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

2181

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. THIELE -- read once and referred to the Committee on Cities

AN ACT to repeal section 1127 of the New York city charter relating to a condition precedent to employment and providing for the refund of excess payments collected after the repeal of the city earnings tax on nonresidents resulting from the application of this repealed section

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

Section 1. Legislative findings and intent. The legislature finds that the city earnings tax on nonresidents was declared unconstitutional by the New York Court of Appeals in the case of CITY OF NEW YORK V. STATE OF NEW YORK, 94 NY2d 577 (2000), thereby resulting in the repeal of such tax effective July 1, 1999 pursuant to chapter 5 of the laws of 1999. The legislature further finds that section 1127 of the New York city charter, which requires that a city employee resident who becomes a nonresident agree as a condition of employment to pay to the city an amount by which a city personal income tax would exceed any nonresident tax imposed on such person, should not have been applied after the effective date of the repeal of the city earnings tax on nonresidents (July 1, 1999), and that the excess amounts collected after that date ought to be refunded to rectify this error, subject to the proviso that this act not impair the entirety of any current or previous labor contract or collective bargaining agreement executed prior to the date this act shall have become a law. The legislature declares this act to be remedial and corrective in nature and for the benefit of those affected by the failure to repeal section 1127 of the Charter prior to the date this act shall have become a law.

S 2. Section 1127 of the New York city charter is REPEALED.

S 3. Any payment made after July 1, 1999 by a city employee pursuant to section 1127 of the New York city charter, repealed by section two of this act, on account of the application of the provisions of such

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

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section to any taxable period beginning on or after July 1, 1999 and to any taxable period ending on or after July 1, 1999, shall be refunded by such city. Such refunds shall be deemed to be refunds of previously taxed earnings for the purposes of any income tax law.

S 4. No provision of this act shall be deemed to impair any labor contract or collective bargaining agreement entered into prior to the date this act shall have become a law.

S 5. This act shall take effect immediately and section two of this act shall be deemed to have been in full force and effect on and after July 1, 1999.