE ACTION ADMINISTRATOR SHALL APPOINT SUCH NUMBER OF DEPUTY AFFIRMA-
30 TIVE ACTION OFFICERS OR DEPUTY AFFIRMATIVE ACTION ADMINISTRATORS AS
31 SHALL BE NECESSARY TO ENABLE THE STATE AGENCY AFFIRMATIVE ACTION OFFICER
32 OR STATE AGENCY AFFIRMATIVE ACTION ADMINISTRATOR TO PERFORM HIS OR HER
33 DUTIES PURSUANT TO THIS TITLE. EVERY DEPUTY AFFIRMATIVE ACTION OFFICER
34 AND DEPUTY AFFIRMATIVE ACTION ADMINISTRATOR SHALL REPORT DIRECTLY TO THE
35 STATE AGENCY AFFIRMATIVE ACTION OFFICER OR STATE AGENCY AFFIRMATIVE
36 ACTION ADMINISTRATOR. A DEPUTY AFFIRMATIVE ACTION OFFICER OR DEPUTY
37 AFFIRMATIVE ACTION ADMINISTRATOR SHALL BE PRESENT AT, ACTIVELY ENGAGED
38 IN AND CONSULTED ON THE RECRUITMENT, APPOINTMENT AND PROMOTION OF
39 EMPLOYEES IN CLASSIFIED POSITIONS IN THE STATE AGENCY. SUCH PARTIC-
40 IPATION IN THE APPOINTMENT AND PROMOTION OF CLASSIFIED EMPLOYEES BY
41 DEPUTY AFFIRMATIVE ACTION OFFICERS AND DEPUTY AFFIRMATIVE ACTION ADMIN-
42 ISTRATORS SHALL INCLUDE THE ACTIVE INVOLVEMENT AND PRESENCE OF SUCH AN
43 OFFICER OR ADMINISTRATOR AT EVERY INTERVIEW, FOLLOW-UP INTERVIEW AND
44 DETERMINATION OF THE PERSON TO BE APPOINTED OR PROMOTED TO A CLASSIFIED
45 POSITION OF STATE SERVICE IN THE AGENCY.

46 S 2. This act shall take effect on the ninetieth day after it shall
47 have become a law; provided, that subdivision 4 of section 12-a of the
48 civil service law, as added by section one of this act, shall take
49 effect on the one hundred eightieth day after it shall have become a
50 law; provided, further, that any act or acts necessary to implement the
51 provisions of this act on its effective date are authorized and directed
52 to be completed on or before such date.