

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:

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

3 TITLE A-1

4 STATE EQUAL EMPLOYMENT OPPORTUNITY

5 SECTION 12. STATEMENT OF POLICY.

6 12-A. DEFINITIONS.

7 12-B. EQUAL EMPLOYMENT OPPORTUNITY; DUTIES OF PRESIDENT.

8 12-C. EXECUTIVE COMMITTEE FOR AFFIRMATIVE ACTION.

9 12-D. DEVELOPMENT AND IMPLEMENTATION OF AFFIRMATIVE ACTION
10 PROGRAMS.

11 12-E. AFFIRMATIVE ACTION ADVISORY COUNCIL.

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

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

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

25 2. "EXECUTIVE COMMITTEE" SHALL MEAN THE EXECUTIVE COMMITTEE FOR AFFIR-
26 MATIVE 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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1 3. "STATE AGENCY" SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH
2 TERM BY SUBDIVISION ELEVEN OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE
3 LAW, AND ANY PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION ESTABLISHED
4 PURSUANT TO STATUTE.

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

8 S 12-B. EQUAL EMPLOYMENT OPPORTUNITY; DUTIES OF PRESIDENT. THE PRESI-
9 DENT SHALL:

10 1. ISSUE RULES AND REGULATIONS FOR THE PREPARATION OF ANNUAL STATE
11 AGENCY AFFIRMATIVE ACTION PLANS, AND ANNUAL STATEWIDE GOALS AND OBJEC-
12 TIVES FOR THE EMPLOYMENT OF MINORITIES, WOMEN, PERSONS WITH DISABILITIES
13 AND VETERANS. IN ADDITION, THE DEPARTMENT SHALL PROVIDE STAFF AND
14 PERSONNEL FOR THE DEVELOPMENT OF COMPREHENSIVE STATEWIDE AFFIRMATIVE
15 ACTION RULES, REGULATIONS, POLICIES, GOALS, OBJECTIVES AND IMPLEMENTA-
16 TION STRATEGIES;

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

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

32 4. ANNUALLY PREPARE AND SUBMIT TO THE GOVERNOR AND THE LEGISLATURE A
33 REPORT OF THE COMPOSITION OF THE WORKFORCE IN STATE SERVICE FOR EACH
34 STATE AGENCY BY SEX AND ETHNICITY FOR ALL JOB CATEGORIES, SALARY GRADES
35 AND CIVIL SERVICE CLASSIFICATIONS. THE PRESIDENT SHALL ALSO CONDUCT
36 STUDIES TO IDENTIFY AND RESOLVE PROBLEMS IN ELIMINATING UNDERREPRESENTA-
37 TION AND UNDERUTILIZATION OF MINORITIES, WOMEN, PERSONS WITH DISABILI-
38 TIES AND VETERANS, AND PROMULGATE, AMEND AND/OR REPEAL ANY RULES AND
39 REGULATIONS NECESSARY TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY FOR MINORI-
40 TIES, WOMEN, PERSONS WITH DISABILITIES AND VETERANS. FURTHERMORE, THE
41 PRESIDENT SHALL MAKE RECOMMENDATIONS TO THE GOVERNOR AND THE LEGISLATURE
42 RELATING TO THE ADOPTION OR AMENDMENT OF LAWS FOR THE SAME PURPOSE; AND

43 5. IN CONSULTATION WITH THE EXECUTIVE COMMITTEE, REVIEW EXISTING AND
44 PROPOSED PROCEDURES FOR THE ABOLITION OF POSITIONS AND REDUCTIONS IN THE
45 STATE'S WORKFORCE, AND MAKE RECOMMENDATIONS DESIGNED TO MINIMIZE THE
46 EFFECTS OF SUCH PROCEDURES ON WOMEN, MINORITIES, PERSONS WITH DISABILI-
47 TIES AND VETERANS.

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

- 52 (A) THE PRESIDENT, WHO SHALL BE THE CHAIR OF THE EXECUTIVE COMMITTEE;
53 (B) THE COMMISSIONER OF HUMAN RIGHTS, WHO SHALL BE THE VICE-CHAIR OF
54 THE EXECUTIVE COMMITTEE;
55 (C) THE SECRETARY TO THE GOVERNOR;
56 (D) THE APPOINTMENTS SECRETARY TO THE GOVERNOR;

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

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

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

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

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

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

51 4. EVERY STATE AGENCY SHALL COOPERATE WITH THE PRESIDENT AND THE EXEC-
52 UTIVE COMMITTEE TO PROVIDE ANY INFORMATION, DATA AND REPORTS THAT MAY BE
53 REQUESTED FROM TIME TO TIME.

54 5. THE DIVISION FOR WOMEN, THE DIVISION OF VETERANS' AFFAIRS, THE
55 STATE COMMISSION ON QUALITY OF CARE AND ADVOCACY FOR PERSONS WITH DISA-
56 BILITIES AND ANY OTHER STATE AGENCY DESIGNATED BY THE GOVERNOR SHALL

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

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

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

14 3. THE ADVISORY COUNCIL SHALL SUBMIT A QUARTERLY REPORT ON ITS ACTIV-
15 ITIES TO THE PRESIDENT.

16 S 2. This act shall take effect immediately.