

4791

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 8, 2013

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Introduced by M. of A. TITONE, GOTTFRIED, MILLMAN, BRONSON, GIBSON,  
LAVINE, COOK, KAVANAGH, PERRY -- Multi-Sponsored by -- M. of A.  
ABINANTI, AUBRY, BRENNAN, FINCH, GALEF, GLICK, HOOPER, MOYA, SWEENEY  
-- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to prohibiting state  
contracts with vendors that forbid employees from litigating discrimi-  
nation or harassment claims

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

1     Section 1. Section 163 of the state finance law is amended by adding a  
2     new subdivision 12-a to read as follows:  
3     12-A. CERTAIN CONTRACT PROVISIONS PROHIBITED. A. NO AGENCY, DEPART-  
4     MENT, DIVISION, BOARD, BUREAU, OR COMMISSION OF THE STATE SHALL ENTER  
5     INTO CONTRACTS WITH ANY VENDOR THAT REQUIRES AN EMPLOYEE OR INDEPENDENT  
6     CONTRACTOR PERFORMING WORK UNDER SUCH VENDOR'S CONTRACT OR SUBCONTRACT  
7     TO SUBMIT CLAIMS ARISING UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964  
8     OR ANY TORT RELATED TO OR ARISING FROM DISCRIMINATION, SEXUAL ASSAULT OR  
9     HARASSMENT, INCLUDING: ASSAULT, BATTERY, INTENTIONAL INFLICTION OF  
10    EMOTIONAL DISTRESS, FALSE IMPRISONMENT OR NEGLIGENT HIRING, SUPERVISION  
11    OR RETENTION TO PRIVATE ARBITRATION FOR RESOLUTION; PROVIDED, HOWEVER,  
12    THAT THIS PARAGRAPH SHALL NOT APPLY TO ARBITRATION THAT IS MANDATED BY A  
13    COLLECTIVE BARGAINING AGREEMENT BETWEEN SUCH VENDOR AND EMPLOYEE AND/OR  
14    INDEPENDENT CONTRACTOR.  
15    B. AN AGENCY, DEPARTMENT, DIVISION, BOARD, BUREAU, OR COMMISSION OF  
16    THE STATE CAN WAIVE THE REQUIREMENTS OF PARAGRAPH A OF THIS SUBDIVISION  
17    WHEN NECESSARY TO RESPOND TO AN EMERGENCY ARISING FROM UNFORESEEN CAUSES  
18    PURSUANT TO PARAGRAPH B OF SUBDIVISION TEN OF THIS SECTION. THE TERM OF  
19    THE CONTRACT SHALL NOT BE FOR LONGER THAN NECESSARY TO RESPOND ADEQUATE-  
20    LY TO THE EMERGENCY. THE AGENCY, DEPARTMENT, DIVISION, BOARD, BUREAU, OR  
21    COMMISSION OF THE STATE THAT WAIVES THE APPLICATION OF PARAGRAPH A OF  
22    THIS SUBDIVISION SHALL ENTER INTO THE PROCUREMENT RECORDS THE REASONS

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

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1 THE WAIVER WAS NECESSARY. FOR THE PURPOSES OF THIS PARAGRAPH, "EMERGEN-  
2 CY" SHALL HAVE THE SAME MEANING AS IS PRESCRIBED IN PARAGRAPH B OF  
3 SUBDIVISION ONE OF THIS SECTION.

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