

STATE OF NEW YORK

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R. R. 349

IN ASSEMBLY

March 16, 2022

Introduced by M. of A. EPSTEIN, ENGLEBRIGHT, STECK, SIMON, AUBRY, WALLACE, CLARK, SAYEGH, SILLITTI, DAVILA, BURDICK, REYES, GIBBS, SOLAGES, ABINANTI, CRUZ, THIELE, GLICK, L. ROSENTHAL, COLTON, LUNSFORD, OTIS, GOTTFRIED -- read once and referred to the Committee on Labor -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Rules -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading

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:

3 ARTICLE 34

4 CERTIFICATION OF PUBLIC SERVICE EMPLOYMENT

5 Section 1000. Definitions.

6 1001. Hours worked and full-time employment.

7 1002. Certifying employment.

8 § 1000. Definitions. For purposes of this article:

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

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

16 3. "Full-time" for the purpose of certifying employment only means
17 working at least an average of thirty hours per week or at least an
18 average of thirty hours per week throughout a contractual or employment
19 period of at least eight months in a twelve-month period, such as

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

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1 elementary and secondary school teachers, provided, however, that should
2 the U.S. department of education adopt a lower hourly standard, that
3 standard shall apply.

4 4. "Public service employer" means any employer designated as a public
5 service organization or employer by the U.S. department of education for
6 the purpose of the public service loan forgiveness program. The term
7 shall include any state, county, city or other local government employ-
8 er, including any office, department, independent agency, school

9 district, public college or university system, public library system,
10 authority, or other body, including the legislature and the judiciary,
11 as well as any employer that has received designation as a tax-exempt
12 organization pursuant to section 501(c)(3) of the U.S. Internal Revenue
13 Code. For the purposes of this article, this term does not include a
14 federal or tribal nation government organization, agency, or entity.

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

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

23 § 1001. Hours worked and full-time employment. The following shall
24 apply for the purposes of certifying employment for the purposes of the
25 public service loan forgiveness program only and shall have no other
26 applicability for public service employers and their employees.

27 1. For faculty or teacher employees, a public service employer certi-
28 fying employment after the effective date of this subdivision shall
29 credit 3.35 hours worked for each hour of lecture or classroom time,
30 regardless of when the hours were worked, including hours worked prior
31 to the effective date of this subdivision. This subdivision does not
32 supersede any greater adjustment factor established by a collective
33 bargaining agreement or employer policy in recognition of additional
34 work associated with lecture or classroom time for the purpose of the
35 public service loan forgiveness program.

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

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

45 § 1002. Certifying employment. 1. Should the U.S. department of educa-
46 tion permit public service employers to certify employment for past or
47 present individual employees or groups of employees directly with the
48 U.S. department of education or its agents, notwithstanding other
49 provisions of law, a public service employer shall be permitted to send
50 to the U.S. department of education or its agents the information
51 necessary for employment certification.

52 2. If a public service employer does not directly certify employment
53 with the U.S. department of education pursuant to subdivision one of
54 this section, the public service employer shall annually provide notice
55 of renewal and a copy of the public service loan forgiveness form with

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1 the employer information and employment certification sections of the
2 form already completed to:

- 3 a. an employee who requests a public service loan forgiveness form;
- 4 b. any current employee for whom the public service employer has
5 previously certified employment; and
- 6 c. an employee who is ending his or her work with the public service
7 employer.

8 The partially completed form should reflect employment for the prior
9 calendar year, and may reflect longer periods of employment, as neces-
10 sary.

11 3. A public service employer shall not unreasonably delay in certify-
12 ing employment.

13 4. Nothing in this section shall prevent a public service employer
14 from seeking permission from its employees prior to certifying their
15 employment.

16 § 2. Severability. If any clause, sentence, paragraph, section or part
17 of this act shall be adjudged by any court of competent jurisdiction to
18 be invalid and after exhaustion of all further judicial review, the
19 judgment shall not affect, impair or invalidate the remainder thereof,
20 but shall be confined in its operation to the clause, sentence, para-
21 graph, section or part of this act directly involved in the controversy

22 in which the judgment shall have been rendered.

23 § 3. This act shall take effect immediately; provided that:

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

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