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

10738

I N A S S E M B L Y

June 15, 2016

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Abbate, Woerner) -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, in relation to term appointments to temporary positions in information technology

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 66 to read as follows:

S 66. TERM APPOINTMENTS IN INFORMATION TECHNOLOGY. 1. THE DEPARTMENT MAY AUTHORIZE A TERM APPOINTMENT WITHOUT EXAMINATION TO A TEMPORARY POSITION REQUIRING SPECIAL EXPERTISE OR QUALIFICATIONS IN INFORMATION TECHNOLOGY. SUCH APPOINTMENTS SHALL BE AUTHORIZED ONLY IN A CASE WHERE THE APPOINTING AUTHORITY CERTIFIES TO THE DEPARTMENT THAT BECAUSE OF THE TYPE OF SERVICES TO BE RENDERED, OR THE TEMPORARY OR OCCASIONAL CHARACTER OF SUCH SERVICES, IT WOULD NOT BE PRACTICABLE TO HOLD AN EXAMINATION OF ANY KIND. SUCH CERTIFICATION SHALL BE A PUBLIC DOCUMENT PURSUANT TO THE PUBLIC OFFICERS LAW AND SHALL IDENTIFY THE SPECIAL EXPERTISE OR QUALIFICATIONS THAT ARE REQUIRED AND WHY THEY CANNOT BE OBTAINED THROUGH AN APPOINTMENT FROM AN ELIGIBLE LIST. THE DEPARTMENT SHALL REVIEW THE CERTIFICATION TO CONFIRM THAT THE SPECIAL EXPERTISE OR QUALIFICATIONS IDENTIFIED BY THE OFFICE OF INFORMATION TECHNOLOGY SERVICES CANNOT BE OBTAINED THROUGH AN APPOINTMENT FROM AN ELIGIBLE LIST. THE MAXIMUM PERIOD FOR SUCH INITIAL TERM APPOINTMENT ESTABLISHED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED SIXTY MONTHS AND, OTHER THAN AS SET FORTH IN SUBDIVISION TWO OF THIS SECTION, SHALL NOT BE EXTENDED, AND THE MAXIMUM NUMBER OF SUCH APPOINTMENTS SHALL NOT EXCEED FIVE HUNDRED.

2. AT LEAST FIFTEEN DAYS PRIOR TO MAKING A TERM APPOINTMENT PURSUANT TO THIS SECTION, THE APPOINTING AUTHORITY SHALL PUBLICLY AND CONSPICUOUSLY POST IN ITS OFFICES INFORMATION ABOUT THE TEMPORARY POSITION AND THE REQUIRED QUALIFICATIONS AND SHALL ALLOW ANY QUALIFIED EMPLOYEE TO APPLY FOR THE POSITION. IN THE EVENT THAT A PERMANENT COMPETITIVE EMPLOYEE IS QUALIFIED FOR THE POSTED POSITION, THE APPOINTMENT OF SUCH EMPLOYEE SHALL TAKE PRECEDENCE OVER THE APPOINTMENT OF ANY TERM POSITION

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

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PURSUANT TO THIS SECTION. AN EMPLOYEE APPOINTED PURSUANT TO THIS SECTION WHO HAS COMPLETED TWO YEARS OF CONTINUOUS SERVICE UNDER THIS SECTION SHALL BE ELIGIBLE TO COMPETE IN PROMOTIONAL EXAMINATIONS THAT ARE ALSO OPEN TO OTHER EMPLOYEES WHO HAVE PERMANENT CIVIL SERVICE APPOINTMENTS AND APPROPRIATE QUALIFICATIONS. IN THE EVENT THAT THE DEPARTMENT FAILS TO CERTIFY A PROMOTIONAL LIST FOR AN EXAMINATION IN WHICH THE APPOINTEE HAS COMPETED WITHIN THE INITIAL SIXTY MONTH TERM APPOINTMENT, SUCH APPOINTMENT MAY BE EXTENDED BY THE DEPARTMENT, UPON CERTIFICATION OF THE APPOINTING AUTHORITY, FOR PERIODS OF UP TO THIRTY-SIX MONTHS UNTIL SUCH TIME AS A PROMOTIONAL LIST RESULTING FROM THE EXAMINATION IN WHICH THE EMPLOYEE COMPETED, IS CERTIFIED.

3. A TEMPORARY POSITION ESTABLISHED PURSUANT TO THIS SECTION MAY BE ABOLISHED FOR REASONS OF ECONOMY, CONSOLIDATION OR ABOLITION OF FUNCTIONS, CURTAILMENT OF ACTIVITIES OR OTHERWISE. UPON SUCH ABOLITION OR AT THE END OF THE TERM OF THE APPOINTMENT, THE PROVISIONS OF SECTIONS SEVENTY-EIGHT, SEVENTY-NINE, EIGHTY AND EIGHTY-ONE OF THIS CHAPTER SHALL NOT APPLY. IN THE EVENT OF A REDUCTION OF WORKFORCE PURSUANT TO SECTION EIGHTY OF THIS CHAPTER AFFECTING INFORMATION TECHNOLOGY POSITIONS, THE TERM APPOINTMENTS PURSUANT TO THIS SECTION SHALL BE ABOLISHED PRIOR TO THE ABOLITION OF PERMANENT COMPETITIVE CLASS INFORMATION TECHNOLOGY POSITIONS AT SUCH AGENCY INVOLVING COMPARABLE SKILLS AND RESPONSIBILITIES.

S 2. Notwithstanding any provision of law to the contrary, the department of civil service may limit certification from the eligible lists associated with the following titles to those eligibles identified as having knowledge, skills or certifications, or any combination thereof, identified by the appointing authority as necessary to perform the duties of certain positions:

Information Technology Specialist 4	G-25
Information Technology Specialist 4 (Data Communications)	G-25
Information Technology Specialist 4 (Systems Programming)	G-25
Manager Information Technology Services 1	G-27
Manager Information Technology Services 1 (Data Communications)	G-27
Manager Information Technology Services 1 (Database)	G-27
Manager Information Technology Services 1 (Systems Programming)	G-27
Manager Information Technology Services 2	G-29
Manager Information Technology Services (Technical)	G-29

S 3. Subdivision 1 of section 135 of the civil service law is amended by adding a new paragraph (e) to read as follows:

(E) EMPLOYEES OF THE OFFICE OF INFORMATION TECHNOLOGY SERVICES WHO HOLD TECHNICAL POSITIONS IN THE CLASSIFIED SERVICE SHALL, SUBJECT TO AUTHORIZATION OF THE DIRECTOR OF THE CLASSIFICATION AND COMPENSATION DIVISION OF THE DEPARTMENT, BE ENTITLED TO A LUMP SUM PAYMENT CALCULATED BY MULTIPLYING SUCH EMPLOYEE'S ANNUAL SALARY BY TWO PERCENT, NOTWITHSTANDING THEIR CURRENT SALARY, TO BE MADE UPON COMPLETION OF A COURSE OF STUDY AS APPROVED BY THE OFFICE OF INFORMATION TECHNOLOGY SERVICES.

(I) THE OFFICE OF INFORMATION TECHNOLOGY SERVICES SHALL POST CONSPICUOUSLY IN ALL OFFICES IN WHICH SUCH ELIGIBLE TECHNICAL EMPLOYEES ARE LOCATED, AND ON BOTH THE PUBLIC AND EMPLOYEE-ONLY ACCESS WEBSITES, THOSE APPROVED COURSES OF STUDY FOR WHICH A LUMP SUM PAYMENT MAY BE AWARDED. SUCH COURSES OF STUDY SHALL BE RECERTIFIED EVERY TWELVE MONTHS BEGINNING APRIL FIRST IN THE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS PARAGRAPH, AND EVERY TWELVE MONTHS THEREAFTER. SUCH COURSES OF STUDY SHALL INCLUDE, BUT NOT BE LIMITED TO, CYBER SECURITY, TECHNOLOGIES STRATEGIC FOR THE OFFICE OF INFORMATION TECHNOLOGY SERVICES, AND ANY OTHER SUBJECT MATTER SUCH OFFICE DEEMS APPROPRIATE, AND SHALL, BE CONDUCTED BY AN APPROVED

AND ACCREDITED INSTITUTION OF LEARNING. THE OFFICE OF INFORMATION TECHNOLOGY SHALL PAY FOR THE COURSE OF STUDY, COSTS ASSOCIATED WITH THE COURSE OF STUDY AND THE REASONABLE AND NECESSARY TRAVEL EXPENSES ASSOCIATED WITH AN EMPLOYEE'S ATTENDANCE OF SUCH COURSE OF STUDY.

(II) NO PROVISION OF THIS PARAGRAPH SHALL BE CONSTRUED TO CREATE AN OBLIGATION ON THE PART OF THE OFFICE OF INFORMATION TECHNOLOGY SERVICES TO APPROVE ANY PARTICULAR COURSE OF STUDY OR TO PREVENT SUCH OFFICE TO ACT IN A MANNER THE OFFICE REASONABLY BELIEVES TO BE IN THE BEST INTEREST OF THE STATE. ALL EMPLOYEES SEEKING TO PARTICIPATE IN THIS PROGRAM MUST FIRST RECEIVE APPROVAL FROM THE OFFICE OF INFORMATION TECHNOLOGY SERVICES IN A MANNER TO BE DETERMINED, AND IN NO EVENT SHALL BE ELIGIBLE TO RECEIVE A LUMP SUM PAYMENT MORE FREQUENTLY THAN ONCE EVERY TWENTY-FOUR MONTH PERIOD COMMENCING UPON COMPLETION OF ANY PRIOR APPROVED COURSE OF STUDY, AND NO MORE THAN FIVE TIMES IN TOTAL DURING THE COURSE OF EMPLOYMENT WITH THE OFFICE OF INFORMATION TECHNOLOGY SERVICES IN ANY PARTICULAR TITLE. NO LUMP SUM PAYMENT SHALL BE CERTIFIED FOR PAYMENT BY THE OFFICE OF INFORMATION TECHNOLOGY SERVICES, THROUGH THE THEN APPROPRIATE MECHANISM, AND NO EMPLOYEE SHALL BE ENTITLED TO ANY LUMP SUM PAYMENT, WITHOUT RECEIPT OF AN ACCEPTABLE CERTIFICATION, LICENSE, DIPLOMA OR OTHER LIKE DOCUMENT FROM THE APPROVED AND ACCREDITED PROVIDER OF THE APPROVED COURSE OF STUDY REPRESENTING SATISFACTORY COMPLETION OF SUCH COURSE OF STUDY BY THE EMPLOYEE.

(III) ANY ADDITIONAL COMPENSATION AFFORDED AN EMPLOYEE PURSUANT TO THIS PARAGRAPH SHALL BE IN ADDITION TO AND SHALL NOT BE PART OF THE EMPLOYEE'S BASIC ANNUAL SALARY, AND SHALL NOT AFFECT OR IMPAIR ANY PERFORMANCE ADVANCEMENT PAYMENTS, PERFORMANCE AWARDS, LONGEVITY PAYMENTS, SALARY DIFFERENTIALS OR OTHER RIGHTS OR BENEFITS TO WHICH AN EMPLOYEE MAY BE ENTITLED UNDER ANY PROVISION OF LAW.

S 4. This act shall take effect immediately.