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

5736

2011-2012 Regular Sessions

I N A S S E M B L Y

February 28, 2011

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, in relation to the negotiability of discipline affecting public employees

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, declares and reaffirms that the 1967 Public Employee's Fair Employment Act establishes that the public policy of the state, and the purpose of the Act, is to promote harmonious and cooperative relationships between government and its employees and to protect the public by assuring, at all times, the orderly and uninterrupted operation and functions of government. Included among the policies adopted was the requirement that the state, local governments, and other political subdivisions negotiate and enter into agreements with employee organizations about terms and conditions of employment. Over the many years subsequent to the enactment of the Act, the negotiability of discipline, including disciplinary procedures, has been incorporated into collective bargaining agreements throughout the state. The legislature now declares that this practice of negotiating fair disciplinary protections and procedures for public employees must continue.

Recent court decisions involving public employees has erroneously declared that the "public policy" of the state is to prohibit absolutely the negotiation of disciplinary procedures in certain places where there exist legislative enactments on the subject of discipline. The legislature declares a necessity for the enactment of this act to ensure that discipline, including disciplinary procedures, will continue as a mandatory subject of collective negotiation to enhance the prohibition against strikes and the protection against the destruction of vital public services delivered by public employees throughout the state.

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

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S 2. Subdivision 4 of section 201 of the civil service law, as amended by chapter 606 of the laws of 1992, is amended to read as follows:

4. The term "terms and conditions of employment" means salaries, wages, hours, DISCIPLINE, AND DISCIPLINARY PROCEDURES INCLUDING ALTERNATIVES TO ANY STATUTORY DISCIPLINARY SYSTEM PROVIDED, HOWEVER, THAT ANY RIGHT OF A PUBLIC EMPLOYEE UNDER THE TERMS OF ANY STATE LAW TO ELECT COVERAGE UNDER EITHER A STATUTORY DISCIPLINARY SYSTEM OR A DISCIPLINARY SYSTEM ESTABLISHED BY COLLECTIVE NEGOTIATIONS SHALL NOT BE IMPAIRED, UNLESS ANY SUCH STATE LAW AUTHORIZES EXCLUSIVITY OF A NEGOTIATED DISCIPLINARY SYSTEM, and other terms and conditions of employment provided, however, that such term shall not include any benefits provided by or to be provided by a public retirement system, or payments to a fund or insurer to provide an income for retirees, or payment to retirees or their beneficiaries. No such retirement benefits shall be negotiated pursuant to this article, and any benefits so negotiated shall be void.

S 3. This act shall take effect immediately.