STATE OF NEW YORK

5194--B

2023-2024 Regular Sessions

IN SENATE

February 27, 2023

Introduced by Sens. SKOUFIS, ASHBY -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Veterans, Homeland Security and Military Affairs in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the economic development law, the public officers law, the real property tax law and the military law, in relation to expanding the definition of veteran to include members of the commissioned corps of the national oceanic and atmospheric administration and the United States public health service

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

Section 1. Subdivision 6 of section 210 of the economic development law, as amended by section 33 of part PP of chapter 56 of the laws of 2022, is amended to read as follows:

6. "Veteran" shall mean a [~~person who served in the United States army, navy, air force, marines, coast guard, and/or reserves thereof, and/or in the army national guard, air national guard, New York guard and/or the New York naval militia~~] veteran as defined in section one of the veterans' services law and who (a) has received an honorable or general discharge from such service, or (b) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service.

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

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§ 2. Section 63 of the public officers law, as amended by section 80 of part PP of section 56 of the laws of 2022, is amended to read as follows:

§ 63. Leave of absence for veterans on Memorial day and Veterans' day. It shall be the duty of the head of every public department and of every court of the state of New York, of every superintendent or foreman on the public works of said state, of the county officers of the several counties of said state, of the town officers of the various towns in this state, of the fire district officers of the various fire districts in this state, and of the head of every department, bureau and office in the government of the various cities and villages in this state, and the officers of any public benefit corporation or any public authority of this state, or of any public benefit corporation or public authority of any county or subdivision of this state, to give leave of absence with pay for twenty-four hours on the day prescribed by law as a public holiday for the observance of Memorial day and on the eleventh day of November, known as Veterans' day, to every person in the service of the state, the county, the town, the fire district, the city or village, the public benefit corporation or public authority of this state, or any public benefit corporation or public authority of any county or subdivision of this state, as the case may be, (i) who served on active duty in the armed forces of the United States during world war I or world war II, or who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (a) was discharged or released therefrom under honorable conditions, or (b) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service or who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (d) was discharged or released therefrom under honorable conditions, or (e) has a qualifying

condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (f) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service or during the period of the Korean conflict at any time between the dates of June twenty-seventh, nineteen hundred fifty and January thirty-first, nineteen hundred fifty-five, or during the period of the Vietnam conflict from the first day of November, nineteen hundred fifty-five to the seventh day of May, nineteen hundred seventy-five, or (ii) who served on active duty in the armed forces of the United States and who was a recipient of the armed forces expeditionary medal, navy expeditionary medal or marine corps expeditionary medal for participation in operations in Lebanon from June first, nineteen hundred eighty-three to December first, nineteen hundred eighty-seven, in Grenada from October twenty-third, nineteen hundred eighty-three to November twenty-first, nineteen hundred eighty-three, or in Panama from December twentieth, nineteen hundred eighty-nine to January thirty-first, nineteen hundred ninety, or (iii) who served in the armed forces of a foreign country allied with the United States during world war I or world war II, or during the period of the Korean conflict at any time between June twenty-seventh, nineteen hundred fifty and January thirty-first, nineteen hundred fifty-five, or during the period of the Vietnam conflict from the first day of November, nineteen hundred fifty-five to the seventh day of May, nineteen hundred seventy-five, or during the period of the Persian Gulf conflict from the second day of August, nineteen hundred ninety to the end of such conflict, or who served on active duty in the army or navy or marine corps or air force or coast guard of the United States, and who (a) was honorably discharged or separated from such service under honorable conditions, or (b) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service except where such action would endanger the public safety or the safety or health of persons cared for by the state, in which event such persons shall be entitled to leave of absence with pay on another day in lieu thereof**, or (iv) who served on active duty in the commissioned corps of the national oceanic and atmospheric administration or the United States public health service, and who (a) was honorably discharged or separated from such service under honorable conditions, or (b) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service except where such action would endanger the public safety or the safety or health of persons cared for by the state, in which event such persons shall be entitled to leave of absence with pay on another day in lieu thereof**. All such persons who are compensated on a per diem, hourly, semi-monthly or monthly basis, with or without maintenance, shall also be entitled to leave of absence with pay under the provisions of this section and no deduction in vacation allowance or budgetary allowable number of working days shall be made in lieu thereof. A refusal to give such leave of absence to one entitled thereto shall be neglect of duty.

§ 3. Subdivision 4-a of section 458 of the real property tax law, as amended by section 82 of part PP of chapter 56 of the laws of 2022, is amended to read as follows:

4-a. For the purposes of this section, the term "military or naval services" shall be deemed to also include service: (a) by a person who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the department of defense; (b) service by a United States civilian employed by the American Field Service who served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service; [~~or~~] (c) service by a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates who served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service**; or (d) service by a member of the commissioned corps of the national oceanic and atmospheric administration or the United States public health service and who (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service**.

§ 4. Paragraph (e) of subdivision 1 of section 458-a of the real property tax law, as amended by chapter 611 of the laws of 2023, is amended to read as follows:

(e) "Veteran" means a person (i) who served in the active military, naval, or air service during a period of war, or who was a recipient of the armed forces expeditionary medal, navy expeditionary medal, marine corps expeditionary medal, or global war on terrorism expeditionary medal, and who (1) was discharged or released therefrom under honorable conditions, or (2) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, (ii) who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in ocean-going service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the department of defense, (iii) who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (1) was discharged or released therefrom under honorable conditions, or (2) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, (iv) who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (1) was discharged or released therefrom under honorable conditions, or (2) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, (v) notwithstanding any other provision of law to the contrary, who are members of the reserve components of the armed forces of the United States who (1) received an honorable discharge or release therefrom under honorable conditions, or (2) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section one of the

veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, but are still members of the reserve components of the armed forces of the United States provided that such members meet all other qualifications under the provisions of this section, [~~or~~] (vi) who shall be considered to have been discharged or released from active military service of the United States under honorable conditions if: (1) the individual served in the active military service of the United States for the period of time such individual was obligated to serve at the time of entry into service; (2) the individual was not discharged or released from such service at the time of completing such period of obligation due to an intervening enlistment or reenlistment; (3) the individual would have been eligible for a discharge or release under conditions other than dishonorable at such time except for such intervening enlistment or reenlistment; and (4) the individual served in the active military service of the United States for a period of at least ten years, provided that such individual meets all other qualifications under the provisions of this section**, or (vii) who served as a member of the commissioned corps of the national oceanic and atmospheric administration or the United States public health service and who (1) was discharged or released therefrom under honorable conditions, or (2) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service**.

§ 5. Paragraph (a) of subdivision 1 of section 458-b of the real property tax law, as amended by section 84 of part PP of chapter 56 of the laws of 2022, is amended to read as follows:

(a) "Cold War veteran" means a [~~person, male or female,~~] **veteran as defined in section one of the veterans' services law** who served on active duty in the United States armed forces[~~,~~] during the time period from September second, nineteen hundred forty-five to December twenty-sixth, nineteen hundred ninety-one, and (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service.

§ 6. Paragraph (b) of subdivision 1 of section 243 of the military law, as amended by section 71 of part PP of chapter 56 of the laws of 2022, is amended to read as follows:

(b) The term "military duty" shall mean military service in the military, naval, aviation or marine service of the United States subsequent to July first, nineteen hundred forty, or service under the selective training and service act of nineteen hundred forty, or the national guard and reserve officers mobilization act of nineteen hundred forty, or any other act of congress supplementary or amendatory thereto, or any similar act of congress hereafter enacted and irrespective of the fact that such service was entered upon following a voluntary enlistment therefor or was required under one of the foregoing acts of congress, or service with the United States public health service as a commissioned officer, **or service with the national oceanic and atmospheric administration as a commissioned officer or the United States public health service,** or service with the American Red Cross while with the armed

forces of the United States on foreign service, or service with the special services section of the armed forces of the United States on foreign service, or service in the merchant marine which shall consist of service as an officer or member of the crew on or in connection with a vessel documented under the laws of the United States or a vessel owned by, chartered to, or operated by or for the account or use of the government of the United States, or service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (iv) was discharged or released therefrom under honorable conditions, or (v) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service; or service in police duty on behalf of the United States government in a foreign country, if such person is a police officer, as defined by section 1.20 of the criminal procedure law, and if such police officer obtained the prior consent of his or her public employer to absent himself or herself from his or her position to engage in the performance of such service; or as an enrollee in the United States maritime service on active duty and, to such extent as may be prescribed by or under the laws of the United States, any period awaiting assignment to such service and any period of education or training for such service in any school or institution under the jurisdiction of the United States government, but shall not include temporary

and intermittent gratuitous service in any reserve or auxiliary force. It shall include time spent in reporting for and returning from military duty and shall be deemed to commence when the public employee leaves his or her position and to end when he or she is reinstated to his or her position, provided such reinstatement is within ninety days after the termination of military duty, as hereinafter defined. Notwithstanding the foregoing provisions of this paragraph, the term "military duty" shall not include any of the foregoing services entered upon voluntarily on or after January first, nineteen hundred forty-seven and before June twenty-fifth, nineteen hundred fifty; and, on or after July first, nineteen hundred seventy, the term "military duty" shall not include any voluntary service in excess of four years performed after that date, or the total of any voluntary services, additional or otherwise, in excess of four years performed after that date, shall not exceed five years, if the service in excess of four years is at the request and for the convenience of the federal government, except if such voluntary service is performed during a period of war, or national emergency declared by the president.

§ 7. This act shall take effect immediately on the first of April next succeeding the date on which it shall have become a law.