S T A T E O F N E W Y O R K

4078

2009-2010 Regular Sessions

I N A S S E M B L Y

January 29, 2009

Introduced by M. of A. THIELE, CALHOUN, ERRIGO -- Multi-Sponsored by -- M. of A. BARRA, BURLING, McDONOUGH, SAYWARD -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to removal of employees of school districts and boards of cooperative educational services upon certain felony convictions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 3020-a of the education law, as amended by chapter 691 of the laws of 1994, is amended to read as follows:

1. Filing of charges. [All] EXCEPT AS PROVIDED IN SECTION THREE THOUSAND TWENTY-B OF THIS ARTICLE, ALL charges against a person enjoying the benefits of tenure as provided in subdivision three of section one thousand one hundred two, and sections two thousand five hundred nine, two thousand five hundred seventy-three, twenty-five hundred ninety-j, three thousand twelve and three thousand fourteen of this chapter shall be in writing and filed with the clerk or secretary of the school district or employing board during the period between the actual opening and closing of the school year for which the employee is normally required to serve. Except as provided in subdivision eight of section two thousand five hundred seventy-three and subdivision seven of section twenty-five hundred ninety-j of this chapter, no charges under this section shall be brought more than three years after the occurrence of the alleged incompetency or misconduct, except when the charge is of misconduct constituting a crime when committed.

S 2. The education law is amended by adding a new section 3020-b to read as follows:

S 3020-B. REMOVAL UPON FELONY CONVICTION. 1. IN THE EVENT THAT CHARGES AGAINST ANY EMPLOYEE OF A SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES ALLEGE THAT SUCH EMPLOYEE IS THE SUBJECT OF A FELONY

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

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CONVICTION, THE SCHOOL DISTRICT BOARD OF EDUCATION OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL IMMEDIATELY EXAMINE ALL INFORMATION NECESSARY TO DETERMINE WHETHER, IN FACT, SUCH EMPLOYEE IS THE SUBJECT OF A FELONY CONVICTION.

2. UPON A DETERMINATION BY THE BOARD THAT THE CHARGE IS SUSTAINED, THE BOARD SHALL DIRECT THE DISTRICT SUPERINTENDENT TO IMMEDIATELY:

A. SUSPEND THE EMPLOYEE WITHOUT COMPENSATION PENDING A FINAL DETERMINATION OF FORMAL DISCIPLINARY PROCEEDINGS, WHERE THE CONVICTION ALLEGED IN THE CHARGE IS FOR A FELONY OFFENSE NOT SET FORTH IN PARAGRAPH B OF THIS SUBDIVISION; OR

B. DISMISS THE EMPLOYEE WHERE THE CONVICTION IS FOR A FELONY OFFENSE SET FORTH IN ARTICLE TWO HUNDRED TWENTY OR TWO HUNDRED TWENTY-ONE OR SECTION 120.10, 120.12, 125.20, 125.25, 125.27, 130.25, 130.30, 130.35, 130.65, 130.70, 135.20, 150.15, 150.20, 160.05, 160.10, 160.15, 263.05, 263.10 OR 263.15 OF THE PENAL LAW OR FOR A SIMILAR FELONY WHERE THE CONVICTION FOR SUCH FELONY WAS RENDERED IN A JURISDICTION OUTSIDE THE STATE; PROVIDED, HOWEVER, THAT SUCH EMPLOYEE MAY APPLY FOR REINSTATEMENT TO THE APPOINTING AUTHORITY UPON REVERSAL OR THE VACATING OF SUCH CONVICTION WHERE THE CONVICTION IS THE SOLE BASIS FOR THE DISMISSAL.

C. IN THE EVENT THAT A TEACHER IS SUSPENDED OR DISMISSED PURSUANT TO PARAGRAPH A OR B OF THIS SUBDIVISION AND HOLDS A CERTIFICATE OF THE COMMISSIONER, THE SUPERINTENDENT SHALL NOTIFY THE COMMISSIONER FORTHWITH OF SUCH SUSPENSION OR DISMISSAL.

S 3. This act shall take effect immediately.