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

4907

2011-2012 Regular Sessions

I N S E N A T E

April 29, 2011

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the civil service law, in relation to collective bargaining by region for school districts

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

Section 1. The civil service law is amended by adding a new section 215 to read as follows:

S 215. COLLECTIVE BARGAINING BY REGION FOR SCHOOL DISTRICTS. 1. ANY PROVISION OF ANY GENERAL, SPECIAL, OR LOCAL LAW, ORDINANCE, RESOLUTION, RULE OR REGULATION RELATING TO THE PROVISIONS OF THIS SECTION IS SUPERSEDED BY THIS SECTION TO THE EXTENT THAT IT IS INCONSISTENT THEREWITH, BUT SHALL REMAIN APPLICABLE AND IN FULL FORCE AND EFFECT TO THE EXTENT THAT IT IS CONSISTENT THEREWITH.

2. THE DIRECTOR OF THE GOVERNOR'S OFFICE OF EMPLOYEE RELATIONS SHALL MAKE AVAILABLE LABOR RELATIONS PROFESSIONALS WHO SHALL PROVIDE TECHNICAL ASSISTANCE AND ADVICE TO DISTRICT SUPERINTENDENTS AND THEIR BOARDS OF COOPERATIVE EDUCATIONAL SERVICES TO FACILITATE THE REGIONAL BARGAINING PROCEDURE AND TO COORDINATE AN EFFICIENT AND EFFECTIVE PROCESS BOTH REGIONALLY AND AMONG ALL THE SUPERVISORY DISTRICTS IN WHICH THERE IS A REGIONAL COLLECTIVE BARGAINING TEAM.

3. IN EACH SUPERVISORY DISTRICT GOVERNED BY A BOARD OF COOPERATIVE EDUCATIONAL SERVICES PURSUANT TO THE EDUCATION LAW THERE SHALL BE A REGIONAL COLLECTIVE BARGAINING TEAM. SUCH TEAM SHALL CONSIST OF NO LESS THAN THREE AND NO MORE THAN SEVEN PERSONS APPOINTED BY THE DISTRICT SUPERINTENDENT, UPON THE ADVICE AND CONSULTATION OF THE DIRECTOR OF THE GOVERNOR'S OFFICE OF EMPLOYEE RELATIONS, EACH OF WHOM MUST BE APPROVED BY MAJORITY VOTE OF THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES.

4. THE EMPLOYEE ORGANIZATIONS REPRESENTING TEACHERS IN EACH BARGAINING UNIT FROM THE SCHOOL DISTRICTS WITHIN THE SUPERVISORY DISTRICT SHALL

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

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SELECT NO LESS THAN THREE AND NO MORE THAN SEVEN PERSONS TO SERVE ON THE EMPLOYEE ORGANIZATION'S REGIONAL COLLECTIVE BARGAINING TEAM.

5. THE DIRECTOR OF THE GOVERNOR'S OFFICE OF EMPLOYEE RELATIONS SHALL DECIDE AT HIS OR HER DISCRETION THE DATE OF WHICH AN INITIAL DEMAND TO BEGIN COLLECTIVE NEGOTIATIONS SHALL BE PROFFERED IN EACH SUPERVISORY DISTRICT. THESE DATES SHALL PROVIDE FOR A PHASED IN IMPLEMENTATION ACROSS THE STATE. THE DIRECTOR SHALL CONSULT WITH THE COMMISSIONER OF EDUCATION AND OTHERS, AS HE OR SHE DEEMS APPROPRIATE, INCLUDING DISTRICT SUPERINTENDENTS, TO ARRIVE AT SUCH SCHEDULE.

6. THE DISTRICT SUPERINTENDENT, THROUGH HIS OR HER REGIONAL COLLECTIVE BARGAINING TEAM REPRESENTING SCHOOL DISTRICTS WITHIN THE SUPERVISORY DISTRICT, AND THE EMPLOYEE ORGANIZATION, THROUGH ITS REGIONAL COLLECTIVE BARGAINING TEAM REPRESENTING TEACHERS FROM SUCH DISTRICTS, SHALL HAVE AN OBLIGATION TO NEGOTIATE COLLECTIVELY WITH EACH OTHER REGARDING TERMS AND CONDITIONS OF EMPLOYMENT THAT ARE TO BE THE SUBJECT OF THE REGIONAL COLLECTIVE BARGAINING AGREEMENT, DEFINED AS SUCH TERMS THAT ARE DIRECTLY RELATED TO COMPENSATION AND CERTAIN FRINGE BENEFITS, INCLUDING SALARY, STIPENDS, LOCATION PAY, DIFFERENTIAL PAY FOR CERTAIN POSITIONS, RETIREMENT BENEFITS EXCEPT THOSE WHICH ARE PROHIBITED FROM BARGAINING PURSUANT TO SUBDIVISION FOUR OF SECTION TWO HUNDRED ONE OF THIS ARTICLE, MEDICAL AND HOSPITALIZATION BENEFITS AND INSURANCE, PAID TIME OFF, AND THE TERMS AND CONDITIONS SET FORTH IN REGIONAL COLLECTIVE BARGAINING AGREEMENTS PREVIOUSLY NEGOTIATED BETWEEN THE PARTIES. ALL OTHER MATTERS, INCLUDING, BUT NOT LIMITED TO, DISCIPLINARY PROCEDURES, WORK YEAR AND WORK DAY, SCHEDULING, AND JOB SECURITY, MAY BE INCLUDED IN THE REGIONAL COLLECTIVE BARGAINING AGREEMENT AS THE PARTIES AGREE, HOWEVER, NEITHER PARTY SHALL HAVE AN OBLIGATION TO NEGOTIATE SUCH ISSUES WITH RESPECT TO THE REGIONAL COLLECTIVE BARGAINING PROCESS.

7. UPON AN AGREEMENT REGARDING ALL OF THE NEGOTIABLE TERMS AND CONDITIONS OF EMPLOYMENT AS SET FORTH IN SUBDIVISION SIX OF THIS SECTION BETWEEN THE REGIONAL BARGAINING TEAMS OF THE SUPERVISORY DISTRICT AND THE EMPLOYEE ORGANIZATIONS, A MEMORANDUM OF AGREEMENT SHALL BE PREPARED AND PRESENTED TO THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR RATIFICATION AND APPROVAL AND THE BARGAINING UNITS FOR RATIFICATION. THERE SHALL BE A SINGLE VOTE OF THE COLLECTIVE MEMBERS OF THE TEACHERS' BARGAINING UNITS OF ALL THE SCHOOL DISTRICTS WITHIN THE SUPERVISORY DISTRICT FOR RATIFICATION. PRIOR TO RATIFICATION/APPROVAL VOTES, THE MEMORANDUM OF AGREEMENT SHALL BE PRESENTED TO THE DIRECTOR OF THE GOVERNOR'S OFFICE OF EMPLOYEE RELATIONS; THE DIRECTOR, IN HIS OR HER SOLE DISCRETION, MAY VOID A MEMORANDUM OF AGREEMENT IF HE OR SHE FINDS AN ERROR IN LAW OR FINDS ONE OR MORE PARTS OF THE AGREEMENT TO BE AGAINST PUBLIC POLICY.

8. FOR THE LIMITED PURPOSE OF THE RESOLUTION OF IMPASSE IN COLLECTIVE BARGAINING PURSUANT TO THIS SECTION, THE PROVISIONS OF PARAGRAPHS (A) THROUGH (E) OF SUBDIVISION THREE OF SECTION TWO HUNDRED NINE OF THIS ARTICLE SHALL APPLY. WHERE NECESSARY, THE LEGISLATIVE BODY SHALL BE THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR THE PURPOSES OF THIS SECTION.

9. THE RESULTING REGIONAL COLLECTIVE BARGAINING AGREEMENT SHALL SUPERSEDE THE TERM OF EVERY PARTICIPATING SCHOOL DISTRICT'S LOCAL COLLECTIVE BARGAINING AGREEMENT WITH RESPECT TO ONLY THE TERMS AND CONDITIONS OF EMPLOYMENT THAT ARE SET FORTH IN THE REGIONAL COLLECTIVE BARGAINING AGREEMENT.

(A) THE TERMS OF THE REGIONAL COLLECTIVE BARGAINING AGREEMENT SHALL BE EFFECTIVE IMMEDIATELY WITH RESPECT TO ANY EMPLOYEES COVERED BY THE

REGIONAL AGREEMENT WHO ARE HIRED SUBSEQUENT TO THE DATE ON WHICH THE REGIONAL AGREEMENT IS FULLY RATIFIED AND APPROVED.

(B) THE TERMS OF THE REGIONAL COLLECTIVE BARGAINING AGREEMENT SHALL BE EFFECTIVE WITH RESPECT TO ANY EMPLOYEES COVERED BY THE REGIONAL AGREEMENT WHO ARE EMPLOYED ON THE DATE ON WHICH THE REGIONAL AGREEMENT IS FULLY RATIFIED AND APPROVED, UPON THE STATED EXPIRATION DATE SET FORTH IN THE APPLICABLE LOCAL SCHOOL DISTRICT'S LOCAL COLLECTIVE BARGAINING AGREEMENT.

(C) EMPLOYEES TO WHICH PARAGRAPH (B) OF THIS SUBDIVISION APPLIES, SHALL BE HELD HARMLESS FROM ANY BASE SALARY REDUCTION AS A RESULT OF THE REGIONAL COLLECTIVE BARGAINING AGREEMENT FOR A PERIOD OF THREE YEARS FROM THE DATE ON WHICH THE REGIONAL AGREEMENT IS FULLY RATIFIED AND APPROVED.

10. EVERY COMPONENT AND NON-COMPONENT SCHOOL DISTRICT WITHIN THE SUPERVISORY DISTRICT SHALL HAVE THE OPTION OF BEING A PARTICIPATING SCHOOL DISTRICT, UPON THE APPROVAL BY MAJORITY VOTE OF THE BOARD OF EDUCATION OR BOARD OF TRUSTEES OF SAID DISTRICT. ONCE A SCHOOL DISTRICT BECOMES A PARTICIPATING SCHOOL DISTRICT, THERE SHALL BE NO FURTHER VOTE ON THE SUBJECT, EXCEPT THAT, AFTER NO LESS THAN FIVE YEARS FROM THE DATE OF BECOMING A PARTICIPATING SCHOOL DISTRICT THE COMMISSIONER OF EDUCATION MAY APPROVE A PETITION BY SAID PARTICIPATING SCHOOL DISTRICT TO ALLOW FOR A VOTE ON THE SUBJECT. THE SCHOOL DISTRICT'S DECISION ABOUT WHETHER TO PARTICIPATE AND/OR CONTINUE ITS PARTICIPATION, AND THE IMPACT THEREOF, SHALL NOT BE A MANDATORY SUBJECT OF BARGAINING. EVERY SCHOOL DISTRICT'S BOARD OF EDUCATION OR BOARD OF TRUSTEES SHALL HAVE HELD A PUBLIC HEARING AND RECORDED VOTE IN PUBLIC SESSION UPON THE QUESTION OF WHETHER TO BECOME A PARTICIPATING SCHOOL DISTRICT WITHIN ONE HUNDRED EIGHTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION.

11. UPON BECOMING A PARTICIPATING SCHOOL DISTRICT, THE TERMS OF THE EXISTING REGIONAL COLLECTIVE BARGAINING AGREEMENT FOR THE APPLICABLE SUPERVISORY DISTRICT SHALL BE IN FULL FORCE AND EFFECT WITH RESPECT TO THE PARTICIPATING SCHOOL DISTRICT, AS SET FORTH IN THIS SECTION.

12. (A) EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION, THIS SECTION DOES NOT OTHERWISE AFFECT THE DUTY TO BARGAIN OVER TERMS AND CONDITIONS OF EMPLOYMENT AS DEFINED IN THIS ARTICLE.

(B) NOTWITHSTANDING SECTION TWO HUNDRED FOUR OF THIS ARTICLE, OR ANY OTHER LAW, RULE OR REGULATION, THE PARTICIPATING SCHOOL DISTRICTS AND THEIR RESPECTIVE EMPLOYEE BARGAINING UNITS SHALL BE PROHIBITED FROM BARGAINING LOCALLY, FOR MEMBERS COVERED BY THE TERMS OF THE REGIONAL COLLECTIVE BARGAINING AGREEMENT, OVER ANY TERMS THAT ARE COVERED BY THEIR REGIONAL COLLECTIVE BARGAINING AGREEMENT.

13. THE COSTS AND EXPENSES INCURRED BY BOARDS OF COOPERATIVE EDUCATIONAL SERVICES RELATED TO SERVICES AND EXPENSES OF THE REGIONAL COLLECTIVE BARGAINING TEAM, INCLUDING ANY UTILIZATION OF OUTSIDE PROFESSIONALS, SHALL BE PART OF THE ADMINISTRATIVE BUDGET OF THE APPLICABLE BOARD OF COOPERATIVE EDUCATIONAL SERVICES, BUT NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION SUCH COST AND EXPENSES SHALL NOT BE ALLOWABLE ADMINISTRATIVE EXPENSES FOR PURPOSES OF STATE AID PURSUANT TO SUBDIVISION FIVE OF SECTION NINETEEN HUNDRED FIFTY OF THE EDUCATION LAW, AND SUCH COSTS SHALL NOT BE INCLUDED IN THE ADMINISTRATIVE EXPENSES ALLOCATED TO COMPONENT SCHOOL DISTRICTS PURSUANT TO SECTIONS NINETEEN HUNDRED FIFTY AND NINETEEN HUNDRED FIFTY-ONE OF THE EDUCATION LAW. SUBJECT TO AN APPROPRIATION FOR SUCH PURPOSE, THE ALLOWABLE COSTS OF SUCH SERVICES AND EXPENSES SHALL BE DIRECTLY AND FULLY REIMBURSED BY THE STATE; PROVIDED THAT IN THE EVENT THAT SUCH APPROPRIATION IS INSUFFICIENT TO REIMBURSE

ALL ALLOWABLE COSTS, THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES MAY ALLOCATE THE EXCESS OF SUCH COSTS TO PARTICIPATING SCHOOL DISTRICTS IN THE SAME MANNER AS ADMINISTRATIVE COSTS ARE ALLOCATED TO COMPONENT DISTRICTS UNDER THE EDUCATION LAW.

14. IF ANY PART OF THIS SECTION SHALL BE ADJUDGED INVALID BY ANY COURT OF COMPETENT JURISDICTION, SUCH JUDGMENT SHALL NOT INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE PART DIRECTLY INVOLVED IN THE CONTROVERSY WHEREIN SUCH JUDGMENT SHALL HAVE BEEN RENDERED.

S 2. This act shall take effect on the first of July next succeeding the date on which it shall have become a law.