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

4197

2009-2010 Regular Sessions

I N A S S E M B L Y

January 30, 2009

Introduced by M. of A. SCHIMMINGER, HOYT, PEOPLES -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, in relation to binding arbitration for certain public employees

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

Section 1. The opening paragraph of subparagraph (v) of paragraph (c) of subdivision 4 of section 209 of the civil service law, as amended by chapter 216 of the laws of 1977, is amended to read as follows:

the public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the panel shall CONSIDER, ABOVE ALL OTHER FACTORS, THE FINANCIAL ABILITY OF THE PUBLIC EMPLOYER TO PAY. THE PUBLIC EMPLOYER'S ABILITY TO PAY SHALL BE DEFINED AS EXISTING FISCAL CAPACITY WITHOUT RESORT TO EITHER NEW OR INCREASED TAXATION INCLUDING, BUT NOT LIMITED TO, THE LEVEL OF TAXATION IN THE POLITICAL SUBDIVISION COMPARED TO SIMILAR POLITICAL SUBDIVISIONS IN OTHER AREAS OF THE STATE, THE TAX BASE, ANY EVIDENCE OF ECONOMIC DECLINE AND ANY OTHER APPLICABLE MEASURES OF FISCAL DISTRESS, OR EXTRAORDINARY REDUCTIONS IN OTHER GOVERNMENTAL EXPENDITURES. THE ARBITRATION PANEL SHALL ALSO CONSIDER THE COMPETING FINANCIAL OBLIGATIONS OF THE PUBLIC EMPLOYER WHICH MAY BE AFFECTED BY SUCH DETERMINATION AND SPECIFICALLY THE IMPACT OF ANY SUCH DETERMINATION ON ONGOING NEGOTIATIONS OR SUCCESSOR NEGOTIATIONS WITH EMPLOYEE ORGANIZATIONS REPRESENTING OTHER EMPLOYEES OF THE PUBLIC EMPLOYER. THE ARBITRATION PANEL SHALL SPECIFY ITS RATIONALE IN THE DETERMINATION, INCLUDING THE CONSIDERATION OF SUCH ABILITY OF THE PUBLIC EMPLOYER TO PAY WITHOUT RESORT TO NEW OR INCREASED TAXATION. THE PANEL SHALL specify the basis for its findings, taking into SECONDARY consideration, in addition to any other relevant factors, the following:

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

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S 2. Clause b of subparagraph (v) of paragraph (c) of subdivision 4 of section 209 of the civil service law, as amended by chapter 216 of the laws of 1977, is amended to read as follows:

b. the interests and welfare of the public [and the financial ability of the public employer to pay];

S 3. This act shall take effect immediately, except that sections one and two of this act shall only apply to disputes referred to a public arbitration panel on or after the effective date of this act, and provided that the amendment to the opening paragraph of subparagraph (v) of paragraph (c) of subdivision 4 of section 209 of the civil service law made by section one of this act and the amendment to clause b of subparagraph (v) of paragraph (c) of subdivision 4 of section 209 of the civil service law made by section two of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith.