

# STATE OF NEW YORK

8389--C

Cal. No. 1289

## IN SENATE

February 22, 2022

Introduced by Sens. THOMAS, MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading -- reported favorably from said committee to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the labor law, in relation to certification of employment with public service employers for purposes of the federal public service loan forgiveness program

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

Section 1. The labor law is amended by adding a new article 34 to read as follows:

### ARTICLE 34

#### CERTIFICATION OF PUBLIC SERVICE EMPLOYMENT

##### Section 1000. Definitions.

1001. Hours worked and full-time employment.

1002. Certifying employment.

§ 1000. Definitions. For purposes of this article:

1. "Certifying employment" means either completing the employer sections of the public service loan forgiveness form or sharing data directly with the U.S. department of education that corresponds to the information required for the public service loan forgiveness form.

2. "Employee" means someone who works for a public service employer, regardless of whether the public service employer considers that work to be full-time or part-time, contingent, or contracted.

3. "Full-time" for the purpose of certifying employment only means working at least an average of thirty hours per week or at least an average of thirty hours per week throughout a contractual or employment period of at least eight months in a twelve-month period, such as elementary and secondary school teachers, provided, however, that should

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

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1 the U.S. department of education adopt a lower hourly standard, that  
2 standard shall apply.

3 4. "Public service employer" means any employer designated as a public  
4 service organization or employer by the U.S. department of education for  
5 the purpose of the public service loan forgiveness program. The term  
6 shall include any state, county, city or other local government employ-  
7 er, including any office, department, independent agency, school  
8 district, public college or university system, public library system,  
9 authority, or other body, including the legislature and the judiciary,  
10 as well as any employer that has received designation as a tax-exempt  
11 organization pursuant to section 501(c)(3) of the U.S. Internal Revenue  
12 Code. For the purposes of this article, this term does not include a  
13 federal or tribal nation government organization, agency, or entity.

14 5. "Public service loan forgiveness form" means the form used by the  
15 U.S. department of education to certify an individual's employment at a  
16 public service organization and determine eligibility for the purposes  
17 of the public service loan forgiveness program.

18 6. "Public service loan forgiveness program" means the federal loan  
19 forgiveness program established pursuant to 20 U.S.C. 1087e(m) and  
20 administered pursuant to 34 C.F.R 685.219, as of the effective date of  
21 this article.

22 § 1001. Hours worked and full-time employment. The following shall  
23 apply for the purposes of certifying employment for the purposes of the  
24 public service loan forgiveness program only and shall have no other  
25 applicability for public service employers and their employees.

26 1. For faculty or teacher employees, a public service employer certi-  
27 fying employment after the effective date of this subdivision shall  
28 credit 3.35 hours worked for each hour of lecture or classroom time,  
29 regardless of when the hours were worked, including hours worked prior  
30 to the effective date of this subdivision. This subdivision does not  
31 supersede any greater adjustment factor established by a collective  
32 bargaining agreement or employer policy in recognition of additional  
33 work associated with lecture or classroom time for the purpose of the  
34 public service loan forgiveness program.

35 2. When determining whether an employee is considered "full-time," as  
36 that term is defined in this article, for the purpose of certifying  
37 employment for the public service loan forgiveness program only, a  
38 public service employer shall not treat any adjusted total hours worked  
39 pursuant to subdivision one of this section differently from hours  
40 worked without an adjustment factor.

41 3. For the purpose of certifying employment only, a public service  
42 employer shall consider as "full-time" any employee who satisfies the  
43 definition of "full-time" provided in this article.

44 § 1002. Certifying employment. 1. Should the U.S. department of educa-  
45 tion permit public service employers to certify employment for past or  
46 present individual employees or groups of employees directly with the  
47 U.S. department of education or its agents, notwithstanding other  
48 provisions of law, a public service employer shall be permitted to send  
49 to the U.S. department of education or its agents the information  
50 necessary for employment certification.

51 2. If a public service employer does not directly certify employment  
52 with the U.S. department of education pursuant to subdivision one of  
53 this section, the public service employer shall annually provide notice  
54 of renewal and a copy of the public service loan forgiveness form with  
55 the employer information and employment certification sections of the  
56 form already completed to:

1 a. an employee who requests a public service loan forgiveness form;  
2 b. any current employee for whom the public service employer has  
3 previously certified employment; and  
4 c. an employee who is ending his or her work with the public service  
5 employer.

6 The partially completed form should reflect employment for the prior  
7 calendar year, and may reflect longer periods of employment, as neces-  
8 sary.

9 3. A public service employer shall not unreasonably delay in certify-  
10 ing employment.

11 4. Nothing in this section shall prevent a public service employer  
12 from seeking permission from its employees prior to certifying their  
13 employment.

14 § 2. Severability. If any clause, sentence, paragraph, section or part  
15 of this act shall be adjudged by any court of competent jurisdiction to  
16 be invalid and after exhaustion of all further judicial review, the  
17 judgment shall not affect, impair or invalidate the remainder thereof,  
18 but shall be confined in its operation to the clause, sentence, para-  
19 graph, section or part of this act directly involved in the controversy  
20 in which the judgment shall have been rendered.

21 § 3. This act shall take effect immediately; provided that:

22 a. public service employers shall be required to comply with paragraph  
23 a of subdivision 2 of section 1002 of the labor law as added by section  
24 one of this act no later than sixty days after such effective date; and

25 b. public service employers shall be required to comply with paragraph  
26 b of subdivision 2 of section 1002 of the labor law as added by section  
27 one of this act no later than January 1, 2023.