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

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:

Section 1. Section 163 of the state finance law is amended by adding a new subdivision 12-a to read as follows:

12-A. CERTAIN CONTRACT PROVISIONS PROHIBITED. A. NO AGENCY, DEPARTMENT, DIVISION, BOARD, BUREAU, OR COMMISSION OF THE STATE SHALL ENTER INTO CONTRACTS WITH ANY VENDOR THAT REQUIRES AN EMPLOYEE OR INDEPENDENT CONTRACTOR PERFORMING WORK UNDER SUCH VENDOR'S CONTRACT OR SUBCONTRACT TO SUBMIT CLAIMS ARISING UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 OR ANY TORT RELATED TO OR ARISING FROM DISCRIMINATION, SEXUAL ASSAULT OR HARASSMENT, INCLUDING: ASSAULT, BATTERY, INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, FALSE IMPRISONMENT OR NEGLIGENT HIRING, SUPERVISION OR RETENTION TO PRIVATE ARBITRATION FOR RESOLUTION; PROVIDED, HOWEVER, THAT THIS PARAGRAPH SHALL NOT APPLY TO ARBITRATION THAT IS MANDATED BY A COLLECTIVE BARGAINING AGREEMENT BETWEEN SUCH VENDOR AND EMPLOYEE AND/OR INDEPENDENT CONTRACTOR.

B. AN AGENCY, DEPARTMENT, DIVISION, BOARD, BUREAU, OR COMMISSION OF THE STATE CAN WAIVE THE REQUIREMENTS OF PARAGRAPH A OF THIS SUBDIVISION WHEN NECESSARY TO RESPOND TO AN EMERGENCY ARISING FROM UNFORESEEN CAUSES PURSUANT TO PARAGRAPH B OF SUBDIVISION TEN OF THIS SECTION. THE TERM OF THE CONTRACT SHALL NOT BE FOR LONGER THAN NECESSARY TO RESPOND ADEQUATELY TO THE EMERGENCY. THE AGENCY, DEPARTMENT, DIVISION, BOARD, BUREAU, OR COMMISSION OF THE STATE THAT WAIVES THE APPLICATION OF PARAGRAPH A OF THIS SUBDIVISION SHALL ENTER INTO THE PROCUREMENT RECORDS THE REASONS 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.

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

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the state finance law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.