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

2628

2013-2014 Regular Sessions

I N A S S E M B L Y

January 17, 2013

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:

Section 1. The executive law is amended by adding a new section 170-c to read as follows:

S 170-C. PROHIBITING THE STATE AND CERTAIN STATE ENTITIES FROM ENTERING INTO CONTRACTS WITH CERTAIN COMPANIES REQUIRING EMPLOYEES TO STIPULATE TO BINDING ARBITRATION AGREEMENTS. 1. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF ANY GENERAL OR SPECIAL LAW OR RESOLUTION, NEITHER THE STATE NOR ANY STATE AGENCY INCLUDING: (I) ANY STATE DEPARTMENT, OR (II) ANY DIVISION, BOARD, COMMISSION, OR BUREAU OF ANY STATE DEPARTMENT, OR (III) THE STATE UNIVERSITY OF NEW YORK AND THE CITY UNIVERSITY OF NEW YORK, INCLUDING ALL THEIR CONSTITUENT UNITS, EXCEPT COMMUNITY COLLEGES AND THE INDEPENDENT INSTITUTIONS OPERATING STATUTORY OR CONTRACT COLLEGES ON BEHALF OF THE STATE, OR (IV) A BOARD, A MAJORITY OF WHOSE MEMBERS ARE APPOINTED BY THE GOVERNOR OR WHO SERVE BY VIRTUE OF BEING STATE OFFICERS OR EMPLOYEES AS DEFINED IN SUBPARAGRAPH (I), (II) OR (III) OF PARAGRAPH (I) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW, (V) ANY PUBLIC AUTHORITY, OTHER THAN MULTI-STATE AUTHORITIES, PUBLIC BENEFIT CORPORATIONS, AND COMMISSIONS AT LEAST ONE OF WHOSE MEMBERS IS APPOINTED BY THE GOVERNOR, NOR THE LEGISLATIVE AND JUDICIAL BRANCHES OF GOVERNMENT, NOR ANY FUND OF ANY OF THE FOREGOING, NOR ANY OFFICER OF ANY OF THE FOREGOING, SHALL CONTRACT OR RENEW A CONTRACT FOR THE SUPPLY OF GOODS, SERVICES, OR CONSTRUCTION WITH ANY OVERSEAS CONTRACTOR WHO DOES NOT AGREE TO STIPULATE TO THE FOLLOWING AS A MATERIAL CONDITION OF THE CONTRACT: THE CONTRACTOR, ANY SUBSIDIARY 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.

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

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

3. UPON RECEIVING INFORMATION THAT A CONTRACTOR WHO HAS MADE THE STIPULATION AND CERTIFICATION REQUIRED BY THIS SECTION IS IN VIOLATION THEREOF, THE STATE GOVERNMENTAL CONTRACTING PARTY SHALL REVIEW SUCH INFORMATION AND OFFER THE CONTRACTOR AN OPPORTUNITY TO RESPOND. IF THE STATE GOVERNMENTAL CONTRACTING PARTY FINDS THAT A VIOLATION HAS OCCURRED, IT SHALL TAKE SUCH ACTION AS MAY BE APPROPRIATE AND PROVIDED FOR BY LAW, RULE OR REGULATION, OR CONTRACT, INCLUDING, BUT NOT LIMITED TO, IMPOSING SANCTIONS, SEEKING COMPLIANCE, RECOVERING DAMAGES, DECLARING THE CONTRACTOR IN DEFAULT, AND SEEKING DEBARMENT OR SUSPENSION OF THE CONTRACTOR.

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

S 3. This act shall take effect immediately.