

STATE OF NEW YORK

7311

IN SENATE

January 17, 2020

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the labor law, in relation to 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. Sections 770, 771, 772 and 773 of the labor law, as added
2 by a chapter of the laws of 2019, amending the labor law relating to
3 enacting the "New York call center jobs act", as proposed in legislative
4 bills numbers S. 1826-C and A. 567-C, are amended to read as follows:

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 (c) The term "tax credit" means any of the following tax credits
19 allowed under the tax law: recovery tax credit, tax-free New York area
20 tax elimination credit, minimum wage reimbursement credit, empire state
21 jobs retention program credit, economic transformation and facility
22 redevelopment program tax credit, excelsior jobs program credit, employ-
23 ee training incentive program tax credit, empire state apprenticeship
24 program tax credit, and employment incentive tax credit.

25 § 771. List of relocated call centers. 1. A call center employer that
26 intends to relocate a call center or more than thirty percent of a call
27 center's employees measured as the employment level of the previous
28 calendar month compared to the average employment level at such site

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

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1 over the previous twelve months, from New York state to a foreign coun-
2 try ~~[or any other state, or reduce call volume handled at call centers~~
3 ~~in New York state by at least thirty percent, measured as the call~~
4 ~~volume of the previous calendar month compared to the average monthly~~
5 ~~call volume of the previous twelve months, and intends to relocate such~~
6 ~~operations from New York state to a foreign country or any other state,]~~
7 shall notify the commissioner at least [~~one hundred~~] ninety days before
8 such relocation.

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

13 3. The commissioner shall compile an annual list of all call center
14 employers that relocate [~~or reduce call volume~~] pursuant to subdivision
15 one of this section, and such list shall be made available to the public
16 and shall prominently display a link to the list on the department's
17 website. The commissioner shall provide a copy of such list to the
18 commissioner of taxation and finance.

19 ~~[4. The commissioner shall make the list created pursuant to subdivi-~~
20 ~~sion three of this section, available to the public and shall prominent-~~
21 ~~ly display a link to the list on the department's website.]~~

22 § 772. Grants, guaranteed loans and tax benefits. 1. Except as
23 provided in subdivision [~~three~~] four of this section and notwithstanding
24 any other provision of law, a call center employer that appears on the
25 list described in section seven hundred seventy-one of this article
26 shall be ineligible to enter into any agreements for any [~~direct or~~
27 ~~indirect~~] state grants[, or state guaranteed loans[, ~~tax benefits or~~
28 ~~other financial governmental support~~] for a period of five years from
29 the date such list is published.

30 2. Except as provided in subdivision [~~three~~] four of this section and
31 notwithstanding any other provision of law, a call center employer that
32 appears on the list described in section seven hundred seventy-one of
33 this article shall remit the unamortized value of any state grant or
34 state guaranteed loans[, ~~or any tax benefits or other governmental~~
35 ~~support~~] it has previously received [~~in the past five years. The~~
36 ~~provisions of this subdivision shall apply to grants, loans, tax bene-~~
37 ~~fits and financial governmental assistance that is entered into on or~~
38 ~~after the effective date of this article]~~ for the call center appearing
39 on the list, if the agreement for such grants and loans was entered into
40 after the effective date of this article. Nothing in this subdivision
41 shall be deemed to prevent the call center employer from receiving any
42 grant to provide training or other employment assistance to individuals
43 who are selected as being in particular need of training or other
44 employment assistance due to the transfer or relocation of the call
45 center employer's facility or operating units.

46 3. Except as provided in subdivision four of this section and notwith-
47 standing any other provision of law, a call center employer that appears
48 on the list described in section seven hundred seventy-one of this arti-
49 cle shall not be allowed any tax credit described in subdivision (c) of
50 section seven hundred seventy of this article for the five taxable
51 years, excluding short taxable years, immediately succeeding the taxable
52 year in which the call center first appears on such list, if the agree-
53 ment for such tax credit was entered into after the effective date of
54 this article.

55 4. The commissioner, in consultation with the appropriate agency
56 providing a loan [~~or~~], grant[, or tax credit] may waive the requirement

1 provided under subdivision one, two or three of this section if the call
2 center employer demonstrates that such requirement would:

- 3 (a) threaten state or national security;
4 (b) result in substantial actual or potential job loss in the state of
5 New York; or
6 (c) harm the environment.

7 If the commissioner waives such requirement, such commissioner shall
8 promptly notify the commissioner of taxation and finance of such waiver.

9 § 773. Procurement contracts. The head of each state agency shall use
10 reasonable best efforts to ensure that all state-business-related
11 contracts for call center and customer service work be performed by
12 state contractors or other agents or subcontractors entirely within the
13 state of New York. [~~State contractors who currently perform such work~~
14 ~~outside the state of New York shall have two years following the effec-~~
15 ~~tive date of this article to comply with this section; provided, that if~~
16 ~~any such contractors which perform work outside this state adds customer~~
17 ~~service employees who will perform work on such contracts, those new~~
18 ~~employees shall immediately be employed within the state of New York,~~
19 ~~except that businesses subject to a contract agreed to prior to the~~
20 ~~effective date of this article with terms extending beyond a date great-~~
21 ~~er than two years after the effective date of this article shall be~~
22 ~~subject to the provisions of this subdivision at the next point in which~~
23 ~~the contract is subject to renewal] Presence on the list described in
24 section seven hundred seventy-one of this article shall be considered a
25 negative indication of ability to maintain jobs in the state as part of
26 any vendor responsibility analysis.~~

27 § 2. This act shall take effect on the same date and in the same
28 manner as a chapter of the laws of 2019, amending the labor law relating
29 to enacting the "New York call center jobs act", as proposed in legisla-
30 tive bills numbers S. 1826-C and A. 567-C, takes effect.