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

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I N A S S E M B L Y

March 22, 2016

Introduced by M. of A. RYAN -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to coverage for members of the worker cooperative; to amend the state finance law and the education law, in relation to employee owned enterprises; to amend the cooperative corporations law, in relation to creating an advisory panel on the viability of increasing employee-owned enterprises; and to amend the tax law, in relation to a capital gains exemption

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

Section 1. Section 54 of the workers' compensation law is amended by adding a new subdivision 9 to read as follows:

9. A. ALL MEMBERS, DIRECTORS AND EXECUTIVE OFFICERS OF A WORKER COOPERATIVE AS DEFINED IN ARTICLE FIVE-A OF THE COOPERATIVE CORPORATION LAW SHALL BE EXCLUDED FROM THE COVERAGE OF THIS CHAPTER UNLESS ANY ONE OR MORE OF THE MEMBERS, DIRECTORS OR EXECUTIVE OFFICERS ELECT OR ELECTS TO BE COVERED. SUCH COVERAGE MAY BE EFFECTED BY OBTAINING AN INSURANCE POLICY OR, IN THE CASE OF SELF-INSURANCE, BY THE COOPERATIVE SUBMITTING A FORM PRESCRIBED BY THE CHAIR OF THE WORKERS' COMPENSATION BOARD, GIVING NOTICE THAT THE COOPERATIVE ELECTS TO BRING ONE OR MORE OF THE MEMBERS, DIRECTORS OR EXECUTIVE OFFICERS OF SUCH COOPERATIVE NAMED IN THE NOTICE WITHIN THE COVERAGE OF THIS CHAPTER. IF ANY MEMBER, DIRECTOR OR EXECUTIVE OFFICER DOES ELECT TO BE COVERED BY THE PROVISIONS OF THIS CHAPTER, ANY PREMIUM FOR SUCH MEMBER, DIRECTOR OR EXECUTIVE OFFICER SHALL BE CALCULATED BASED UPON ACTUAL WEEKLY WAGES EARNED BY THE MEMBER, DIRECTOR OR EXECUTIVE OFFICER AND ANY MINIMUM WEEKLY REMUNERATION FOR EXECUTIVE OFFICERS OR OTHER MINIMUM AMOUNTS SHALL NOT APPLY.

B. THE MEMBERS, DIRECTORS AND EXECUTIVE OFFICERS OF A WORKER COOPERATIVE BROUGHT WITHIN THE COVERAGE OF THE INSURANCE CONTRACT, AND THE DEPENDENTS OF ANY SUCH MEMBER, DIRECTOR OR EXECUTIVE OFFICER SHALL HAVE THE SAME RIGHTS AND REMEDIES AS AN EMPLOYEE OR HIS DEPENDENTS AND SHALL BE ENTITLED TO COMPENSATION AND MEDICAL CARE AS PROVIDED BY THIS CHAPTER

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

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AND THE INSURANCE CARRIER SHALL BE LIABLE THEREFOR AND FOR PAYMENTS INTO SPECIAL FUNDS PROVIDED IN THIS CHAPTER AS IN THE CASE OF AN EMPLOYEE.

S 2. Paragraph j of subdivision 1 of section 163 of the state finance law, as amended by chapter 569 of the laws of 2015, is amended to read as follows:

j. "Best value" means the basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offerers that are small businesses, certified minority- or women-owned business enterprises as defined in subdivisions one, seven, fifteen and twenty of section three hundred ten of the executive law or service-disabled veteran-owned business enterprises as defined in subdivision one of section three hundred sixty-nine-h of the executive law, OR EMPLOYEE-OWNED ENTERPRISES AS DEFINED BY SUBDIVISION FIVE OF SECTION EIGHTEEN HUNDRED THIRTY-SIX-B OF THE PUBLIC AUTHORITIES LAW to be used in evaluation of offers for awarding of contracts for services.

S 3. Paragraph (a) of subdivision 4 of section 3032 of the education law, as amended by chapter 683 of the laws of 1986, is amended to read as follows:

(a) Employer specific skill training grant programs shall be designed to support, supplement and contribute to the expansion and maintenance of the economy of the state. Local education agencies shall apply to the commissioner for grants for conducting employer specific skill training programs. Application for funds by local education agencies for training programs shall be in a manner consistent with the application process for business and industry specific training programs under the vocational education act of 1963 and the job training partnership act; the sum of such grants per region shall not exceed the total funds allocated or reallocated to the region for such purposes. Such programs shall provide retraining and upgrading to existing or potential personnel in order to improve technology, quality control, production efficiency, or to adapt to other changes in the labor market, or to provide unique training programs to meet the emerging needs and occupations of the state's business and industry or providing training to individuals to promote the successful management and/or operation of [a business purchased by such individuals to provide for their continued employment through the formation of a worker owned cooperative or an employee stock ownership plan] EMPLOYEE-OWNED ENTERPRISES, AS DEFINED BY SUBDIVISION FIVE OF SECTION EIGHTEEN HUNDRED THIRTY-SIX-B OF THE PUBLIC AUTHORITIES LAW, BY SUCH EMPLOYEES. No grant shall exceed fifty per centum of the total program cost. Eligible program cost may include employer wages paid to the employee for time spent in the training program. Applications for a grant by local education agencies shall be in a form prescribed by the commissioner.

S 4. The cooperative corporations law is amended by adding a new section 95 to read as follows:

S 95. ADVISORY PANEL ON VIABILITY OF INCREASING EMPLOYEE-OWNED ENTERPRISES. 1. AN ADVISORY PANEL IS HEREBY CREATED UNDER THE DEPARTMENT OF LABOR TO INVESTIGATE HOW THE NUMBER OF WORKER COOPERATIVES AND EMPLOYEE STOCK OWNERSHIP PLANS CAN BE INCREASED TO HELP KEEP LOCAL JOBS WITHIN THE STATE. THE ADVISORY PANEL SHALL ALSO STUDY THE POSSIBILITY OF FUNDING A STATE CENTER FOR DEMOCRATIC EMPLOYEE OWNERSHIP THROUGH SECTION ONE HUNDRED FOUR-A OF THE ECONOMIC DEVELOPMENT LAW, TO PROMOTE EMPLOYEE-OWNED BUSINESSES, PROVIDE ASSISTANCE TO NEW COMPANIES, FACILI-

TATE TRANSFERS FROM RETIRING BUSINESS OWNERS TO NEW EMPLOYEE-OWNED ENTERPRISES, AS DEFINED BY SUBDIVISION FIVE OF SECTION EIGHTEEN HUNDRED THIRTY-SIX-B OF THE PUBLIC AUTHORITIES LAW, AND PROVIDE TRAINING TO EMPLOYEES OF WORKER COOPERATIVES AND EMPLOYEE STOCK OWNERSHIP PLANS.

2. SUCH ADVISORY PANEL SHALL BE APPOINTED BY THE COMMISSIONER OF LABOR AND SUCH COMMISSIONER SHALL ESTABLISHED THE NUMBER AND COMPOSITION OF INDIVIDUALS TO SERVE ON SUCH ADVISORY PANEL.

3. SUCH PANEL MEMBERS SHALL SERVE WITHOUT COMPENSATION EXCEPT THAT SUCH MEMBERS SHALL BE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN SUCH SERVICE.

4. THE ADVISORY PANEL SHALL MAKE AN ANNUAL UPDATE AND RECOMMENDATIONS TO THE SPEAKER OF THE ASSEMBLY, TEMPORARY PRESIDENT OF THE SENATE AND THE GOVERNOR REGARDING THE FINDINGS OF SUCH INVESTIGATION AND STUDY DESCRIBED IN SUBDIVISION ONE OF THIS SECTION.

S 5. Subsection (c) of section 612 of the tax law is amended by adding a new paragraph 44 to read as follows:

(44) FIFTY-PERCENT OF THE CAPITAL GAINS FROM THE SALE OF STOCK FROM A NEW YORK CORPORATION TO AN EMPLOYEE-OWNED ENTERPRISE, AS DEFINED BY SUBDIVISION FIVE OF SECTION EIGHTEEN HUNDRED THIRTY-SIX-B OF THE PUBLIC AUTHORITIES LAW. IN ORDER TO QUALIFY FOR SUCH MODIFICATION AS DESCRIBED IN THIS PARAGRAPH, SUCH EMPLOYEE-OWNED ENTERPRISE MUST HAVE ITS COMMERCIAL DOMICILE IN NEW YORK. IF THE EMPLOYEE-OWNED ENTERPRISE IS AN "EMPLOYEE STOCK OWNERSHIP PLAN," IT MUST COMPLY WITH FEDERAL REQUIREMENTS AS SUCH PLAN AS DEFINED IN 26 U.S.C. S 4975(E)(7).

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