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

4477

2011-2012 Regular Sessions

I N S E N A T E

April 6, 2011

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:

Section 1. Legislative findings and declarations. The legislature hereby finds and determines that real property taxes in New York state are too high, and that the burden that they place upon our citizens, homeowners and businesses, is making it difficult for New York state to thrive, prosper and succeed.

The legislature further finds and determines that the only way to realistically reduce the real property tax burden upon our citizens, homeowners and businesses, is to place a comprehensive approach in state law which controls costs and spending for local governments, and provides significant mandate relief with respect to their fiscal obligations.

The legislature finally finds and determines that the real property tax relief and local government mandate reform must be achieved by a comprehensive approach to reduce real property taxes across the state, the controlling of governmental employee benefit costs, and the provision of significant mandate relief to local governments.

S 2. The general municipal law is amended by adding a new section 25 to read as follows:

S 25. CONSIDERATION OF REAL PROPERTY TAX LEVY IMPACTS OF A PUBLIC EMPLOYEE CONTRACT. 1. PRIOR TO ITS PRESENTMENT TO THE GOVERNING BODY OF A MUNICIPAL CORPORATION, THE PUBLIC OFFICER OF THE MUNICIPAL CORPORATION WHO IS LEGALLY RESPONSIBLE FOR SIGNING A COLLECTIVE BARGAINING AGREEMENT WHICH CONTAINS ANY INCREASE IN WAGES OR BENEFITS FOR PUBLIC EMPLOYEES, 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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INCREASE TO THE MUNICIPAL CORPORATION'S REAL PROPERTY TAX LEVY. IN THE EVENT THAT SUCH PUBLIC OFFICER ELECTS TO SIGN SUCH COLLECTIVE BARGAINING AGREEMENT, HE OR SHE SHALL, PRIOR TO THE PRESENTMENT OF SUCH AGREEMENT FOR APPROVAL BY THE GOVERNING BODY OF THE MUNICIPAL CORPORATION, INFORM SUCH GOVERNING BODY OF THE AMOUNT OF THE PROJECTED INCREASE IN THE REAL PROPERTY TAX LEVY THAT SUCH COLLECTIVE BARGAINING AGREEMENT WOULD HAVE.

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

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

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

(ii) the public arbitration panel BE CONSIDERED A PUBLIC BODY FOR PURPOSES OF ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW AND 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. 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 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;

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

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

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

(v) 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 THE EXISTING LEVEL OF MUNICIPAL SERVICES AND 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 RESORTING 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:

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

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

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

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

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

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

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

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