

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:

- 1 Section 1. The civil service law is amended by adding a new section
2 215 to read as follows:
3 S 215. COLLECTIVE BARGAINING BY REGION FOR SCHOOL DISTRICTS. 1. ANY
4 PROVISION OF ANY GENERAL, SPECIAL, OR LOCAL LAW, ORDINANCE, RESOLUTION,
5 RULE OR REGULATION RELATING TO THE PROVISIONS OF THIS SECTION IS SUPER-
6 SEDED BY THIS SECTION TO THE EXTENT THAT IT IS INCONSISTENT THEREWITH,
7 BUT SHALL REMAIN APPLICABLE AND IN FULL FORCE AND EFFECT TO THE EXTENT
8 THAT IT IS CONSISTENT THEREWITH.
9 2. THE DIRECTOR OF THE GOVERNOR'S OFFICE OF EMPLOYEE RELATIONS SHALL
10 MAKE AVAILABLE LABOR RELATIONS PROFESSIONALS WHO SHALL PROVIDE TECHNICAL
11 ASSISTANCE AND ADVICE TO DISTRICT SUPERINTENDENTS AND THEIR BOARDS OF
12 COOPERATIVE EDUCATIONAL SERVICES TO FACILITATE THE REGIONAL BARGAINING
13 PROCEDURE AND TO COORDINATE AN EFFICIENT AND EFFECTIVE PROCESS BOTH
14 REGIONALLY AND AMONG ALL THE SUPERVISORY DISTRICTS IN WHICH THERE IS A
15 REGIONAL COLLECTIVE BARGAINING TEAM.
16 3. IN EACH SUPERVISORY DISTRICT GOVERNED BY A BOARD OF COOPERATIVE
17 EDUCATIONAL SERVICES PURSUANT TO THE EDUCATION LAW THERE SHALL BE A
18 REGIONAL COLLECTIVE BARGAINING TEAM. SUCH TEAM SHALL CONSIST OF NO LESS
19 THAN THREE AND NO MORE THAN SEVEN PERSONS APPOINTED BY THE DISTRICT
20 SUPERINTENDENT, UPON THE ADVICE AND CONSULTATION OF THE DIRECTOR OF THE
21 GOVERNOR'S OFFICE OF EMPLOYEE RELATIONS, EACH OF WHOM MUST BE APPROVED
22 BY MAJORITY VOTE OF THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES.
23 4. THE EMPLOYEE ORGANIZATIONS REPRESENTING TEACHERS IN EACH BARGAINING
24 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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1 SELECT NO LESS THAN THREE AND NO MORE THAN SEVEN PERSONS TO SERVE ON THE
2 EMPLOYEE ORGANIZATION'S REGIONAL COLLECTIVE BARGAINING TEAM.

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

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

29 7. UPON AN AGREEMENT REGARDING ALL OF THE NEGOTIABLE TERMS AND CONDI-
30 TIONS OF EMPLOYMENT AS SET FORTH IN SUBDIVISION SIX OF THIS SECTION
31 BETWEEN THE REGIONAL BARGAINING TEAMS OF THE SUPERVISORY DISTRICT AND
32 THE EMPLOYEE ORGANIZATIONS, A MEMORANDUM OF AGREEMENT SHALL BE PREPARED
33 AND PRESENTED TO THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR
34 RATIFICATION AND APPROVAL AND THE BARGAINING UNITS FOR RATIFICATION.
35 THERE SHALL BE A SINGLE VOTE OF THE COLLECTIVE MEMBERS OF THE TEACHERS'
36 BARGAINING UNITS OF ALL THE SCHOOL DISTRICTS WITHIN THE SUPERVISORY
37 DISTRICT FOR RATIFICATION. PRIOR TO RATIFICATION/APPROVAL VOTES, THE
38 MEMORANDUM OF AGREEMENT SHALL BE PRESENTED TO THE DIRECTOR OF THE GOVER-
39 NOR'S OFFICE OF EMPLOYEE RELATIONS; THE DIRECTOR, IN HIS OR HER SOLE
40 DISCRETION, MAY VOID A MEMORANDUM OF AGREEMENT IF HE OR SHE FINDS AN
41 ERROR IN LAW OR FINDS ONE OR MORE PARTS OF THE AGREEMENT TO BE AGAINST
42 PUBLIC POLICY.

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

49 9. THE RESULTING REGIONAL COLLECTIVE BARGAINING AGREEMENT SHALL SUPER-
50 SEDE THE TERM OF EVERY PARTICIPATING SCHOOL DISTRICT'S LOCAL COLLECTIVE
51 BARGAINING AGREEMENT WITH RESPECT TO ONLY THE TERMS AND CONDITIONS OF
52 EMPLOYMENT THAT ARE SET FORTH IN THE REGIONAL COLLECTIVE BARGAINING
53 AGREEMENT.

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

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

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

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

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

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

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

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

42 13. THE COSTS AND EXPENSES INCURRED BY BOARDS OF COOPERATIVE EDUCA-
43 TIONAL SERVICES RELATED TO SERVICES AND EXPENSES OF THE REGIONAL COLLEC-
44 TIVE BARGAINING TEAM, INCLUDING ANY UTILIZATION OF OUTSIDE PROFES-
45 SIONALS, SHALL BE PART OF THE ADMINISTRATIVE BUDGET OF THE APPLICABLE
46 BOARD OF COOPERATIVE EDUCATIONAL SERVICES, BUT NOTWITHSTANDING ANY OTHER
47 PROVISION OF LAW TO THE CONTRARY, ON AND AFTER THE EFFECTIVE DATE OF
48 THIS SECTION SUCH COST AND EXPENSES SHALL NOT BE ALLOWABLE ADMINISTRA-
49 TIVE EXPENSES FOR PURPOSES OF STATE AID PURSUANT TO SUBDIVISION FIVE OF
50 SECTION NINETEEN HUNDRED FIFTY OF THE EDUCATION LAW, AND SUCH COSTS
51 SHALL NOT BE INCLUDED IN THE ADMINISTRATIVE EXPENSES ALLOCATED TO COMPO-
52 NENT SCHOOL DISTRICTS PURSUANT TO SECTIONS NINETEEN HUNDRED FIFTY AND
53 NINETEEN HUNDRED FIFTY-ONE OF THE EDUCATION LAW. SUBJECT TO AN APPRO-
54 PRIATION FOR SUCH PURPOSE, THE ALLOWABLE COSTS OF SUCH SERVICES AND
55 EXPENSES SHALL BE DIRECTLY AND FULLY REIMBURSED BY THE STATE; PROVIDED
56 THAT IN THE EVENT THAT SUCH APPROPRIATION IS INSUFFICIENT TO REIMBURSE

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

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

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