STATE OF NEW YORK

838--A

Cal. No. 281

2019-2020 Regular Sessions

IN SENATE

January 9, 2019

Introduced by Sens. MONTGOMERY, LIU, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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 based on an examination of the qualifications for and the nature and purpose of the work, organization, and supervisory relationships and basic duties and responsibilities, or titles or position classifications that are dissimilar but whose requirements are equivalent, based on an examination of job qualifications, kind of work performed, the level of responsibility for that work, the skills utilized, the effort required and the 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.**

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

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(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;

(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. This act shall take effect immediately.