

STATE OF NEW YORK

1169

2017-2018 Regular Sessions

IN SENATE

January 6, 2017

Introduced by Sen. CARLUCCI -- 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 retaliation against other jurisdictions which discriminate against hiring New York state residents

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 13 to read as follows:

§ 13. Provisions relating to retaliating against other jurisdictions which discriminate against hiring New York state residents. 1. For the purposes of this section:

a. "Discriminatory jurisdiction" shall mean any state that has laws that discriminate against New York state residents by prohibiting public employers in such state from employing out of state residents.

b. "Primary residence" shall mean where a person spends the majority of his or her non-working time; and which is most clearly the center of his or her domestic life; and which is designated as his or her legal address and legal residence for voting.

c. "Public employers" shall mean the following employers:

(1) the executive, legislative, or judicial branch of this state;

(2) an authority, board, body, agency, commission, or instrumentality of the state including any state college, university, or other higher educational institution, and, to the extent consistent with law, any interstate agency to which the state is a party;

(3) a county, municipality, or other political subdivision of the state or an authority, board, body, agency, district, commission, or instrumentality of the county, municipality, or subdivision;

(4) a school district or an authority, board, body, agency, commission, or instrumentality of the district.

d. "Undue hardship" shall mean an accommodation which requires significant expense and difficulty to obtain, and places an unavoidable burden on the health and wellbeing of the prospective employee and/or their immediate family members.

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

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1 2. The commission shall annually prepare a list of all discriminatory
2 jurisdictions. The commission shall add to or delete from said list any
3 jurisdiction upon changes in such jurisdiction's laws that deem a change
4 in designation. The commission shall deliver a copy of the list by the
5 end of each calendar year to all public employers in the state of New
6 York as defined in this section and detail the effective date of such
7 list.

8 3. Upon the effective date of a list of discriminatory jurisdictions,
9 a public employer shall not hire any person whose primary residence is
10 located in a discriminatory jurisdiction. However, such person shall
11 have one year from the date of hire to change his or her primary resi-
12 dence to a jurisdiction that is not deemed discriminatory by the commis-
13 sion. A person who fails to satisfy the requirements of this section
14 following the one year period from hire shall be deemed unfit to hold
15 such office, employment or position and such public employer shall
16 terminate the employment immediately. The public employer, upon receipt
17 of the list or updated list of all discriminatory jurisdictions, shall
18 revise all relevant hiring standards to account for such changes and
19 disseminate to all necessary authorities.

20 4. The provisions of this section shall not apply to any person who is
21 employed by a public employer in this state on the effective date of the
22 initial list and any subsequent updated list of discriminatory jurisdic-
23 tions by the commission and where such person's primary residence is
24 located in a discriminatory jurisdiction which was on the original list
25 or has been added and was not designated discriminatory on the list from
26 the previous year. The provisions of this section will continue to not
27 apply provided such person continues to hold employment by a public
28 employer in the state without a break in public service of greater than
29 thirty days.

30 5. The provisions of this section may be waived through an application
31 that is approved by the commission. The application must demonstrate
32 the undue hardship created by the provisions of this section and how a
33 waiver would alleviate such hardship. The application must include
34 supporting documentation detailing the undue hardship, provided, the
35 commission may in its discretion request additional information from the
36 person. An application shall be submitted in a manner prescribed by the
37 commission. A determination by the commission must be made in writing no
38 later than ninety days after it was received. The commission may extend
39 the period of review for an additional thirty days if it informs the
40 applicant in writing. If the application is denied, an appeal may be
41 granted at the discretion of the commission. An applicant that was
42 denied may reapply for a waiver no sooner than six months after such
43 denial. A waiver that is granted by the commission shall be valid for a
44 period of one year or until such applicant has been hired by a public
45 employer wherein he or she shall be considered not subject to the
46 provisions of this section as provided in subdivision four of this
47 section. A person may reapply for a waiver upon the expiration of a
48 previously granted waiver.

49 § 2. The civil service commission is authorized to promulgate rules
50 and regulations necessary for the implementation of the provisions of
51 this act on or before its effective date.

52 § 3. This act shall take effect on the first of January next succeed-
53 ing the date on which it shall have become a law.