

# STATE OF NEW YORK

762

2019-2020 Regular Sessions

## IN ASSEMBLY

January 10, 2019

Introduced by M. of A. L. ROSENTHAL, JAFFEE, PAULIN, GOTTFRIED, GALEF, WEPRIN, HEVESI, ENGLEBRIGHT, CRESPO, STECK, STIRPE, SOLAGES, OTIS, WALKER, COLTON, M. G. MILLER, SEAWRIGHT, NIOU, BLAKE, ORTIZ -- Multi-Sponsored by -- M. of A. BUCHWALD, COOK, DINOWITZ, EPSTEIN, GLICK, LUPARDO, PERRY -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, in relation to implementing a state policy of setting salaries on the basis of equivalent value of work

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

Section 1. Paragraph (c) of subdivision 1 of section 118 of the civil service law, as added by chapter 790 of the laws of 1958, is amended and three new paragraphs (d), (e) and (f) are added to read as follows:

(c) The principle of fair and equal pay for similar work and for equivalent value of work shall be followed in the classification and reclassification and the allocation and reallocation of positions pursuant to this article and all positions having the same title shall be allocated to the same salary grade. Equivalent value of work shall mean titles or position classifications that are equal within the meaning of the Equal Pay Act of 1963, 29 U.S.C. 206(d), or titles or position classifications that are dissimilar but whose requirements are equivalent, when viewed as a composite of skills, effort, responsibility and working conditions. The principle of fair and equal pay for equivalent value of work requires that consideration of sex, race or national origin shall not influence directly or indirectly the establishment of compensation.

(d) It shall not be an unlawful employment practice for an employer to pay different compensation to employees, where such payments are made pursuant to:

(1) a bona fide seniority or merit system;

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

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1 (2) a bona fide system that measures earnings by quantity or quality  
2 of production;

3 (3) a bona fide system based on geographic differentials;

4 (4) any other bona fide factor other than sex, race or national  
5 origin, such as education, training, or experience. Such factor: (A)  
6 shall not be based upon or derived from a sex, race, or national origin  
7 based differential in compensation and (B) shall be job-related with  
8 respect to the position in question and shall be consistent with busi-  
9 ness necessity. Such exception under this paragraph shall not apply when  
10 the employee demonstrates (i) that an employer uses a particular employ-  
11 ment practice that causes a disparate impact on the basis of sex, race,  
12 or national origin, (ii) that an alternative employment practice exists  
13 that would serve the same purpose and not produce such differential, and  
14 (iii) that the employer has refused to adopt such alternative practice.

15 (e) For the purpose of paragraph (d) of this subdivision, "business  
16 necessity" shall be defined as a factor that bears a manifest relation-  
17 ship to the employment in question.

18 (f) Nothing set forth in this section shall be construed to impede,  
19 infringe or diminish the rights and benefits which accrue to employees  
20 through collective bargaining agreements, or otherwise diminish the  
21 integrity of the existing collective bargaining relationship.

22 § 2. The civil service law is amended by adding a new section 119 to  
23 read as follows:

24 § 119. Equivalent value of work; segregated job titles reviewed and  
25 adjusted. 1. The civil service commission shall promulgate regulations  
26 specifying the methodology for determining equivalent value of work  
27 based on skill, effort, responsibility, and working conditions. Any  
28 methodology prescribed by the commission, such as a systematic point  
29 factor job evaluation system, shall ensure that comparison systems do  
30 not ignore or undervalue the worth of jobs where a certain sex, race, or  
31 national origin is disproportionately represented. For the purposes of  
32 this chapter, a segregated title shall constitute any title in which the  
33 total percentage of employees of a particular sex, race or national  
34 origin in the title is equal to or greater than one hundred twenty  
35 percent of the percentage of that sex, race or national origin in the  
36 employ of the state or the political subdivision. The department shall,  
37 upon the request of any local civil service administration, render  
38 service or technical advice and assistance relative to the position  
39 classification and pay equity compensation assessment of offices and  
40 employments under the jurisdiction of such local civil service adminis-  
41 tration pursuant to subdivision one of section twenty-three of this  
42 chapter.

43 2. The president shall, by January first, two thousand twenty-one, and  
44 every five years thereafter, submit to the legislature and the gover-  
45 nor's office of employee relations, a list showing, by negotiating unit  
46 and for management/confidential employees, those segregated titles for  
47 which a disparity exists based on the equivalent value of the work as  
48 that term is defined in paragraph (c) of subdivision one of section one  
49 hundred eighteen of this title. The president shall also submit to the  
50 legislature, the governor's office of employee relations and the divi-  
51 sion of budget along with the list, an estimate of the appropriation  
52 necessary to correct such disparities. When the department creates new  
53 titles or, because of mergers or take-overs, transfers state workforce  
54 from one title to another title, the president shall re-submit such list  
55 of any segregated titles for which a disparity exists based on the  
56 equivalent value of work and shall submit to the legislature, the gover-

1 nor's office of employee relations and the division of budget with such  
2 list an estimate of the appropriation necessary to correct such dispari-  
3 ties.

4 3. By October first, two thousand twenty, and every five years there-  
5 after, all local civil service administrations shall submit to the pres-  
6 ident of the commission a list showing, by negotiating unit and for  
7 management/confidential employees, those segregated titles for which a  
8 disparity exists based on the equivalent value of the work. The presi-  
9 dent of the commission shall compile the lists provided to him or her by  
10 the local civil service administrations and, by January first, two thou-  
11 sand twenty-one, and every five years thereafter, submit to the legisla-  
12 ture and the governor's office of employee relations, a list showing, by  
13 negotiating unit and for management/confidential employees, those segre-  
14 gated titles for which a disparity exists based on the equivalent value  
15 of the work as reported by the local civil service administrations. When  
16 a local civil service administration creates new titles or, because of  
17 mergers or take-overs, transfers workforce from one title to another  
18 title, it shall re-submit to the president of the commission a list of  
19 any segregated titles for which a disparity exists based on the equiv-  
20 alent value of work, who will then submit the list to the legislature.

21 4. Upon the discovery of the existence of segregated titles for which  
22 a disparity exists based on the equivalent value of work, the employer  
23 and the state civil service commission or local civil service adminis-  
24 tration, as applicable, shall correct the disparity.

25 5. An employer who is in violation of paragraph (c) of subdivision one  
26 of section one hundred eighteen of this title, as determined by the  
27 commission, shall not, in order to comply with this section, reduce the  
28 compensation of any employee or reduce the compensation for any posi-  
29 tion.

30 6. Beginning with the budget requests for the first fiscal year  
31 commencing after the effective date of this section, the governor shall  
32 include the appropriation necessary to ensure that compensation for  
33 state employees are set in accordance with section one hundred fifteen  
34 and paragraph (c) of subdivision one of section one hundred eighteen of  
35 this title.

36 § 3. This act shall take effect immediately.