

STATE OF NEW YORK

5536--A

Cal. No. 440

2021-2022 Regular Sessions

IN SENATE

March 10, 2021

Introduced by Sens. COMRIE, BAILEY, BIAGGI, BRISPORT, CLEARE, JACKSON, KRUEGER, LIU, MYRIE, RAMOS, SALAZAR, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Cities 1 -- recommitted to the Committee on Cities 1 in accordance with Senate Rule 6, sec. 8 -- 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 administrative code of the city of New York, in relation to enacting the "New York city teleworking expansion 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 city teleworking expansion act".
3 § 2. Legislative findings. The legislature hereby finds and declares
4 that the health and safety of the population living in and around the
5 densely populated New York city metropolitan region is a matter of state
6 concern, as is the economic vitality and the effectiveness of mass tran-
7 sit in that region, all of which are threatened by the amount of traffic
8 congestion inside of, and into, New York city, and the overcrowded
9 buses, subways and railroads within the region. Traffic congestion is
10 particularly harmful to the mass transit bus systems run by the Metro-
11 politan Transportation Authority, creating delays and hindering the
12 growth of essential surface mass transportation systems, and the entire
13 mass transit system suffers from severe overcrowding. The negative
14 impact of traffic congestion in New York city on the health, economy and
15 mass transit systems of the downstate region, as well as the overcrowd-
16 ing of the region's mass transit systems, were established at legisla-
17 tive hearings in the spring of 2007, as well as during the hearings and
18 reports of the legislatively created New York City Traffic Mitigation
19 Commission. During these hearings, it was established that a very large

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

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1 number of New York city employees drive to work both from points within
2 New York city and without, that New York city lacks a working and
3 adequate telecommuting program for its employees, and that an effective
4 telecommuting program would significantly reduce the number of such
5 employees driving to work. Likewise, a telecommuting program for New
6 York city employees would also allow employees who use mass transit to
7 work from home, thereby alleviating the current overcrowding in the
8 region's mass transit systems. Such a program as established by this
9 legislation would address the state's concern that the health, safety,
10 economic vitality and mass transit operations of the downstate region be
11 preserved and protected.

12 § 3. The administrative code of the city of New York is amended by
13 adding a new section 12-141 to read as follows:

14 § 12-141 Teleworking programs. a. As used in this section, the
15 following terms shall have the following meanings:

16 1. "City agency" shall mean a city, county, borough or other office,
17 position, administration, department, division, bureau, board, commis-
18 sion, authority, corporation, public benefit corporation, committee or
19 other agency of government, the expenses of which are paid in whole or
20 in part from the city treasury, and shall include but not be limited to
21 the council, the offices of each elected city official, the board of
22 education, community boards, the health and hospitals corporation, the
23 New York city industrial development agency, the offices of the district
24 attorneys of the counties of Bronx, Kings, New York, Queens and Rich-
25 mond, and of the special narcotics prosecutor, the New York city housing
26 authority, and the New York city housing development corporation.

27 2. "Telework" shall mean to perform normal and regular work functions
28 on a workday that ordinarily would be performed at the agency's princi-
29 pal location at a different location, thereby eliminating or substan-
30 tially reducing the physical commute to and from such agency's principal
31 location. Provided, however, that the different location shall not
32 conflict with the requirements of any applicable New York city residency
33 requirements.

34 b. Each agency shall establish a policy and program to allow employees
35 to perform all or a portion of their duties through teleworking to the
36 maximum extent possible without diminished employee performance. Each
37 agency shall designate a "telework coordinator" to be responsible for
38 overseeing the implementation of teleworking programs. All employee
39 performance standards shall be reduced to writing with clear metrics for
40 employee productivity success and failure via teleworking. Periodic
41 evaluations shall be included in the telework policy and program.
42 Provided, however, that the provisions of this section shall not super-
43 seede an existing telework policy and program that is the result of
44 agreement between an employer and a recognized or certified employee
45 organization, unless such existing telework policy and program provides
46 less protection than provided for under this section. Nothing in the
47 section shall be interpreted as discouraging the use of collective
48 bargaining as the primary tool for developing a telework policy and
49 program.

50 c. Eligibility for teleworking shall be determined by a reasonable
51 assessment of the tasks required by each title or title category, with
52 recognized or certified employee organization input, and applied fairly
53 across the employees within such title or category.

54 d. Nothing in this section shall supersede existing law, regulation,
55 or personnel policies applicable to employees with injuries, illnesses,
56 environmental health conditions, or disabilities or with the reasonable

1 application of employee earned leave time including, but not limited to,
2 sick, compensatory, paid or unpaid family leave, or vacation.
3 § 4. This act shall take effect on the ninetieth day after it shall
4 have become a law.