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

7145

I N S E N A T E

March 31, 2016

Introduced by Sen. DIAZ -- 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 implementing equal employment opportunity and affirmative action for classified civil service positions in the service of the state

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 EQUAL EMPLOYMENT OPPORTUNITY

SECTION 12. STATEMENT OF POLICY.

12-A. DEFINITIONS.

12-B. EQUAL EMPLOYMENT OPPORTUNITY; DUTIES OF PRESIDENT.

12-C. EXECUTIVE COMMITTEE FOR AFFIRMATIVE ACTION.

12-D. DEVELOPMENT AND IMPLEMENTATION OF AFFIRMATIVE ACTION PROGRAMS.

12-E. AFFIRMATIVE ACTION ADVISORY COUNCIL.

S 12. STATEMENT OF POLICY. IT SHALL BE THE POLICY OF THIS STATE THAT EQUAL EMPLOYMENT OPPORTUNITY BE AFFORDED TO ALL PERSONS IN AND SEEKING TO ENTER STATE SERVICE, AND THAT AFFIRMATIVE ACTION BE PROVIDED IN THE ADMINISTRATION OF THIS CHAPTER, IN ACCORDANCE WITH THE REQUIREMENTS OF THE HUMAN RIGHTS LAW (ARTICLE FIFTEEN OF THE EXECUTIVE LAW) AND THE MANDATES OF TITLE VII OF THE FEDERAL CIVIL RIGHTS ACT. ACCORDINGLY, IT SHALL BE THE RESPONSIBILITY OF THE DEPARTMENT TO ENFORCE THE STATE'S POLICY OF ENSURING FULL AND EQUAL EMPLOYMENT FOR MINORITIES, WOMEN, PERSONS WITH DISABILITIES AND VETERANS AT ALL CLASSIFIED POSITIONS OF STATE SERVICE.

S 12-A. DEFINITIONS. FOR THE PURPOSES OF THIS TITLE:

1. "ADVISORY COUNCIL" SHALL MEAN THE AFFIRMATIVE ACTION ADVISORY COUNCIL ESTABLISHED BY SECTION TWELVE-E OF THIS TITLE.

2. "EXECUTIVE COMMITTEE" SHALL MEAN THE EXECUTIVE COMMITTEE FOR AFFIRMATIVE ACTION ESTABLISHED BY SECTION TWELVE-C OF THIS TITLE.

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

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3. "STATE AGENCY" SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH TERM BY SUBDIVISION ELEVEN OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW, AND ANY PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION ESTABLISHED PURSUANT TO STATUTE.

4. "VETERAN" SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH TERM PURSUANT TO SUBDIVISION THREE OF SECTION THREE HUNDRED FIFTY OF THE EXECUTIVE LAW.

S 12-B. EQUAL EMPLOYMENT OPPORTUNITY; DUTIES OF PRESIDENT. THE PRESIDENT SHALL:

1. ISSUE RULES AND REGULATIONS FOR THE PREPARATION OF ANNUAL STATE AGENCY AFFIRMATIVE ACTION PLANS, AND ANNUAL STATEWIDE GOALS AND OBJECTIVES FOR THE EMPLOYMENT OF MINORITIES, WOMEN, PERSONS WITH DISABILITIES AND VETERANS. IN ADDITION, THE DEPARTMENT SHALL PROVIDE STAFF AND PERSONNEL FOR THE DEVELOPMENT OF COMPREHENSIVE STATEWIDE AFFIRMATIVE ACTION RULES, REGULATIONS, POLICIES, GOALS, OBJECTIVES AND IMPLEMENTATION STRATEGIES;

2. IN CONSULTATION WITH THE EXECUTIVE COMMITTEE, MONITOR THE IMPLEMENTATION OF THE WRITTEN AFFIRMATIVE ACTION PLANS OF STATE AGENCIES ON A CONTINUING BASIS, INCLUDING THE NEED FOR REVISING OR AMENDING SUCH PLANS, AND REPORT TO THE GOVERNOR AND THE LEGISLATURE ON A QUARTERLY BASIS ON THE PROGRESS OF INCORPORATING ITS RECOMMENDATIONS FOR IMPROVING AND STRENGTHENING SUCH PLANS;

3. UPON HIS OR HER FINDING OF SUBSTANTIAL NONCOMPLIANCE BY A STATE AGENCY WITH THE REQUIREMENTS OF THIS TITLE, NOTIFY SUCH AGENCY OF SUCH FINDING AND PROPOSE A REMEDIAL PLAN OF ACTION. THE STATE AGENCY SHALL, WITHIN THIRTY DAYS OF RECEIPT OF SUCH NOTIFICATION, EITHER ACCEPT THE PRESIDENT'S REMEDIAL PLAN OR SUBMIT AN ALTERNATIVE REMEDIAL PLAN THAT IS ACCEPTABLE TO THE PRESIDENT. IF THE STATE AGENCY FAILS TO COMPLY WITH SUCH REQUIREMENT, THE PRESIDENT MAY ASSUME RESPONSIBILITY FOR THE IMPLEMENTATION OF A REMEDIAL PLAN OF ACTION UNTIL HE OR SHE IS SATISFIED THAT THE STATE AGENCY WILL IMPLEMENT SUCH PLAN;

4. ANNUALLY PREPARE AND SUBMIT TO THE GOVERNOR AND THE LEGISLATURE A REPORT OF THE COMPOSITION OF THE WORKFORCE IN STATE SERVICE FOR EACH STATE AGENCY BY SEX AND ETHNICITY FOR ALL JOB CATEGORIES, SALARY GRADES AND CIVIL SERVICE CLASSIFICATIONS. THE PRESIDENT SHALL ALSO CONDUCT STUDIES TO IDENTIFY AND RESOLVE PROBLEMS IN ELIMINATING UNDERREPRESENTATION AND UNDERUTILIZATION OF MINORITIES, WOMEN, PERSONS WITH DISABILITIES AND VETERANS, AND PROMULGATE, AMEND AND/OR REPEAL ANY RULES AND REGULATIONS NECESSARY TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY FOR MINORITIES, WOMEN, PERSONS WITH DISABILITIES AND VETERANS. FURTHERMORE, THE PRESIDENT SHALL MAKE RECOMMENDATIONS TO THE GOVERNOR AND THE LEGISLATURE RELATING TO THE ADOPTION OR AMENDMENT OF LAWS FOR THE SAME PURPOSE; AND

5. IN CONSULTATION WITH THE EXECUTIVE COMMITTEE, REVIEW EXISTING AND PROPOSED PROCEDURES FOR THE ABOLITION OF POSITIONS AND REDUCTIONS IN THE STATE'S WORKFORCE, AND MAKE RECOMMENDATIONS DESIGNED TO MINIMIZE THE EFFECTS OF SUCH PROCEDURES ON WOMEN, MINORITIES, PERSONS WITH DISABILITIES AND VETERANS.

S 12-C. EXECUTIVE COMMITTEE FOR AFFIRMATIVE ACTION. 1. THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT AN EXECUTIVE COMMITTEE FOR AFFIRMATIVE ACTION. THE EXECUTIVE COMMITTEE SHALL BE COMPOSED OF THE FOLLOWING MEMBERS:

(A) THE PRESIDENT, WHO SHALL BE THE CHAIR OF THE EXECUTIVE COMMITTEE;

(B) THE COMMISSIONER OF HUMAN RIGHTS, WHO SHALL BE THE VICE-CHAIR OF THE EXECUTIVE COMMITTEE;

(C) THE SECRETARY TO THE GOVERNOR;

(D) THE APPOINTMENTS SECRETARY TO THE GOVERNOR;

(E) THE SECRETARY OF STATE;
(F) THE DIRECTOR OF THE BUDGET;
(G) THE COMMISSIONER OF LABOR;
(H) THE DIRECTOR OF EMPLOYEE RELATIONS;
(I) THE DIRECTOR OF THE DIVISION FOR WOMEN;
(J) THE CHAIR OF THE STATE COMMISSION ON QUALITY OF CARE AND ADVOCACY FOR PERSONS WITH DISABILITIES; AND
(K) THE STATE DIRECTOR OF VETERANS' AFFAIRS.

2. THE EXECUTIVE COMMITTEE SHALL ADVISE THE GOVERNOR AND LEGISLATURE, AND ASSIST THE PRESIDENT IN THE FORMULATION AND COORDINATION OF PLANS, POLICIES AND PROGRAMS RELATING TO AFFIRMATIVE ACTION IN STATE AGENCIES AND IN ENSURING EFFECTIVE IMPLEMENTATION OF SUCH POLICIES, PLANS AND PROGRAMS.

3. UPON THE WRITTEN REQUEST OF THE EXECUTIVE COMMITTEE, THE HEAD OF A STATE AGENCY SHALL APPEAR BEFORE SUCH COMMITTEE AND REPORT IN PERSON ON HIS OR HER AGENCY'S AFFIRMATIVE ACTION PROGRAM. THE EXECUTIVE COMMITTEE SHALL SCHEDULE SUCH AN APPEARANCE BY THE HEAD OF EACH STATE AGENCY, AND EACH SUCH HEAD SHALL PROVIDE THE EXECUTIVE COMMITTEE WITH ANY SUCH DATA, INFORMATION AND REPORTS AS SUCH COMMITTEE SHALL REQUEST PRIOR TO THE AGENCY HEAD'S APPEARANCE.

S 12-D. DEVELOPMENT AND IMPLEMENTATION OF AFFIRMATIVE ACTION PROGRAMS. 1. EACH STATE AGENCY SHALL DEVELOP A WRITTEN AFFIRMATIVE ACTION PROGRAM, WHICH SHALL INCLUDE THE DEVELOPMENT OF SPECIFIC GOALS AND TIMETABLES FOR THE PROMPT ACHIEVEMENT OF FULL AND EQUAL EMPLOYMENT OPPORTUNITY FOR MINORITIES, WOMEN, PERSONS WITH DISABILITIES AND VETERANS. EACH PROGRAM SHALL INCLUDE AN ANALYSIS OF PREVIOUS AGENCY ACTION TO INCREASE EMPLOYMENT OPPORTUNITIES FOR THE MEMBERS OF SUCH GROUPS. EVERY PROGRAM SHALL BE SUBMITTED TO THE PRESIDENT ON OR BEFORE JUNE FIRST, TWO THOUSAND SIXTEEN AND EVERY THIRD YEAR THEREAFTER. THE PRESIDENT SHALL REVIEW AND EVALUATE EACH PROGRAM SUBMITTED AND, WHERE NECESSARY, SHALL PROVIDE ASSISTANCE TO STATE AGENCIES IN IMPROVING AND IMPLEMENTING SUCH PROGRAMS.

2. THE HEAD OF EACH STATE AGENCY SHALL DESIGNATE AN EMPLOYEE AS HIS OR HER AGENCY'S FULL-TIME AFFIRMATIVE ACTION OFFICER, AND SHALL REPORT THE NAME OF SUCH AFFIRMATIVE ACTION OFFICER TO THE PRESIDENT AND THE EXECUTIVE COMMITTEE. EVERY AFFIRMATIVE ACTION OFFICER SHALL REPORT DIRECTLY TO THE HEAD OF THE STATE AGENCY WHO APPOINTED HIM OR HER AND SHALL BE PROVIDED BY THE STATE AGENCY WITH SUCH STAFF AS SHALL BE NECESSARY TO PERFORM HIS OR HER DUTIES. THE NUMBER AND LEVEL OF STAFF SHALL BE BASED ON SUCH FACTORS AS AGENCY SIZE, COMPLEXITY, NEED FOR AFFIRMATIVE ACTION AND MONIES APPROPRIATED THEREFOR.

3. ANNUALLY, ON OR BEFORE MARCH FIRST, EACH STATE AGENCY SHALL SUBMIT A REPORT TO THE EXECUTIVE COMMITTEE AND THE PRESIDENT ON AFFIRMATIVE ACTION. EVERY SUCH REPORT SHALL BE IN A FORMAT ESTABLISHED BY THE PRESIDENT AND INCLUDE INFORMATION ON THE AGENCY'S EMPLOYMENT ACTIONS WITH RESPECT TO MINORITIES, WOMEN, PERSONS WITH DISABILITIES AND VETERANS. THE REPORT OF EACH STATE AGENCY SHALL IDENTIFY THAT AGENCY'S ACHIEVEMENTS, DEFICIENCIES, PROPOSED SOLUTIONS TO PROBLEMS, THE NEED FOR EXTERNAL ASSISTANCE AND SUCH OTHER INFORMATION AS MAY BE APPROPRIATE OR REQUESTED.

4. EVERY STATE AGENCY SHALL COOPERATE WITH THE PRESIDENT AND THE EXECUTIVE COMMITTEE TO PROVIDE ANY INFORMATION, DATA AND REPORTS THAT MAY BE REQUESTED FROM TIME TO TIME.

5. THE DIVISION FOR WOMEN, THE DIVISION OF VETERANS' AFFAIRS, THE STATE COMMISSION ON QUALITY OF CARE AND ADVOCACY FOR PERSONS WITH DISABILITIES AND ANY OTHER STATE AGENCY DESIGNATED BY THE GOVERNOR SHALL

ASSIST THE PRESIDENT AND THE OTHER STATE AGENCIES TO COMPLY WITH THE PROVISIONS OF THIS TITLE, BY PROVIDING EXPERTISE AND GUIDANCE IN THEIR AREAS OF SPECIAL SENSITIVITY AND CONCERN.

S 12-E. AFFIRMATIVE ACTION ADVISORY COUNCIL. 1. THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT AN AFFIRMATIVE ACTION ADVISORY COUNCIL. THE MEMBERS OF THE ADVISORY COUNCIL SHALL BE THE STATE AGENCY AFFIRMATIVE ACTION OFFICERS APPOINTED PURSUANT TO SUBDIVISION TWO OF SECTION TWELVE-D OF THIS TITLE. THE MEETINGS AND PROCEEDINGS OF THE ADVISORY COUNCIL SHALL BE CONDUCTED PURSUANT TO BY-LAWS ADOPTED BY ITS MEMBERS, SUBJECT TO THE APPROVAL OF THE PRESIDENT.

2. THE ADVISORY COUNCIL SHALL ADVISE THE PRESIDENT ON ALL EXISTING AND PROPOSED POLICIES, PROCEDURES, PRACTICES AND PROGRAMS RELATING TO OR AFFECTING AFFIRMATIVE ACTION.

3. THE ADVISORY COUNCIL SHALL SUBMIT A QUARTERLY REPORT ON ITS ACTIVITIES TO THE PRESIDENT.

S 2. This act shall take effect immediately.