

# STATE OF NEW YORK

8389

## IN SENATE

February 22, 2022

Introduced by Sen. THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

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:

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

### ARTICLE 34

#### CERTIFICATION OF PUBLIC SERVICE EMPLOYMENT

##### Section 1000. Definitions.

6 1001. Hours worked and full-time employment.

7 1002. Certifying employment.

8 1003. Tax consequences of cancellation.

9 § 1000. Definitions. For purposes of this article:

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

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

17 3. "Full-time" for the purpose of certifying employment only means  
18 working at least thirty hours per week or at least thirty hours per week  
19 throughout a contractual or employment period of at least eight months  
20 in a twelve-month period, such as elementary and secondary school teach-  
21 ers.

22 4. "Public service employer" means any state, county, city or other  
23 local government employer, including any office, department, independent  
24 agency, school district, public college or university system, public  
25 library system, authority, or other body, including the legislature and  
26 the judiciary. This term shall also mean any employer that has received  
27 designation as a tax-exempt organization pursuant to section 501(c)(3).

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

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1 of the U.S. Internal Revenue Code. This term does not include a federal  
2 or tribal nation government organization, agency, or entity.

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

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

11 § 1001. Hours worked and full-time employment. The following shall  
12 apply for the purposes of certifying employment for the purposes of the  
13 public service loan forgiveness program only and shall have no other  
14 applicability for public service employers and their employees.

15 1. For faculty or teacher employees, a public service employer shall  
16 credit 3.35 hours worked for each hour of lecture or classroom time.  
17 This subdivision does not supersede any greater adjustment factor estab-  
18 lished by a collective bargaining agreement or employer policy in recog-  
19 nition of additional work associated with lecture or classroom time for  
20 the purpose of the public service loan forgiveness program.

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

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

30 § 1002. Certifying employment. 1. Should the U.S. department of educa-  
31 tion permit public service employers to certify employment for past or  
32 present individual employees or groups of employees directly with the  
33 U.S. department of education or its agents, notwithstanding other  
34 provisions of law, a public service employer shall be permitted to send  
35 to the U.S. department of education or its agents the information  
36 necessary for employment certification.

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

43 a. an employee who requests a public service loan forgiveness form;  
44 b. any current employee for whom the public service employer has  
45 previously certified employment; and  
46 c. an employee who is ending his or her work with the public service  
47 employer.

48 The partially completed form should reflect employment for the prior  
49 calendar year, and may reflect longer periods of employment, as neces-  
50 sary.

51 3. A public service employer shall not unreasonably delay in certify-  
52 ing employment.

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

1     § 1003. Tax consequences of cancellation. Notwithstanding any other  
2     provision of law, debt cancellation through the public service loan  
3     forgiveness program shall not be subject to taxation and shall not be  
4     required to be reported on individual income tax returns.

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

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

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