

6125

2011-2012 Regular Sessions

I N A S S E M B L Y

March 8, 2011

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

AN ACT to amend the executive law, in relation to prohibiting the state from entering into contracts with companies requiring employees to stipulate to binding arbitration for all disputes

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

1 Section 1. The executive law is amended by adding a new section 170-c
2 to read as follows:
3 S 170-C. PROHIBITING THE STATE AND CERTAIN STATE ENTITIES FROM ENTER-
4 ING INTO CONTRACTS WITH CERTAIN COMPANIES REQUIRING EMPLOYEES TO STIPU-
5 LATE TO BINDING ARBITRATION AGREEMENTS. 1. NOTWITHSTANDING ANY INCON-
6 SISTENT PROVISIONS OF ANY GENERAL OR SPECIAL LAW OR RESOLUTION, NEITHER
7 THE STATE NOR ANY STATE AGENCY INCLUDING: (I) ANY STATE DEPARTMENT, OR
8 (II) ANY DIVISION, BOARD, COMMISSION, OR BUREAU OF ANY STATE DEPARTMENT,
9 OR (III) THE STATE UNIVERSITY OF NEW YORK AND THE CITY UNIVERSITY OF NEW
10 YORK, INCLUDING ALL THEIR CONSTITUENT UNITS, EXCEPT COMMUNITY COLLEGES
11 AND THE INDEPENDENT INSTITUTIONS OPERATING STATUTORY OR CONTRACT
12 COLLEGES ON BEHALF OF THE STATE, OR (IV) A BOARD, A MAJORITY OF WHOSE
13 MEMBERS ARE APPOINTED BY THE GOVERNOR OR WHO SERVE BY VIRTUE OF BEING
14 STATE OFFICERS OR EMPLOYEES AS DEFINED IN SUBPARAGRAPH (I), (II) OR
15 (III) OF PARAGRAPH (I) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE OF
16 THE PUBLIC OFFICERS LAW, (V) ANY PUBLIC AUTHORITY, OTHER THAN
17 MULTI-STATE AUTHORITIES, PUBLIC BENEFIT CORPORATIONS, AND COMMISSIONS AT
18 LEAST ONE OF WHOSE MEMBERS IS APPOINTED BY THE GOVERNOR, NOR THE LEGIS-
19 LATIVE AND JUDICIAL BRANCHES OF GOVERNMENT, NOR ANY FUND OF ANY OF THE
20 FOREGOING, NOR ANY OFFICER OF ANY OF THE FOREGOING, SHALL CONTRACT OR
21 RENEW A CONTRACT FOR THE SUPPLY OF GOODS, SERVICES, OR CONSTRUCTION WITH
22 ANY OVERSEAS CONTRACTOR WHO DOES NOT AGREE TO STIPULATE TO THE FOLLOWING
23 AS A MATERIAL CONDITION OF THE CONTRACT: THE CONTRACTOR, ANY SUBSIDIARY
24 OF A CONTRACTOR, ANY FRANCHISER OF THE CONTRACTOR, AND ANY SUBCONTRACTOR

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

LBD01021-01-1

1 TO BE EMPLOYED BY THE CONTRACTOR SHALL NOT UTILIZE AN EMPLOYMENT
2 CONTRACT CONTAINING CLAUSES WHICH REQUIRE EMPLOYEES TO STIPULATE TO
3 BINDING ARBITRATION AGREEMENTS FOR ALL DISPUTES UNLESS DISPUTES INVOLV-
4 ING SEXUAL ASSAULT OR OTHER ASSAULT ARE EXCLUDED.

5 2. ANY CONTRACTOR, ANY SUBSIDIARY OF A CONTRACTOR, FRANCHISER OF THE
6 CONTRACTOR, AND ANY SUBCONTRACTOR TO BE EMPLOYED BY THE CONTRACTOR SHALL
7 CERTIFY THAT IT IS IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.
8 SUCH CERTIFICATION SHALL BE FILED WITH THE STATE GOVERNMENTAL CONTRACT-
9 ING PARTY AND MADE A PART OF ITS CONTRACT FILE.

10 3. UPON RECEIVING INFORMATION THAT A CONTRACTOR WHO HAS MADE THE STIP-
11 ULATION AND CERTIFICATION REQUIRED BY THIS SECTION IS IN VIOLATION
12 THEREOF, THE STATE GOVERNMENTAL CONTRACTING PARTY SHALL REVIEW SUCH
13 INFORMATION AND OFFER THE CONTRACTOR AN OPPORTUNITY TO RESPOND. IF THE
14 STATE GOVERNMENTAL CONTRACTING PARTY FINDS THAT A VIOLATION HAS
15 OCCURRED, IT SHALL TAKE SUCH ACTION AS MAY BE APPROPRIATE AND PROVIDED
16 FOR BY LAW, RULE OR REGULATION, OR CONTRACT, INCLUDING, BUT NOT LIMITED
17 TO, IMPOSING SANCTIONS, SEEKING COMPLIANCE, RECOVERING DAMAGES, DECLAR-
18 ING THE CONTRACTOR IN DEFAULT, AND SEEKING DEBARMENT OR SUSPENSION OF
19 THE CONTRACTOR.

20 S 2. If any provision of this act or the application thereof is held
21 invalid, the remainder of this act and the application thereof to other
22 persons or circumstances shall not be affected by such holding and shall
23 remain in full force and effect.

24 S 3. This act shall take effect immediately.