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2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. L. ROSENTHAL, COLTON, PAULIN, ARROYO, BARRON, CARROLL, STECK, WALKER, RAMOS, ABINANTI, HYNDMAN, JEAN-PIERRE, DICKENS, PEOPLES-STOKES, SEAWRIGHT, RYAN, ORTIZ, DE LA ROSA, FAHY, BENEDETTO, GLICK, PERRY, D'URSO, RAIA, GARBARINO, DINOWITZ, RICHARDSON, OTIS, GOTTFRIED, ROZIC, CUSICK, SIMON, WOERNER, MOSLEY, BUCHWALD, WALLACE, AUBRY, BICHOTTE, QUART, GALEF, STIRPE, LUPARDO, CRESPO, SANTABARBARA, WILLIAMS, M. L. MILLER, WEPRIN, B. MILLER, TAYLOR, NORRIS, DAVILA, EPSTEIN, NIOU, REYES, BURKE, BRAUNSTEIN, FALL, ZEBROWSKI, STERN, SIMOTAS, BRONSON, LIPETRI, REILLY, HUNTER, SMITH, COOK -- Multi-Sponsored by -- M. of A. DenDEKKER, ENGLEBRIGHT, HEVESI, LENTOL, LIFTON, McDONOUGH, RODRIGUEZ, THIELE, WRIGHT -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to enacting the "New York call center jobs act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York call center jobs act".

3 § 2. The labor law is amended by adding a new article 21 to read as
4 follows:

5 ARTICLE 21

6 NEW YORK CALL CENTER JOBS ACT

7 Section 770. Definitions.

8 771. List of relocated call centers.

9 772. Grants, guaranteed loans and tax benefits.

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

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1 773. Procurement contracts.

2 774. State benefits for workers.

3 775. No private right of action.

4 776. Regulations.

5 § 770. Definitions. As used in this article:

6 1. The term "call center" means a facility or other operation whereby
7 employees receive phone calls or other electronic communication for the
8 purpose of providing customer assistance or other service.

9 2. (a) The term "call center employer" means any business entity that
10 employs fifty or more employees, excluding part-time employees; or fifty
11 or more employees that in the aggregate work at least fifteen hundred
12 hours per week, excluding overtime hours, for the purpose of staffing a
13 call center.

14 (b) The term "part-time employee" means an employee who is employed
15 for an average of fewer than twenty hours per week or who has been
16 employed for fewer than six of the twelve months preceding the date on
17 which notice is required under this article.

18 § 771. List of relocated call centers. 1. A call center employer that
19 intends to relocate a call center from New York state to a foreign coun-
20 try or any other state, or reduce call volume handled at call centers in
21 New York state by at least thirty percent, measured as the call volume
22 of the previous calendar month compared to the average monthly call
23 volume of the previous twelve months, and intends to relocate such oper-
24 ations from New York state to a foreign country or any other state,
25 shall notify the commissioner at least one hundred days before such
26 relocation.

27 2. A call center employer that violates subdivision one of this
28 section shall be subject to a civil penalty not to exceed ten thousand
29 dollars for each day of such violation, except that the commissioner may
30 reduce such amount for just cause shown.

31 3. The commissioner shall compile an annual list of all call center
32 employers that relocate or reduce call volume pursuant to subdivision
33 one of this section, and such list shall be made available to the public
34 and shall prominently display a link to the list on the department's
35 website.

36 4. The commissioner shall make the list created pursuant to subdivi-
37 sion three of this section, available to the public and shall prominent-
38 ly display a link to the list on the department's website.

39 § 772. Grants, guaranteed loans and tax benefits. 1. Except as
40 provided in subdivision three of this section and notwithstanding any
41 other provision of law, a call center employer that appears on the list
42 described in section seven hundred seventy-one of this article shall be
43 ineligible for any direct or indirect state grants, state guaranteed
44 loans, tax benefits or other financial governmental support for a period
45 of five years from the date such list is published.

46 2. Except as provided in subdivision three of this section and
47 notwithstanding any other provision of law, a call center employer that
48 appears on the list described in section seven hundred seventy-one of
49 this article shall remit the unamortized value of any grant or guaran-
50 teed loans, or any tax benefits or other governmental support it has
51 previously received in the past five years. The provisions of this
52 subdivision shall apply to grants, loans, tax benefits and financial
53 governmental assistance that is entered into on or after the effective
54 date of this article. Nothing in this subdivision shall be deemed to
55 prevent the call center employer from receiving any grant to provide
56 training or other employment assistance to individuals who are selected

1 as being in particular need of training or other employment assistance
2 due to the transfer or relocation of the call center employer's facility
3 or operating units.

4 3. The commissioner, in consultation with the appropriate agency
5 providing a loan or grant, may waive the requirement provided under
6 subdivision two of this section if the call center employer demonstrates
7 that such requirement would:

8 (a) threaten state or national security;

9 (b) result in substantial job loss in the state of New York; or

10 (c) harm the environment.

11 § 773. Procurement contracts. The head of each state agency shall
12 ensure that all state-business-related contracts for call center and
13 customer service work be performed by state contractors or other agents
14 or subcontractors entirely within the state of New York. State contrac-
15 tors who currently perform such work outside the state of New York shall
16 have two years following the effective date of this article to comply
17 with this section; provided, that if any such contractors which perform
18 work outside this state adds customer service employees who will perform
19 work on such contracts, those new employees shall immediately be
20 employed within the state of New York, except that businesses subject to
21 a contract agreed to prior to the effective date of this article with
22 terms extending beyond a date greater than two years after the effective
23 date of this article shall be subject to the provisions of this subdivi-
24 sion at the next point in which the contract is subject to renewal.

25 § 774. State benefits for workers. No provision of this article shall
26 be construed to permit withholding or denial of payments, compensation,
27 or benefits under any other state law, including but not limited to
28 state unemployment compensation, disability payments or worker retrain-
29 ing or readjustment funds, to workers employed by call center employers
30 that relocate to a foreign country.

31 § 775. No private right of action. Nothing set forth in this article
32 shall be construed as creating, establishing, or authorizing a private
33 cause of action by an aggrieved person against a call center employer
34 who has violated, or is alleged to have violated, any provision of this
35 article.

36 § 776. Regulations. The commissioner shall promulgate such rules and
37 regulations as shall be necessary and proper to effectuate the purposes
38 and provisions of this article.

39 § 3. This act shall take effect on the one hundred eightieth day after
40 it shall have become a law.