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

4101

2009-2010 Regular Sessions

I N A S S E M B L Y

January 30, 2009

Introduced by M. of A. ABBATE, PHEFFER -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, in relation to binding arbitration for court clerks and uniformed court officers of the unified court system

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

Section 1. Section 209 of the civil service law is amended by adding a new subdivision 6 to read as follows:

6. (A) IN THE EVENT THAT THE BOARD CERTIFIES THAT A VOLUNTARY RESOLUTION OF THE CONTRACT NEGOTIATIONS BETWEEN THE UNIFIED COURT SYSTEM AND THE PUBLIC EMPLOYEE ORGANIZATION CERTIFIED OR RECOGNIZED TO REPRESENT THE NINTH JUDICIAL DISTRICT NEGOTIATING UNIT, NASSAU COUNTY NEGOTIATING UNIT, SUFFOLK COUNTY NEGOTIATING UNIT, NEW YORK CITY SENIOR COURT OFFICERS NEGOTIATING UNIT, NEW YORK CITY COURT REPORTERS NEGOTIATING UNIT, NEW YORK CITY COURT OFFICERS NEGOTIATING UNIT AND NEW YORK CITY COURT CLERKS NEGOTIATING UNIT SUCH BOARD SHALL REFER THE DISPUTE TO A PUBLIC ARBITRATION PANEL, CONSISTING OF ONE MEMBER APPOINTED BY THE UNIFIED COURT SYSTEM, ONE MEMBER APPOINTED BY THE EMPLOYEE ORGANIZATION AND ONE PUBLIC MEMBER APPOINTED JOINTLY BY THE UNIFIED COURT SYSTEM AND THE EMPLOYEE ORGANIZATION WHO SHALL BE SELECTED WITHIN TEN DAYS AFTER RECEIPT BY THE BOARD OF A PETITION FOR CREATION OF THE ARBITRATION PANEL. IF EITHER PARTY FAILS TO DESIGNATE ITS MEMBER TO THE PUBLIC ARBITRATION PANEL, THE BOARD SHALL PROMPTLY, UPON RECEIPT OF A REQUEST BY EITHER PARTY, DESIGNATE A MEMBER ASSOCIATED IN INTEREST WITH THE UNIFIED COURT SYSTEM OR EMPLOYEE ORGANIZATION HE OR SHE IS TO REPRESENT. EACH OF THE RESPECTIVE PARTIES IS TO BEAR THE COST OF ITS MEMBER APPOINTED OR DESIGNATED TO THE ARBITRATION PANEL AND EACH OF THE RESPECTIVE PARTIES IS TO SHARE EQUALLY THE COST OF THE PUBLIC MEMBER. IF, WITHIN SEVEN DAYS AFTER THE MAILING DATE, THE PARTIES ARE UNABLE TO AGREE UPON THE ONE PUBLIC MEMBER, THE BOARD SHALL SUBMIT TO THE PARTIES A LIST OF QUALI-

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

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FIED, DISINTERESTED PERSONS FOR THE SELECTION OF THE PUBLIC MEMBER. EACH PARTY SHALL ALTERNATELY STRIKE FROM THE LIST ONE OF THE NAMES WITH THE ORDER OF STRIKING DETERMINED BY LOT, UNTIL THE REMAINING ONE PERSON SHALL BE DESIGNATED AS PUBLIC MEMBER. THIS PROCESS SHALL BE COMPLETED WITHIN FIVE DAYS OF RECEIPT OF THIS LIST. THE PARTIES SHALL NOTIFY THE BOARD OF THE DESIGNATED PUBLIC MEMBER. THE PUBLIC MEMBER SHALL BE CHOSEN AS CHAIRPERSON.

(B) THE ARBITRATION PANEL SHALL HOLD HEARINGS ON ALL MATTERS WITHIN THE SCOPE OF NEGOTIATIONS RELATED TO THE DISPUTE FOR WHICH THE PANEL WAS APPOINTED. THE PARTIES MAY BE HEARD EITHER IN PERSON, BY COUNSEL OR BY OTHER REPRESENTATIVES AS THEY MAY RESPECTIVELY DESIGNATE. THE PARTIES MAY PRESENT, EITHER ORALLY OR IN WRITING OR BOTH, STATEMENT OF FACT, SUPPORTING WITNESSES AND OTHER EVIDENCE AND ARGUMENT OF THEIR RESPECTIVE POSITION WITH RESPECT TO EACH CASE. THE PANEL SHALL HAVE AUTHORITY TO REQUIRE THE PRODUCTION OF SUCH ADDITIONAL EVIDENCE, EITHER ORAL OR WRITTEN, AS IT MAY DESIRE FROM THE PARTIES AND SHALL PROVIDE AT THE REQUEST OF EITHER PARTY THAT A FULL AND COMPLETE RECORD BE KEPT OF ANY SUCH HEARINGS, THE COST OF SUCH RECORD TO BE SHARED EQUALLY BY THE PARTIES.

(C) ALL MATTERS PRESENTED TO SUCH PANEL FOR ITS DETERMINATION SHALL BE DECIDED BY A MAJORITY VOTE OF THE MEMBERS OF THE PANEL. THE PANEL, PRIOR TO A VOTE ON ANY ISSUE IN DISPUTE BEFORE IT, MAY REFER THE ISSUE BACK TO THE PARTIES FOR FURTHER NEGOTIATIONS.

(D) SUCH PANEL SHALL MAKE A JUST AND REASONABLE DETERMINATION OF MATTERS IN DISPUTE. IN ARRIVING AT SUCH DETERMINATION, THE PANEL SHALL SPECIFY THE BASIS FOR ITS FINDINGS, TAKING INTO CONSIDERATION, IN ADDITION TO ANY OTHER RELEVANT FACTORS, THE FOLLOWING: (I) COMPARISON OF THE WAGES, HOURS, FRINGE BENEFITS, CONDITIONS AND CHARACTERISTICS OF EMPLOYMENT OF THE PUBLIC EMPLOYEES INVOLVED IN THE IMPASSE PROCEEDING WITH THE WAGES, HOURS, FRINGE BENEFITS, CONDITIONS AND CHARACTERISTICS OF EMPLOYMENT OF OTHER EMPLOYEES PERFORMING SIMILAR WORK AND OTHER EMPLOYEES GENERALLY IN PUBLIC OR PRIVATE EMPLOYMENT IN NEW YORK CITY OR COMPARABLE COMMUNITIES; (II) THE OVERALL COMPENSATION PAID TO THE EMPLOYEES INVOLVED IN THE IMPASSE PROCEEDING, INCLUDING DIRECT WAGE COMPENSATION, OVERTIME AND PREMIUM PAY, VACATIONS, HOLIDAYS AND OTHER EXCUSED TIME, INSURANCE, PENSIONS, MEDICAL AND HOSPITALIZATION BENEFITS, FOOD AND APPAREL FURNISHED, AND ALL OTHER BENEFITS RECEIVED; (III) THE IMPACT OF THE PANEL'S AWARD ON THE FINANCIAL ABILITY OF THE UNIFIED COURT SYSTEM TO PAY, ON THE PRESENT FARES AND ON THE CONTINUED PROVISION OF SERVICES TO THE PUBLIC; (IV) CHANGES IN THE AVERAGE CONSUMER PRICES FOR GOODS AND SERVICES, COMMONLY KNOWN AS THE COST OF LIVING; (V) THE INTEREST AND WELFARE OF THE PUBLIC; AND (VI) SUCH OTHER FACTORS AS ARE NORMALLY AND CUSTOMARILY CONSIDERED IN THE DETERMINATION OF WAGES, HOURS, FRINGE BENEFITS AND OTHER WORKING CONDITIONS IN COLLECTIVE NEGOTIATIONS OR IMPASSE PANEL PROCEEDINGS.

(E) THE PANEL SHALL HAVE FULL AUTHORITY TO RESOLVE THE MATTERS IN DISPUTE BEFORE IT AND ISSUE A DETERMINATION WHICH SHALL BE FINAL AND BINDING UPON THE PARTIES, NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE. EXCEPT FOR THE PURPOSES OF JUDICIAL REVIEW, ANY PROVISION OF A DETERMINATION OF THE ARBITRATION PANEL, THE IMPLEMENTATION OF WHICH REQUIRES AN ENACTMENT OF LAW, SHALL NOT BECOME BINDING UNTIL THE APPROPRIATE LEGISLATIVE BODY ENACTS SUCH LAW.

S 2. This act shall take effect immediately.