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

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

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

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

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

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

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

2. The president shall, by January first, two thousand twenty-one, and every five years thereafter, submit to the legislature and the governor's office of employee relations, a list showing, by negotiating unit and for management/confidential employees, those segregated titles for which a disparity exists based on the equivalent value of the work as that term is defined in paragraph (c) of subdivision one of section one hundred eighteen of this title. The president shall also submit to the legislature, the governor's office of employee relations and the division of budget along with the list, an estimate of the appropriation necessary to correct such disparities. When the department creates new titles or, because of mergers or take-overs, transfers state workforce from one title to another title, the president shall re-submit such list of any segregated titles for which a disparity exists based on the equivalent value of work and shall submit to the legislature, the gover-

nor's office of employee relations and the division of budget with such list an estimate of the appropriation necessary to correct such disparities.

3. By October first, two thousand twenty, and every five years thereafter, all local civil service administrations shall submit to the president of the commission a list showing, by negotiating unit and for management/confidential employees, those segregated titles for which a disparity exists based on the equivalent value of the work. The president of the commission shall compile the lists provided to him or her by the local civil service administrations and, by January first, two thousand twenty-one, and every five years thereafter, submit to the legislature and the governor's office of employee relations, a list showing, by negotiating unit and for management/confidential employees, those segregated titles for which a disparity exists based on the equivalent value of the work as reported by the local civil service administrations. When a local civil service administration creates new titles or, because of mergers or take-overs, transfers workforce from one title to another title, it shall re-submit to the president of the commission a list of any segregated titles for which a disparity exists based on the equivalent value of work, who will then submit the list to the legislature.

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

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

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

§ 3. This act shall take effect immediately.