STATE OF NEW YORK

5623

2025-2026 Regular Sessions

IN SENATE

February 26, 2025

Introduced by Sen. C. RYAN -- 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 unemployment benefits based on employment with certain educational institutions; and to repeal certain provisions of such law relating thereto

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

Section 1. The opening paragraph of subdivision 10 of section 590 of the labor law, as amended by chapter 734 of the laws of 2004, is amended to read as follows:

Benefits based on professional employment with educational institutions, including the state university of New York, the city university of New York and any public community colleges. If a claimant was employed in an instructional, research, or principal administrative capacity by an institution of education, including the state university of New York, the city university of New York and any public community colleges, or performed services in such an institution in such capacity while employed by an educational service agency, the following shall apply to any week commencing during the period between two successive academic years or terms, or during a similar period between two regular but not successive terms when the contract provides therefor instead, provided the claimant has a contract to perform **services**, or there is a reasonable assurance that the claimant will perform **services**, [~~services~~] in such capacity for any such institution or institutions for both of such academic years or such terms, and to any week commencing during an established and customary vacation period or holiday recess, not between such academic terms or years, provided the claimant performed services for such institution immediately before such vacation period or holiday recess and there is a reasonable assurance that the claimant will perform any services described in this subdivision or subdivision eleven

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

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of this section in the period immediately following such vacation period or holiday recess:

§ 2. Subdivision 11 of section 590 of the labor law is REPEALED and a new subdivision 11 is added to read as follows:

11. (a) For purposes of subdivision ten of this section, a "contract to perform services" shall refer only to an enforceable, non-contingent agreement that provides for compensation: for the entire academic year; or on an annual basis, provided, however, that the contract terms describing compensation need not be expressed specifically as an annual salary. A "contract to perform services" must satisfy all of the following conditions:

(1) The educational institution has made a written, oral or implied offer of employment, which must be genuine, to the claimant for either the second academic year or term or for the period following an established or customary vacation period or holiday recess;

(2) Such offer was made by an employee of the educational institution with authority to make such offer;

(3) Such offer is for services in the same capacity as the services the claimant performed for the educational institution in the prior academic year or term or in the period before an established or customary vacation period or holiday recess; and

(4) The wages or salary in such offer are in an amount not less than ninety percent of the amount paid to the claimant during the first academic year or term or during the period before an established or customary vacation period or holiday recess.

(b) For purposes of subdivision ten of this section, a determination that there is a "reasonable assurance" shall require meeting all of the requirements set forth in subparagraphs one through four of paragraph (a) of this subdivision and the following conditions:

(1) Such offer is not contingent on factors within the control of such educational institution including, but not limited to, course programming, allocation of available funding, program modifications, or facility availability; and

(2) Based on the totality of the circumstances, it is highly probable that there is a job available for the claimant in the same capacity during the second academic year or term or during the period following an established or customary vacation period or holiday recess, including, but not limited to, availability of funding, enrollment levels, the claimant's level of seniority, budgeting and assignment practices at the educational institution, the number of offers made in relation to the number of potential assignments, the period of student registration, and any other contingencies in the offer. When considering whether funding shall be available, the following criteria shall be considered: (i) the history of the educational institution's funding, and the likelihood that the educational institution will receive such funding, for a specific course; and (ii) the claimant's likelihood of receiving an assignment.

(c) Reasonable assurance shall be determined on a case-by-case basis by the total weight of evidence rather than the existence of any one factor. Primary weight shall be given to the contingent nature of an offer of employment based on enrollment, funding and program changes; provided, however, that in any unemployment insurance proceeding, a written letter from an educational institution to a claimant which makes employment conditional shall not be prima facie evidence of reasonable assurance to be used to deny a claim for unemployment. The educational institution shall supply specific documentation to support its objection

that it has provided a contract to perform services and/or reasonable assurance. If the educational institution fails to supply such specific documentation, the objection shall be deemed invalid.

(d) (1) The provisions of subdivision ten of this section shall not be interpreted, implemented, or otherwise construed in any way to apply to services in a nonprofessional capacity.

(2) For the purposes of this subdivision and subdivision ten of this section:

(i) "Professional capacity" shall strictly apply to services performed in an instructional, research, or principal administrative capacity with educational institutions, including the state university of New York, the city university of New York and any public community college.

(ii) "Services in a nonprofessional capacity" shall apply to services in any capacity other than a professional capacity and encompasses any services other than an instructional, research, or principal administrative capacity, regardless of the legal or educational requirements to perform such services.

§ 3. This act shall take effect immediately.