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

9984

I N A S S E M B L Y

February 23, 2010

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

AN ACT to amend the civil service law, in relation to improper employer practices

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

Section 1. Subdivision 1 of section 209-a of the civil service law, as amended by chapter 244 of the laws of 2007, is amended to read as follows:

1. Improper employer practices. It shall be an improper practice for a public employer or its agents deliberately (a) to interfere with, restrain or coerce public employees in the exercise of their rights guaranteed in section two hundred two of this article for the purpose of depriving them of such rights; (b) to dominate or interfere with the formation or administration of any employee organization for the purpose of depriving them of such rights; (c) to discriminate against any employee for the purpose of encouraging or discouraging membership in, or participation in the activities of, any employee organization; (d) to refuse to negotiate in good faith with the duly recognized or certified representatives of its public employees, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, WHERE SUCH EMPLOYER IS DETERMINED TO HAVE VIOLATED THIS PARAGRAPH, THE LAST OFFER OF THE DULY RECOGNIZED OR CERTIFIED REPRESENTATIVE OF ITS PUBLIC EMPLOYEES SHALL BECOME THE AGREEMENT BETWEEN SUCH EMPLOYER AND SUCH EMPLOYEES UNTIL CHANGED OR MODIFIED BY MUTUAL AGREEMENT OF THE PARTIES; (e) to refuse to continue all the terms of an expired agreement until a new agreement is negotiated, unless the employee organization which is a party to such agreement has, during such negotiations or prior to such resolution of such negotiations, engaged in conduct violative of subdivision one of section two hundred ten of this article; (f) to utilize any state funds appropriated for any purpose to train managers, supervisors or other administrative personnel regarding methods to discourage union organization or to discourage an employee from participating in a union organizing drive; or (g) to fail to permit or refuse to afford a public employee the right, upon the

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

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employee's demand, to representation by a representative of the employee organization, or the designee of such organization, which has been certified or recognized under this article when at the time of questioning by the employer of such employee it reasonably appears that he or she may be the subject of a potential disciplinary action. If representation is requested, and the employee is a potential target of disciplinary action at the time of questioning, a reasonable period of time shall be afforded to the employee to obtain such representation. It shall be an affirmative defense to any improper practice charge under paragraph (g) of this subdivision that the employee has the right, pursuant to statute, interest arbitration award, collectively negotiated agreement, policy or practice, to present to a hearing officer or arbitrator evidence of the employer's failure to provide representation and to obtain exclusion of the resulting evidence upon demonstration of such failure. Nothing in this section shall grant an employee any right to representation by the representative of an employee organization in any criminal investigation.

S 2. This act shall take effect immediately.