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:

Section 1. Short title. This act shall be known and may be cited as the "New York city teleworking expansion act".

§ 2. Legislative findings. The legislature hereby finds and declares that the health and safety of the population living in and around the densely populated New York city metropolitan region is a matter of state concern, as is the economic vitality and the effectiveness of mass transit in that region, all of which are threatened by the amount of traffic congestion inside of, and into, New York city, and the overcrowded buses, subways and railroads within the region. Traffic congestion is particularly harmful to the mass transit bus systems run by the Metropolitan Transportation Authority, creating delays and hindering the growth of essential surface mass transportation systems, and the entire mass transit system suffers from severe overcrowding. The negative impact of traffic congestion in New York city on the health, economy and mass transit systems of the downstate region, as well as the overcrowding of the region's mass transit systems, were established at legislative hearings in the spring of 2007, as well as during the hearings and reports of the legislatively created New York City Traffic Mitigation 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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number of New York city employees drive to work both from points within New York city and without, that New York city lacks a working and adequate telecommuting program for its employees, and that an effective telecommuting program would significantly reduce the number of such employees driving to work. Likewise, a telecommuting program for New York city employees would also allow employees who use mass transit to work from home, thereby alleviating the current overcrowding in the region's mass transit systems. Such a program as established by this legislation would address the state's concern that the health, safety, economic vitality and mass transit operations of the downstate region be preserved and protected.

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

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

1. "City agency" shall mean a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation, public benefit corporation, committee or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include but not be limited to the council, the offices of each elected city official, the board of education, community boards, the health and hospitals corporation, the New York city industrial development agency, the offices of the district attorneys of the counties of Bronx, Kings, New York, Queens and Richmond, and of the special narcotics prosecutor, the New York city housing authority, and the New York city housing development corporation.

2. "Telework" shall mean to perform normal and regular work functions on a workday that ordinarily would be performed at the agency's principal location at a different location, thereby eliminating or substantially reducing the physical commute to and from such agency's principal location. Provided, however, that the different location shall not conflict with the requirements of any applicable New York city residency requirements.

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

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

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

application of employee earned leave time including, but not limited to, sick, compensatory, paid or unpaid family leave, or vacation.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law.