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

7133

2009-2010 Regular Sessions

I N A S S E M B L Y

March 23, 2009

Introduced by M. of A. ABBATE -- Multi-Sponsored by -- M. of A. AUBRY, McENENY, PHEFFER, SALADINO, TOWNSEND, ZEBROWSKI -- (at request of the Public Employment Relations Board) -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, in relation to certain pre-arbitration time limits involving negotiation disputes between public employers and certain public employees

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

Section 1. Paragraph b and subparagraph (ii) of paragraph c of subdivision 4 of section 209 of the civil service law, as amended by chapter 216 of the laws of 1977, are amended to read as follows:

(b) if the mediator is unable to effect settlement of the controversy [within fifteen days] after [his] THE MEDIATOR'S appointment, either party may petition the board to refer the dispute to a public arbitration panel;

(ii) the public arbitration panel shall consist of one member appointed by the public employer, one member appointed by the employee organization and one public member appointed jointly by the public employer and employee organization [who shall be selected within ten days after receipt by the board of a petition for creation of the arbitration panel]. EACH PARTY SHALL DESIGNATE ITS MEMBER TO THE ARBITRATION PANEL IN ACCORDANCE WITH RULES PROMULGATED BY THE BOARD. 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 public employer or employee organization [he is to represent]. Each of the respective parties [is to] SHALL bear the cost of its member appointed or designated to the arbitration panel and each of the respective parties [is to] SHALL 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

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

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member, the board shall submit to the parties a list of qualified, 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 chairman] UPON RECEIPT OF THE PETITION, THE BOARD SHALL SUBMIT TO THE PARTIES A LIST OF QUALIFIED, DISINTERESTED PERSONS FOR THE SELECTION OF THE PUBLIC MEMBER. WITHIN TWENTY DAYS OF RECEIPT OF SUCH LIST FROM THE BOARD, THE PARTIES SHALL EITHER AGREE UPON THE ONE PUBLIC MEMBER, OR IF UNABLE TO AGREE, SHALL ALTERNATELY STRIKE FROM THE LIST ONE OF THE NAMES, WITH THE ORDER OF STRIKING DETERMINED BY LOT, UNTIL ONE PERSON, WHO SHALL BE DESIGNATED AS PUBLIC MEMBER, REMAINS. THE PARTIES SHALL NOTIFY THE BOARD OF THE DESIGNATED PUBLIC MEMBER, WHO SHALL CHAIR THE PANEL. SHOULD EITHER PARTY NOT PARTICIPATE IN THE ALTERNATE STRIKING PROCESS, ALL NAMES ON THE LIST SHALL BE DEEMED ACCEPTABLE TO THAT PARTY, AND THE OTHER PARTY SHALL BE ENTITLED TO HAVE ITS SELECTION DESIGNATED AS THE PUBLIC MEMBER;

S 2. Paragraph a of subdivision 5 of section 209 of the civil service law, as added by chapter 929 of the laws of 1986, is amended to read as follows:

(a) In the event that the board certifies that a voluntary resolution of the contract negotiations between either (i) the New York city transit authority (hereinafter referred to as TA-public employer) and the public employee organization certified or recognized to represent the majority of employees of such TA-public employer, or (ii) the metropolitan transportation authority, including its subsidiaries, the New York city transit authority, including its subsidiary, and the Triborough bridge and tunnel authority (all hereinafter referred to as MTA-public employer) and a public employee organization certified or recognized to represent employees of such MTA-public employer not subject to the jurisdiction of the Federal Railway Labor Act and not subject to the provisions of subparagraph (i) hereof, which has made an election pursuant to paragraph (f) of this subdivision, cannot be effected, or upon the joint request of the TA-public employer or the MTA-public employer (hereinafter jointly referred to as public employer) and any such affected employee organization, such board shall refer the dispute to a public arbitration panel, consisting of one member appointed by the public employer, one member appointed by the employee organization and one public member appointed jointly by the public employer and employee organization [who shall be selected within ten days after receipt by the board of a petition for creation of the arbitration panel]. EACH PARTY SHALL DESIGNATE ITS MEMBER TO THE ARBITRATION PANEL IN ACCORDANCE WITH THE RULES PROMULGATED BY THE BOARD. 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 public employer or employee organization [he is to represent]. Each of the respective parties [is to] SHALL 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 qualified, 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 chairman] UPON RECEIPT OF THE PETITION, THE BOARD SHALL SUBMIT TO THE PARTIES A LIST OF QUALIFIED, DISINTERESTED PERSONS FOR THE SELECTION OF THE PUBLIC MEMBER. WITHIN TWENTY DAYS OF RECEIPT OF SUCH LIST FROM THE BOARD, THE PARTIES SHALL EITHER AGREE UPON THE ONE PUBLIC MEMBER, OR IF UNABLE TO AGREE, SHALL ALTERNATELY STRIKE FROM THE LIST ONE OF THE NAMES, WITH THE ORDER OF STRIKING DETERMINED BY LOT, UNTIL ONE PERSON, WHO SHALL BE DESIGNATED AS PUBLIC MEMBER, REMAINS. THE PARTIES SHALL NOTIFY THE BOARD OF THE DESIGNATED PUBLIC MEMBER, WHO SHALL CHAIR THE PANEL. SHOULD EITHER PARTY NOT PARTICIPATE IN THE ALTERNATE STRIKING PROCESS, ALL NAMES ON THE LIST SHALL BE DEEMED ACCEPTABLE TO THAT PARTY, AND THE OTHER PARTY SHALL BE ENTITLED TO HAVE ITS SELECTION DESIGNATED AS THE PUBLIC MEMBER.

S 3. This act shall take effect immediately; provided, that the amendments to subdivisions 4 and 5 of section 209 of the civil service law, made by sections one and two of this act, shall not affect the expiration of such subdivisions and shall be deemed to expire therewith.