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

7393

I N S E N A T E

May 7, 2012

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

AN ACT to amend the labor law, in relation to unemployment insurance benefits for professional employment by certain education institutions

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

Section 1. This act shall be known and may be cited as the "Higher Education Employment Protection Act."

S 2. Subdivision 10 of section 590 of the labor law is amended by adding a new paragraph (d) to read as follows:

(D) IN THE CASE OF COLLEGES OR UNIVERSITIES ASSIGNED THE NORTH AMERICAN INDUSTRY CLASSIFICATION CODE 611310 OR 611210 FOR SERVICES PERFORMED IN A PRINCIPAL, ADMINISTRATIVE, RESEARCH OR INSTRUCTIONAL CAPACITY A PERSON IS PRESUMED NOT TO HAVE REASONABLE ASSURANCE UNDER AN OFFER THAT IS CONDITIONED ON ENROLLMENT, FUNDING OR PROGRAMMATIC CHANGES. IT IS THE EMPLOYER'S BURDEN TO PROVIDE SUFFICIENT DOCUMENTATION TO OVERCOME THIS PRESUMPTION. REASONABLE ASSURANCE MUST BE DETERMINED ON A CASE-BY-CASE BASIS BY THE TOTAL WEIGHT OF EVIDENCE RATHER THAN THE EXISTENCE OF ANY ONE FACTOR. PRIMARY WEIGHT MUST BE GIVEN TO THE CONTINGENT NATURE OF AN OFFER OF EMPLOYMENT BASED ON ENROLLMENT, FUNDING AND PROGRAM CHANGES. PROVIDED, HOWEVER, THAT IN ANY UNEMPLOYMENT INSURANCE PROCEEDING A WRITTEN LETTER FROM AN EMPLOYER TO AN EMPLOYEE WHICH MAKES EMPLOYMENT CONDITIONAL SHALL NOT BE PRIMA FACIE EVIDENCE OF REASONABLE ASSURANCE TO BE USED TO DENY A CLAIM FOR UNEMPLOYMENT.

S 2. This act shall take effect immediately.

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

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