

# STATE OF NEW YORK

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5536--A

Cal. No. 440

2021-2022 Regular Sessions

## IN SENATE

March 10, 2021

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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.