

7119--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

May 1, 2013

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Introduced by M. of A. WRIGHT, AUBRY, GOTTFRIED, COOK, SEPULVEDA, BROOK-KRASNY -- Multi-Sponsored by -- M. of A. ARROYO, JACOBS, KIM, McDONALD, TITONE -- read once and referred to the Committee on Social Services -- recommitted to the Committee on Social Services in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to prohibiting work experience programs in New York

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

1     Section 1. Subdivision 1 of section 336 of the social services law, as  
2     amended by section 148 of part B of chapter 436 of the laws of 1997,  
3     paragraph (h) as amended by chapter 214 of the laws of 1998, is amended  
4     to read as follows:  
5     1. Social services districts may provide, and require applicants for  
6     and recipients of public assistance to participate in a variety of  
7     activities[, including but not] limited to ACTIVITIES THE RECIPIENT CAN  
8     CHOOSE FROM WHICH WILL IMPROVE THE RECIPIENT'S EMPLOYMENT OPPORTUNITIES,  
9     INCLUDING the following:  
10    (a) unsubsidized employment;  
11    (b) subsidized private sector employment;  
12    (c) subsidized public sector employment;  
13    [(d) work experience in the public sector or non-profit sector,  
14    (including work associated with refurbishing publicly assisted housing)  
15    if sufficient private sector employment is not available;]  
16    (e) On-the-job training;  
17    (f) job search and job readiness assistance, provided that job search  
18    is an active and continuing effort to secure employment configured by  
19    the local social services official;

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

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1 (g) community service programs provided, however, the number of hours  
2 a participant in community service activities authorized pursuant to  
3 this section shall be required to work in such assignment shall not  
4 exceed a number which equals the amount of assistance payable with  
5 respect to such individual (inclusive of the value of food stamps  
6 received by such individual, if any) divided by the higher of (a) the  
7 federal minimum wage, or (b) the state minimum wage. No participant  
8 shall in any case be required to engage in assigned activities for more  
9 than forty hours in any week. No participant shall be assigned to a  
10 community service activity that conflicts with his or her bona fide  
11 religious beliefs; AND PROVIDED FURTHER THAT PARTICIPANTS SHALL BE  
12 ALLOWED TO CHOOSE THE LOCATION IN WHICH THEY PERFORM COMMUNITY SERVICE;

13 (h) vocational educational training as time limited by federal law.  
14 For the purposes of this title, "vocational educational training" shall  
15 include but not be limited to organized educational programs offering a  
16 sequence of courses which are directly related to the preparation of  
17 individuals for current or emerging occupations requiring other than a  
18 baccalaureate or advanced degree. Such programs shall include competen-  
19 cy-based applied learning which contributes to an individual's academic  
20 knowledge, higher-order reasoning, and problem-solving skills, work  
21 attitudes, general employability skills, and the occupational-specific  
22 skills necessary for economic independence. Such term also includes  
23 applied technology education;

24 (i) job skills training directly related to employment;

25 (j) education directly related to employment, in the case of a recipi-  
26 ent who has not yet received a high school diploma or a certificate of  
27 high school equivalency;

28 (k) satisfactory attendance at secondary school or a course of study  
29 leading to a certificate of general equivalency in the case of a recipi-  
30 ent who has not completed secondary school or received such certificate;

31 (l) provision of child care services to an individual who is partic-  
32 ipating in community service;

33 (m) job search and job readiness assistance once the individual has  
34 exceeded the six week limit set in federal law;

35 (n) educational activities pursuant to section three hundred thirty-  
36 six-a of this title.

37 S 2. Section 336-c of the social services law, as amended by section  
38 148 of part B of chapter 436 of the laws of 1997, subdivision 4 as  
39 amended by chapter 534 of the laws of 2000, is amended to read as  
40 follows:

41 S 336-c. Work experience. [1. (a)] Work experience programs [meeting  
42 state and federal requirements may be established by social services  
43 districts.

44 (b) Work experience programs may include the performance of work for a  
45 federal office or agency, county, city, village or town or for the state  
46 or in the operation of or in an activity of a nonprofit agency or insti-  
47 tution, in accordance with the regulations of the department.

48 2. A recipient may be assigned to participate in such work experience  
49 program only if:

50 (a) appropriate federal and state standards of health, safety and  
51 other work conditions are maintained;

52 (b) The number of hours a participant in work experience activities  
53 authorized pursuant to this section shall be required to work in such  
54 assignment shall not exceed a number which equals the amount of assist-  
55 ance payable with respect to such individual (inclusive of the value of  
56 food stamps received by such individual, if any) divided by the higher

1 of (a) the federal minimum wage provided that such hours shall be limit-  
2 ed as set forth in subdivision four of section three hundred thirty-six  
3 of this title, or (b) the state minimum wage;

4 (c) such recipients are provided appropriate workers' compensation or  
5 equivalent protection for on-the-job injuries and tort claims protection  
6 on the same basis, but not necessarily at the same benefit level, as  
7 they are provided to other persons in the same or similar positions,  
8 while participating in work experience activities under this section;

9 (d) the project to which the participant is assigned serves a useful  
10 public purpose in fields such as health, social services, environmental  
11 protection, education, urban and rural development and redevelopment,  
12 welfare, recreation, operation of public facilities, public safety, and  
13 child day care;

14 (e) such assignment would not result in (i) the displacement of any  
15 currently employed worker or loss of position (including partial  
16 displacement such as reduction in the hours of non-overtime work, wages  
17 or employment benefits) or result in the impairment of existing  
18 contracts for services or collective bargaining agreements; (ii) the  
19 employment or assignment of a participant or the filling of a position  
20 when any other person is on layoff from the same or any equivalent posi-  
21 tion or the employer has terminated the employment of any regular  
22 employee or otherwise reduced its workforce with the effect of filling  
23 the vacancy so created with a participant assigned pursuant to this  
24 section; (iii) any infringement of the promotional opportunities of any  
25 current employed person; or (iv) the performance, by such participant,  
26 of a substantial portion of the work ordinarily and actually performed  
27 by regular employees; or (v) the loss of a bargaining unit position as a  
28 result of work experience participants performing, in part or in whole,  
29 the work normally performed by the employee in such position;

30 (f) such assignment is not at any work site at which the regular  
31 employees are on a legal strike against the employer or are being  
32 subjected to lock out by the employer.

33 3. The public employer shall publish on a monthly basis a report  
34 summarizing the employer's work experience program for the month. Such  
35 monthly report shall include, at a minimum, summary information regard-  
36 ing the agencies or departments where participants are assigned, work  
37 locations, job duties and assignments, hours worked and period worked  
38 and shall be provided to the certified collective bargaining represen-  
39 tative and may not be disclosed to any other party. Such certified  
40 collective bargaining representative shall take reasonable steps to  
41 protect the confidentiality of such information and shall take reason-  
42 able steps to prevent disclosure of same to non-authorized persons.  
43 Every report provided pursuant to this section shall contain a warning  
44 against re-disclosure and asserting the confidentiality of the informa-  
45 tion therein provided.

46 4. In assigning a recipient who is a non-graduate student attending  
47 CUNY, SUNY or other approved non-profit education, training or voca-  
48 tional rehabilitation agency, the social services district must, after  
49 consultation with officials of CUNY, SUNY or other non-profit education,  
50 training or vocational rehabilitation agency, assign the student to a  
51 work site on campus, where the recipient is enrolled, and shall not  
52 unreasonably assign the student to hours that conflict with the  
53 student's academic schedule, if an approved work experience assignment  
54 is available. Where such work experience assignment is not available,  
55 the social services district shall, to the extent possible, assign the  
56 student to a work site within reasonable proximity to the campus where

1 the recipient is enrolled and shall not unreasonably assign the student  
2 to hours that conflict with the student's academic schedule. Provided,  
3 however, in order to qualify for a work experience assignment on-campus,  
4 or in close proximity to campus, a student must have a cumulative C  
5 average, or its equivalent. The district may waive the requirement that  
6 the student have a cumulative C average or its equivalent for undue  
7 hardship based on: (i) the death of a relative of the student; (ii) the  
8 personal injury or illness of the student; or (iii) other extenuating  
9 circumstances] ARE PROHIBITED IN THE STATE OF NEW YORK.  
10 S 3. This act shall take effect on the first of January next succeed-  
11 ing the date on which it shall have become a law.