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

1271

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. PERKINS -- 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 requiring certain state agencies to employ a competitive class affirmative action officer or administrator

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

Section 1. Article 2 of the civil service law is amended by adding a new title A-1 to read as follows:

TITLE A-1
STATE AFFIRMATIVE ACTION OFFICERS
AND ADMINISTRATORS

SECTION 12. DEFINITION.
12-A. AFFIRMATIVE ACTION OFFICERS AND ADMINISTRATORS.

S 12. DEFINITION. FOR THE PURPOSES OF THIS ARTICLE, "STATE AGENCY" SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH TERM BY PARAGRAPH (A) OF SUBDIVISION ELEVEN OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.

S 12-A. AFFIRMATIVE ACTION OFFICERS AND ADMINISTRATORS. 1. EVERY AFFIRMATIVE ACTION OFFICER OR AFFIRMATIVE ACTION ADMINISTRATOR EMPLOYED BY THE STATE OR A STATE AGENCY SHALL BE DEEMED TO BE IN STATE SERVICE IN A COMPETITIVE POSITION. THE DEPARTMENT BY RULE AND REGULATION SHALL ESTABLISH QUALIFICATIONS AND EXAM FOR EMPLOYMENT AND PROMOTION WITHIN THE AFFIRMATIVE ACTION CLASSIFICATION.

2. EVERY AFFIRMATIVE ACTION OFFICER AND AFFIRMATIVE ACTION ADMINISTRATOR EMPLOYED BY A STATE AGENCY SHALL BE EMPLOYED BY AND REPORT DIRECTLY TO THE HEAD OF SUCH STATE AGENCY, AND SHALL NOT REPORT TO ANY OTHER PERSON OR PART OF ANY DEPARTMENT OF SUCH AGENCY.

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

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3. THE DEPARTMENT SHALL, WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SUBDIVISION, ESTABLISH A CONTINUING EDUCATION PROGRAM FOR AFFIRMATIVE ACTION OFFICERS AND AFFIRMATIVE ACTION ADMINISTRATORS IN STATE SERVICE. SUCH PROGRAM SHALL PROVIDE INFORMATION ON AND A COURSE OF INSTRUCTION IN THE NECESSARY SKILLS FOR AFFIRMATIVE ACTION OFFICERS AND ADMINISTRATORS, AND THE LAW, RULES AND REGULATIONS RELATING TO AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY AND HUMAN RIGHTS. EVERY AFFIRMATIVE ACTION OFFICER AND AFFIRMATIVE ACTION ADMINISTRATOR SHALL SUCCESSFULLY COMPLETE AFFIRMATIVE ACTION CONTINUING EDUCATION AT LEAST ONCE EVERY CALENDAR YEAR. THE DEPARTMENT SHALL SCHEDULE AND PROVIDE FOR THE PROVISION OF SUCH PROGRAM IN EACH REGION OF THE STATE AT LEAST TWICE A MONTH.

4. EVERY STATE AGENCY WHICH EMPLOYS ONE HUNDRED OR MORE EMPLOYEES SHALL EMPLOY A FULL-TIME AFFIRMATIVE ACTION OFFICER OR FULL-TIME AFFIRMATIVE ACTION ADMINISTRATOR. PROVIDED, THAT NO PERSON SHALL BE REQUIRED TO TAKE AN EXAMINATION FOR A COMPETITIVE POSITION OF AFFIRMATIVE ACTION OFFICER OR AFFIRMATIVE ACTION ADMINISTRATOR UNTIL THE CONTINUING EDUCATION PROGRAM ESTABLISHED PURSUANT TO SUBDIVISION THREE OF THIS SECTION SHALL HAVE BEEN AVAILABLE FOR NOT LESS THAN TEN MONTHS. THE EXAMINATIONS FOR THE COMPETITIVE POSITIONS OF AFFIRMATIVE ACTION OFFICER AND AFFIRMATIVE ACTION ADMINISTRATOR SHALL BE INTERNALLY PREPARED BY THE DEPARTMENT, IN CONSULTATION WITH A COMMITTEE, ESTABLISHED BY THE DEPARTMENT, COMPOSED OF ETHNICALLY AND GENDER DIVERSE EXAMINATION WRITERS. A MAJORITY OF THE MEMBERS OF SUCH COMMITTEE SHALL BE PERSONS HOLDING PERMANENT COMPETITIVE POSITIONS IN STATE SERVICE.

5. EACH STATE AGENCY AFFIRMATIVE ACTION OFFICER OR STATE AGENCY AFFIRMATIVE ACTION ADMINISTRATOR SHALL APPOINT SUCH NUMBER OF DEPUTY AFFIRMATIVE ACTION OFFICERS OR DEPUTY AFFIRMATIVE ACTION ADMINISTRATORS AS SHALL BE NECESSARY TO ENABLE THE STATE AGENCY AFFIRMATIVE ACTION OFFICER OR STATE AGENCY AFFIRMATIVE ACTION ADMINISTRATOR TO PERFORM HIS OR HER DUTIES PURSUANT TO THIS TITLE. EVERY DEPUTY AFFIRMATIVE ACTION OFFICER AND DEPUTY AFFIRMATIVE ACTION ADMINISTRATOR SHALL REPORT DIRECTLY TO THE STATE AGENCY AFFIRMATIVE ACTION OFFICER OR STATE AGENCY AFFIRMATIVE ACTION ADMINISTRATOR. A DEPUTY AFFIRMATIVE ACTION OFFICER OR DEPUTY AFFIRMATIVE ACTION ADMINISTRATOR SHALL BE PRESENT AT, ACTIVELY ENGAGED IN AND CONSULTED ON THE RECRUITMENT, APPOINTMENT AND PROMOTION OF EMPLOYEES IN CLASSIFIED POSITIONS IN THE STATE AGENCY. SUCH PARTICIPATION IN THE APPOINTMENT AND PROMOTION OF CLASSIFIED EMPLOYEES BY DEPUTY AFFIRMATIVE ACTION OFFICERS AND DEPUTY AFFIRMATIVE ACTION ADMINISTRATORS SHALL INCLUDE THE ACTIVE INVOLVEMENT AND PRESENCE OF SUCH AN OFFICER OR ADMINISTRATOR AT EVERY INTERVIEW, FOLLOW-UP INTERVIEW AND DETERMINATION OF THE PERSON TO BE APPOINTED OR PROMOTED TO A CLASSIFIED POSITION OF STATE SERVICE IN THE AGENCY.

S 2. This act shall take effect on the ninetieth day after it shall have become a law; provided, that subdivision 4 of section 12-a of the civil service law, as added by section one of this act, shall take effect on the one hundred eightieth day after it shall have become a law; provided, further, that any act or acts necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.