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

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I N S E N A T E

June 4, 2014

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the civil service law, in relation to retaliation against other jurisdictions which discriminate against hiring New York state residents

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

Section 1. The civil service law is amended by adding a new section 12 to read as follows:

S 12. PROVISIONS RELATING TO RETALIATING AGAINST OTHER JURISDICTIONS WHICH DISCRIMINATE AGAINST HIRING NEW YORK STATE RESIDENTS. 1. FOR THE PURPOSES OF THIS SECTION:

A. "DISCRIMINATORY JURISDICTION" SHALL MEAN ANY STATE THAT HAS LAWS THAT DISCRIMINATE AGAINST NEW YORK STATE RESIDENTS BY PROHIBITING PUBLIC EMPLOYERS IN SUCH STATE FROM EMPLOYING OUT OF STATE RESIDENTS.

B. "PRIMARY RESIDENCE" SHALL MEAN WHERE A PERSON SPENDS THE MAJORITY OF HIS OR HER NON-WORKING TIME; AND WHICH IS MOST CLEARLY THE CENTER OF HIS OR HER DOMESTIC LIFE; AND WHICH IS DESIGNATED AS HIS OR HER LEGAL ADDRESS AND LEGAL RESIDENCE FOR VOTING.

C. "PUBLIC EMPLOYERS" SHALL MEAN THE FOLLOWING EMPLOYERS:

(1) THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCH OF THIS STATE;

(2) AN AUTHORITY, BOARD, BODY, AGENCY, COMMISSION, OR INSTRUMENTALITY OF THE STATE INCLUDING ANY STATE COLLEGE, UNIVERSITY, OR OTHER HIGHER EDUCATIONAL INSTITUTION, AND, TO THE EXTENT CONSISTENT WITH LAW, ANY INTERSTATE AGENCY TO WHICH THE STATE IS A PARTY;

(3) A COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE OR AN AUTHORITY, BOARD, BODY, AGENCY, DISTRICT, COMMISSION, OR INSTRUMENTALITY OF THE COUNTY, MUNICIPALITY, OR SUBDIVISION;

(4) A SCHOOL DISTRICT OR AN AUTHORITY, BOARD, BODY, AGENCY, COMMISSION, OR INSTRUMENTALITY OF THE DISTRICT.

D. "UNDUE HARDSHIP" SHALL MEAN AN ACCOMMODATION WHICH REQUIRES SIGNIFICANT EXPENSE AND DIFFICULTY TO OBTAIN, AND PLACES AN UNAVOIDABLE BURDEN ON THE HEALTH AND WELLBEING OF THE PROSPECTIVE EMPLOYEE AND/OR THEIR IMMEDIATE FAMILY MEMBERS.

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

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2. THE COMMISSION SHALL ANNUALLY PREPARE A LIST OF ALL DISCRIMINATORY JURISDICTIONS. THE COMMISSION SHALL ADD TO OR DELETE FROM SAID LIST ANY JURISDICTION UPON CHANGES IN SUCH JURISDICTION'S LAWS THAT DEEM A CHANGE IN DESIGNATION. THE COMMISSION SHALL DELIVER A COPY OF THE LIST BY THE END OF EACH CALENDAR YEAR TO ALL PUBLIC EMPLOYERS IN THE STATE OF NEW YORK AS DEFINED IN THIS SECTION AND DETAIL THE EFFECTIVE DATE OF SUCH LIST.

3. UPON THE EFFECTIVE DATE OF A LIST OF DISCRIMINATORY JURISDICTIONS, A PUBLIC EMPLOYER SHALL NOT HIRE ANY PERSON WHOSE PRIMARY RESIDENCE IS LOCATED IN A DISCRIMINATORY JURISDICTION. HOWEVER, SUCH PERSON SHALL HAVE ONE YEAR FROM THE DATE OF HIRE TO CHANGE HIS OR HER PRIMARY RESIDENCE TO A JURISDICTION THAT IS NOT DEEMED DISCRIMINATORY BY THE COMMISSION. A PERSON WHO FAILS TO SATISFY THE REQUIREMENTS OF THIS SECTION FOLLOWING THE ONE YEAR PERIOD FROM HIRE SHALL BE DEEMED UNFIT TO HOLD SUCH OFFICE, EMPLOYMENT OR POSITION AND SUCH PUBLIC EMPLOYER SHALL TERMINATE THE EMPLOYMENT IMMEDIATELY. THE PUBLIC EMPLOYER, UPON RECEIPT OF THE LIST OR UPDATED LIST OF ALL DISCRIMINATORY JURISDICTIONS, SHALL REVISE ALL RELEVANT HIRING STANDARDS TO ACCOUNT FOR SUCH CHANGES AND DISSEMINATE TO ALL NECESSARY AUTHORITIES.

4. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY PERSON WHO IS EMPLOYED BY A PUBLIC EMPLOYER IN THIS STATE ON THE EFFECTIVE DATE OF THE INITIAL LIST AND ANY SUBSEQUENT UPDATED LIST OF DISCRIMINATORY JURISDICTIONS BY THE COMMISSION AND WHERE SUCH PERSON'S PRIMARY RESIDENCE IS LOCATED IN A DISCRIMINATORY JURISDICTION WHICH WAS ON THE ORIGINAL LIST OR HAS BEEN ADDED AND WAS NOT DESIGNATED DISCRIMINATORY ON THE LIST FROM THE PREVIOUS YEAR. THE PROVISIONS OF THIS SECTION WILL CONTINUE TO NOT APPLY PROVIDED SUCH PERSON CONTINUES TO HOLD EMPLOYMENT BY A PUBLIC EMPLOYER IN THE STATE WITHOUT A BREAK IN PUBLIC SERVICE OF GREATER THAN THIRTY DAYS.

5. THE PROVISIONS OF THIS SECTION MAY BE WAIVED THROUGH AN APPLICATION THAT IS APPROVED BY THE COMMISSION. THE APPLICATION MUST DEMONSTRATE THE UNDUE HARDSHIP CREATED BY THE PROVISIONS OF THIS SECTION AND HOW A WAIVER WOULD ALLEVIATE SUCH HARDSHIP. THE APPLICATION MUST INCLUDE SUPPORTING DOCUMENTATION DETAILING THE UNDUE HARDSHIP, PROVIDED, THE COMMISSION MAY IN ITS DISCRETION REQUEST ADDITIONAL INFORMATION FROM THE PERSON. AN APPLICATION SHALL BE SUBMITTED IN A MANNER PRESCRIBED BY THE COMMISSION. A DETERMINATION BY THE COMMISSION MUST BE MADE IN WRITING NO LATER THAN NINETY DAYS AFTER IT WAS RECEIVED. THE COMMISSION MAY EXTEND THE PERIOD OF REVIEW FOR AN ADDITIONAL THIRTY DAYS IF IT INFORMS THE APPLICANT IN WRITING. IF THE APPLICATION IS DENIED, AN APPEAL MAY BE GRANTED AT THE DISCRETION OF THE COMMISSION. AN APPLICANT THAT WAS DENIED MAY REAPPLY FOR A WAIVER NO SOONER THAN SIX MONTHS AFTER SUCH DENIAL. A WAIVER THAT IS GRANTED BY THE COMMISSION SHALL BE VALID FOR A PERIOD OF ONE YEAR OR UNTIL SUCH APPLICANT HAS BEEN HIRED BY A PUBLIC EMPLOYER WHEREIN HE OR SHE SHALL BE CONSIDERED NOT SUBJECT TO THE PROVISIONS OF THIS SECTION AS PROVIDED IN SUBDIVISION FOUR OF THIS SECTION. A PERSON MAY REAPPLY FOR A WAIVER UPON THE EXPIRATION OF A PREVIOUSLY GRANTED WAIVER.

S 2. The civil service commission is authorized to promulgate rules and regulations necessary for the implementation of the provisions of this act on or before its effective date.

S 3. This act shall take effect January 1, 2015.