

5802

2011-2012 Regular Sessions

I N S E N A T E

June 17, 2011

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and
when printed to be committed to the Committee on Rules

AN ACT to amend the state finance law, in relation to prohibiting state
contracts with vendors that forbid employees from litigating discrimination or harassment claims

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

1 Section 1. Section 163 of the state finance law is amended by adding a
2 new subdivision 12-a to read as follows:
3 12-A. CERTAIN CONTRACT PROVISIONS PROHIBITED. A. NO AGENCY, DEPART-
4 MENT, DIVISION, BOARD, BUREAU, OR COMMISSION OF THE STATE SHALL ENTER
5 INTO CONTRACTS WITH ANY VENDOR THAT REQUIRES AN EMPLOYEE OR INDEPENDENT
6 CONTRACTOR PERFORMING WORK UNDER SUCH VENDOR'S CONTRACT OR SUBCONTRACT
7 TO SUBMIT CLAIMS ARISING UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964
8 OR ANY TORT RELATED TO OR ARISING FROM DISCRIMINATION, SEXUAL ASSAULT OR
9 HARASSMENT, INCLUDING: ASSAULT, BATTERY, INTENTIONAL INFLICTION OF
10 EMOTIONAL DISTRESS, FALSE IMPRISONMENT OR NEGLIGENT HIRING, SUPERVISION
11 OR RETENTION TO PRIVATE ARBITRATION FOR RESOLUTION; PROVIDED, HOWEVER,
12 THAT THIS PARAGRAPH SHALL NOT APPLY TO ARBITRATION THAT IS MANDATED BY A
13 COLLECTIVE BARGAINING AGREEMENT BETWEEN SUCH VENDOR AND EMPLOYEE AND/OR
14 INDEPENDENT CONTRACTOR.
15 B. AN AGENCY, DEPARTMENT, DIVISION, BOARD, BUREAU, OR COMMISSION OF
16 THE STATE CAN WAIVE THE REQUIREMENTS OF PARAGRAPH A OF THIS SUBDIVISION
17 WHEN NECESSARY TO RESPOND TO AN EMERGENCY ARISING FROM UNFORESEEN CAUSES
18 PURSUANT TO PARAGRAPH B OF SUBDIVISION TEN OF THIS SECTION. THE TERM OF
19 THE CONTRACT SHALL NOT BE FOR LONGER THAN NECESSARY TO RESPOND ADEQUATE-
20 LY TO THE EMERGENCY. THE AGENCY, DEPARTMENT, DIVISION, BOARD, BUREAU, OR
21 COMMISSION OF THE STATE THAT WAIVES THE APPLICATION OF PARAGRAPH A OF
22 THIS SUBDIVISION SHALL ENTER INTO THE PROCUREMENT RECORDS THE REASONS
23 THE WAIVER WAS NECESSARY. FOR THE PURPOSES OF THIS PARAGRAPH, "EMERGEN-

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

LBD09435-04-1

1 CY" SHALL HAVE THE SAME MEANING AS IS PRESCRIBED IN PARAGRAPH B OF
2 SUBDIVISION ONE OF THIS SECTION.

3 S 2. This act shall take effect immediately; provided, however, that
4 the amendments to section 163 of the state finance law made by section
5 one of this act shall not affect the repeal of such section and shall be
6 deemed repealed therewith.