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

April 12, 2016

Introduced by M. of A. GALEF -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, in relation to enacting the "public employee free speech act"; and to repeal certain provisions of such law relating thereto

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

Section 1. This act shall be known and may be cited as the "public employee free speech act".

S 2. Subdivision 2 of section 75-b of the civil service law is REPEALED and a new subdivision 2 is added to read as follows:

2.(A) A PUBLIC EMPLOYER SHALL NOT DISMISS, SUSPEND, DEMOTE, PENALIZE OR DISCRIMINATE AGAINST, OR TAKE OTHER DISCIPLINARY OR RETALIATORY PERSONNEL ACTION AGAINST A PUBLIC EMPLOYEE BECAUSE SUCH EMPLOYEE:

(I) DISCLOSES OR EXPRESSES THE INTENT TO DISCLOSE ANY INFORMATION WHICH THE EMPLOYEE IN GOOD FAITH REASONABLY BELIEVES TO BE TRUE AND IS NOT OTHERWISE PROTECTED FROM DISCLOSURE BY STATUTE; OR

(II) OBJECTS TO, OR REFUSES TO PARTICIPATE IN, ANY ACTION WHICH THE EMPLOYEE IN GOOD FAITH REASONABLY BELIEVES TO BE IN VIOLATION OF LAW, RULE OR REGULATION, OR IN VIOLATION OF THE PUBLIC EMPLOYEE'S RESPONSIBILITY TO PROVIDE HONEST SERVICES TO THE PEOPLE OF THE STATE OF NEW YORK.

(B) FOR THE PURPOSES OF THIS SECTION "LAW, RULE OR REGULATION" SHALL MEAN:

(I) ANY DULY ENACTED FEDERAL, STATE OR LOCAL STATUTE OR ORDINANCE;

(II) ANY RULE OR REGULATION PROMULGATED PURSUANT TO ANY SUCH STATUTE OR ORDINANCE; OR

(III) ANY JUDICIAL OR ADMINISTRATIVE DECISION, RULING OR ORDER.

(C) FOR THE PURPOSES OF THIS SECTION "RETALIATORY PERSONNEL ACTION" MEANS THE DISCHARGE, SUSPENSION, DEMOTION, PENALIZATION, REASSIGNMENT OR OTHER ADVERSE PERSONNEL ACTION TAKEN AGAINST AN EMPLOYEE.

(D) THE KNOWING VIOLATION OF THE PROHIBITIONS IN PARAGRAPH (A) OF THIS SUBDIVISION BY ANY PUBLIC EMPLOYER SHALL BE CAUSE FOR THE REMOVAL FROM

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

LBD14487-01-6

OFFICE OR EMPLOYMENT OF THOSE OFFICERS OR EMPLOYEES RESPONSIBLE FOR SUCH VIOLATION.

S 3. Paragraph (c) of subdivision 3 of section 75-b of the civil service law, as added by chapter 660 of the laws of 1984, is amended to read as follows:

(c) [Where] IN ADDITION TO OR IN LIEU OF THE PROCEDURE SET FORTH IN PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION, OR WHERE an employee is not subject to any of the provisions of [paragraph (a) or (b) of this subdivision] SUCH PARAGRAPHS, the employee may commence an action in a court of competent jurisdiction under the same terms and conditions AND FOR THE SAME RELIEF as set forth in article twenty-C of the labor law.

S 4. Section 75-b of the civil service law is amended by adding a new subdivision 5 to read as follows:

5. EVERY PUBLIC EMPLOYER SHALL INFORM EMPLOYEES OF THEIR PROTECTIONS, RIGHTS AND OBLIGATIONS UNDER THIS SECTION, BY POSTING A NOTICE THEREOF. SUCH NOTICES SHALL BE POSTED CONSPICUOUSLY IN EASILY ACCESSIBLE AND WELL-LIGHTED PLACES CUSTOMARILY FREQUENTED BY EMPLOYEES AND APPLICANTS FOR EMPLOYMENT.

S 5. This act shall take effect on the ninetieth day after it shall have become a law.