

4477

2011-2012 Regular Sessions

I N   S E N A T E

April 6, 2011

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Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law and the civil service law, in relation to real property tax relief and local government mandate reform

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

1     Section 1.     Legislative findings and declarations. The legislature  
2 hereby finds and determines that real property taxes in New York state  
3 are too high, and that the burden that they place upon our citizens,  
4 homeowners and businesses, is making it difficult for New York state to  
5 thrive, prosper and succeed.  
6     The legislature further finds and determines that the only way to  
7 realistically reduce the real property tax burden upon our citizens,  
8 homeowners and businesses, is to place a comprehensive approach in state  
9 law which controls costs and spending for local governments, and  
10 provides significant mandate relief with respect to their fiscal obli-  
11 gations.  
12     The legislature finally finds and determines that the real property  
13 tax relief and local government mandate reform must be achieved by a  
14 comprehensive approach to reduce real property taxes across the state,  
15 the controlling of governmental employee benefit costs, and the  
16 provision of significant mandate relief to local governments.  
17     S 2. The general municipal law is amended by adding a new section 25  
18 to read as follows:  
19     S 25. CONSIDERATION OF REAL PROPERTY TAX LEVY IMPACTS OF A PUBLIC  
20 EMPLOYEE CONTRACT. 1. PRIOR TO ITS PRESENTMENT TO THE GOVERNING BODY OF  
21 A MUNICIPAL CORPORATION, THE PUBLIC OFFICER OF THE MUNICIPAL CORPORATION  
22 WHO IS LEGALLY RESPONSIBLE FOR SIGNING A COLLECTIVE BARGAINING AGREEMENT  
23 WHICH CONTAINS ANY INCREASE IN WAGES OR BENEFITS FOR PUBLIC EMPLOYEES,  
24 SHALL FIRST CONSIDER WHETHER SIGNING SUCH CONTRACT WOULD RESULT IN ANY

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

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1 INCREASE TO THE MUNICIPAL CORPORATION'S REAL PROPERTY TAX LEVY. IN THE  
2 EVENT THAT SUCH PUBLIC OFFICER ELECTS TO SIGN SUCH COLLECTIVE BARGAINING  
3 AGREEMENT, HE OR SHE SHALL, PRIOR TO THE PRESENTMENT OF SUCH AGREEMENT  
4 FOR APPROVAL BY THE GOVERNING BODY OF THE MUNICIPAL CORPORATION, INFORM  
5 SUCH GOVERNING BODY OF THE AMOUNT OF THE PROJECTED INCREASE IN THE REAL  
6 PROPERTY TAX LEVY THAT SUCH COLLECTIVE BARGAINING AGREEMENT WOULD HAVE.

7 2. PRIOR TO TAKING ANY VOTE TO APPROVE ANY COLLECTIVE BARGAINING  
8 AGREEMENT WHICH CONTAINS ANY INCREASE IN WAGES OR BENEFITS FOR PUBLIC  
9 EMPLOYEES, THE GOVERNING BODY OF A MUNICIPAL CORPORATION SHALL FIRST  
10 CONSIDER WHETHER APPROVING SUCH CONTRACT WOULD RESULT IN ANY INCREASE TO  
11 THE MUNICIPAL CORPORATION'S REAL PROPERTY TAX LEVY. IN THE EVENT THAT  
12 SUCH GOVERNING BODY ELECTS TO APPROVE SUCH COLLECTIVE BARGAINING AGREE-  
13 MENT, THEY SHALL CAUSE TO HAVE POSTED ON THE OFFICIAL WEBSITE OF SUCH  
14 MUNICIPAL CORPORATION, IF THE MUNICIPAL CORPORATION MAINTAINS ONE, A  
15 PUBLIC NOTICE FOR NOT LESS THAN THIRTY DAYS, DETAILING THE TERMS OF THE  
16 COLLECTIVE BARGAINING AGREEMENT SO APPROVED, THE INCREASES IN WAGES AND  
17 BENEFITS, THE TOTAL AMOUNT OF THE INCREASED EXPENDITURES THE MUNICIPAL  
18 CORPORATION WILL HAVE TO MAKE OVER THE TERM OF THE AGREEMENT, AND THE  
19 PROJECTED AMOUNT OF THE REAL PROPERTY TAX LEVY INCREASE.

20 S 3. Paragraph (c) of subdivision 4 of section 209 of the civil  
21 service law, as amended by chapter 216 of the laws of 1977, subparagraph  
22 (iii) as amended by chapter 442 of the laws of 1995 and subparagraph  
23 (vi) as amended by chapter 113 of the laws of 2006, is amended to read  
24 as follows:

25 (c) (i) upon petition of either party, the board shall refer the  
26 dispute to a public arbitration panel as hereinafter provided;

27 (ii) the public arbitration panel BE CONSIDERED A PUBLIC BODY FOR  
28 PURPOSES OF ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW AND shall consist  
29 of one member appointed by the public employer, one member appointed by  
30 the employee organization and one public member appointed jointly by the  
31 public employer and employee organization who shall be selected within  
32 ten days after receipt by the board of a petition for creation of the  
33 arbitration panel. If either party fails to designate its member to the  
34 public arbitration panel, the board shall promptly, upon receipt of a  
35 request by either party, designate a member associated in interest with  
36 the public employer or employee organization he is to represent. Each of  
37 the respective parties is to bear the cost of its member appointed or  
38 designated to the arbitration panel and each of the respective parties  
39 is to share equally the cost of the public member. If, within seven days  
40 after the mailing date, the parties are unable to agree upon the one  
41 public member, the board shall submit to the parties a list of quali-  
42 fied, disinterested persons for the selection of the public member.  
43 Each party shall alternately strike from the list one of the names with  
44 the order of striking determined by lot, until the remaining one person  
45 shall be designated as public member. This process shall be completed  
46 within five days of receipt of this list. The parties shall notify the  
47 board of the designated public member. The public member shall be chosen  
48 as chairman;

49 (iii) the public arbitration panel shall hold PUBLIC hearings on all  
50 matters related to the dispute. The parties may be heard either in  
51 person, by counsel, or by other representatives, as they may respective-  
52 ly designate. The panel may grant more than one adjournment each for  
53 each party; provided, however, that a second request of either party and  
54 any subsequent adjournments may be granted on request of either party,  
55 provided that the party which requests the adjournment shall pay the  
56 arbitrator's fee. The parties may present, either orally or in writing,

1 or both, statements of fact, supporting witnesses and other evidence,  
2 and argument of their respective positions with respect to each case.  
3 The panel shall have authority to require the production of such addi-  
4 tional evidence, either oral or written as it may desire from the  
5 parties and shall provide at the request of either party that a full and  
6 complete record be kept of any such hearings, the cost of such record to  
7 be shared equally by the parties;

8 (iv) all matters presented to the public arbitration panel for its  
9 determination shall be decided by a majority vote of the members of the  
10 panel. The panel, prior to a vote on any issue in dispute before it,  
11 shall, upon the joint request of its two members representing the public  
12 employer and the employee organization respectively, refer the issues  
13 back to the parties for further negotiations;

14 (v) the public arbitration panel shall make a just and reasonable  
15 determination of the matters in dispute. In arriving at such determi-  
16 nation, the panel shall CONSIDER, ABOVE ALL OTHER FACTORS, THE FINANCIAL  
17 ABILITY OF THE PUBLIC EMPLOYER TO PAY. THE PUBLIC EMPLOYER'S ABILITY TO  
18 PAY SHALL BE DEFINED AS EXISTING FISCAL CAPACITY WITHOUT RESORT TO  
19 EITHER NEW OR INCREASED TAXATION INCLUDING, BUT NOT LIMITED TO, THE  
20 LEVEL OF TAXATION IN THE POLITICAL SUBDIVISION COMPARED TO SIMILAR POLI-  
21 TICAL SUBDIVISIONS IN OTHER AREAS OF THE STATE, THE TAX BASE, ANY  
22 EVIDENCE OF ECONOMIC DECLINE AND ANY OTHER APPLICABLE MEASURES OF FISCAL  
23 DISTRESS, OR EXTRAORDINARY REDUCTIONS IN OTHER GOVERNMENTAL EXPENDI-  
24 TURES. THE ARBITRATION PANEL SHALL ALSO CONSIDER THE COMPETING FINANCIAL  
25 OBLIGATIONS OF THE PUBLIC EMPLOYER WHICH MAY BE AFFECTED BY SUCH DETER-  
26 MINATION AND SPECIFICALLY THE IMPACT OF ANY SUCH DETERMINATION ON THE  
27 EXISTING LEVEL OF MUNICIPAL SERVICES AND ON ONGOING NEGOTIATIONS OR  
28 SUCCESSOR NEGOTIATIONS WITH EMPLOYEE ORGANIZATIONS REPRESENTING OTHER  
29 EMPLOYEES OF THE PUBLIC EMPLOYER. THE ARBITRATION PANEL SHALL SPECIFY  
30 ITS RATIONALE IN THE DETERMINATION, INCLUDING THE CONSIDERATION OF SUCH  
31 ABILITY OF THE PUBLIC EMPLOYER TO PAY WITHOUT RESORTING TO NEW OR  
32 INCREASED TAXATION. THE PANEL SHALL specify the basis for its findings,  
33 taking into SECONDARY consideration, in addition to any other relevant  
34 factors, the following:

35 a. comparison of the wages, hours and conditions of employment of the  
36 employees involved in the arbitration proceeding with the wages, hours,  
37 and conditions of employment of other employees performing similar  
38 services or requiring similar skills under similar working conditions  
39 and with other employees generally in public and private employment in  
40 comparable communities.

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

43 c. comparison of peculiarities in regard to other trades or  
44 professions, including specifically, (1) hazards of employment; (2)  
45 physical qualifications; (3) educational qualifications; (4) mental  
46 qualifications; (5) job training and skills; AND

47 d. the terms of collective agreements negotiated between the parties  
48 in the past providing for compensation and fringe benefits, including,  
49 but not limited to, the provisions for salary, insurance and retirement  
50 benefits, medical and hospitalization benefits, paid time off and job  
51 security.

52 (vi) the determination of the public arbitration panel shall, WHEN  
53 EFFECTING A LOCAL GOVERNMENT, BE PRESENTED AT A REGULAR OR SPECIAL MEET-  
54 ING OF THE LOCAL LEGISLATIVE BODY FOR SUCH GOVERNMENT, AND SHALL be  
55 final and binding upon the parties for the period prescribed by the  
56 panel, but in no event shall such period exceed two years from the

1 termination date of any previous collective bargaining agreement or if  
2 there is no previous collective bargaining agreement then for a period  
3 not to exceed two years from the date of determination by the panel.  
4 Such determination shall not be subject to the approval of any local  
5 legislative body or other municipal authority. Notwithstanding the  
6 provisions of this subparagraph to the contrary, where the parties to  
7 [a] THE public arbitration are those [anticipated by the provisions of  
8 paragraphs (e) and (f) of this subdivision the state and such parties  
9 may agree to confer authority to the public arbitration panel] WHICH  
10 BECAME SUBJECT TO THIS SUBDIVISION BY VIRTUE OF CHAPTER SIX HUNDRED  
11 FORTY-ONE OF THE LAWS OF NINETEEN HUNDRED NINETY-EIGHT, THE PUBLIC ARBI-  
12 TRATION PANEL SHALL HAVE THE AUTHORITY to issue a final and binding  
13 determination for a period up to and including four years. ADDI-  
14 TIONALLY, UPON THE ISSUANCE OF SUCH FINAL DETERMINATION BY A PUBLIC  
15 ARBITRATION PANEL, NEITHER PARTY SHALL ELECT TO USE A PUBLIC ARBITRATION  
16 PANEL FOR PURPOSES OF DISPUTE RESOLUTION UNTIL THE NEXT TWO SUCCEEDING  
17 COLLECTIVE BARGAINING AGREEMENTS HAVE EXPIRED.

18 (vii) the determination of the public arbitration panel shall be  
19 subject to review by a court of competent jurisdiction in the manner  
20 prescribed by law.

21 S 4. This act shall take effect immediately; provided, however, that  
22 the amendments to paragraph (c) of subdivision 4 of section 209 of the  
23 civil service law made by section three of this act shall not affect the  
24 expiration of such subdivision and shall be deemed to expire therewith.