STATE OF NEW YORK

9523--A

IN ASSEMBLY

March 16, 2022

Introduced by M. of A. EPSTEIN, ENGLEBRIGHT, STECK, SIMON, AUBRY, WALLACE, CLARK, SAYEGH, SILLITTI, DAVILA, BURDICK, REYES, GIBBS, SOLAGES, ABINANTI, CRUZ, THIELE, GLICK, L. ROSENTHAL -- read once and referred to the Committee on Labor -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

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

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

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

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

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

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

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

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

a. an employee who requests a public service loan forgiveness form;

b. any current employee for whom the public service employer has previously certified employment; and

c. an employee who is ending his or her work with the public service employer.

The partially completed form should reflect employment for the prior calendar year, and may reflect longer periods of employment, as necessary.

3. A public service employer shall not unreasonably delay in certifying employment.

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

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

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

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