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

2670

2013-2014 Regular Sessions

I N S E N A T E

January 23, 2013

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

AN ACT to amend chapter 104 of the laws of 1936 relating to providing for the establishment, organization and operation of police departments in the towns of Westchester county and chapter 891 of the laws of 1972 relating to continuing special provisions relating to police departments of certain villages, in relation to suspension of an officer pending a trial of disciplinary charges

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

Section 1. Section 7 of chapter 104 of the laws of 1936 relating to providing for the establishment, organization and operation of police departments in the towns of Westchester county, as amended by chapter 812 of the laws of 1941, is amended to read as follows:

S 7. Discipline and charges. Except as otherwise provided by law, a member of such police department shall continue in office unless suspended or dismissed. The town board or board of police commissioners shall have power and is authorized to adopt and make rules and regulations for the examination, hearing, investigation and determination of charges, made or preferred against any member or members of such police department, but no member or members of such police department shall be fined, reprimanded, removed or dismissed until written charges shall have been investigated, examined, heard and determined by such town board or board of police commissioners in such manner, procedure, practice, examination and investigation as such board may, by such rules and regulations from time to time prescribe, except that the trial of such charges shall not be delegated and must be heard before the full town board or full board of police commissioners or a majority of the members of either of such boards, and the affirmative vote of a majority of such members shall be necessary for a conviction on any such charges. Such charges shall not be brought more than ninety days after the time when

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

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the facts upon which such charges are based are known to such town board or board of police commissioners. Any member of such police department at the time of the hearing or trial of such charges before such town board or board of police commissioners shall have the right to a public hearing and trial and to be represented by counsel at any such hearing or trial and any person who shall have preferred such charges or any part of the same shall not sit as a member of such town board or board of police commissioners upon such hearing or trial and any and all witnesses produced upon the trial shall testify under oath.

Any member of such department found guilty upon charges after five days' written notice and an opportunity to be heard in his defense, of neglect or dereliction in the performance of official duty, or violation of rules or regulations or disobedience, or incompetency to perform official duty, or an act of delinquency seriously affecting his general character or fitness for office, may be punished by such town board or board of police commissioners before which such charges are tried, by reprimand, forfeiture and the withholding of salary or compensation for a specified time not exceeding twenty days, by suspension from duty for a specified time not exceeding twenty days and the withholding of salary or compensation during such suspension, or by dismissal from the department. Such town board or board of police commissioners shall have the power to suspend, without pay, pending the trial of charges, any member of such police department FOR A PERIOD NOT EXCEEDING THIRTY DAYS. If any member of such police department so suspended shall not be convicted by such board of the charges so preferred, or if on review his conviction shall be reversed, then, notwithstanding such charges and suspension, he shall be entitled to full pay from the date of suspension to the date of reinstatement less the amount of compensation, if any, received by him from any other employment or occupation during the period beginning with such date of suspension to the date of his reinstatement and he shall be entitled to [an] A COURT order [as provided in article seventy-eight of the civil practice act] to enforce such payment.

S 2. Subdivision 9 of section 18 of chapter 891 of the laws of 1972 relating to continuing special provisions relating to police departments of certain villages is amended to read as follows:

9. Discipline and charges. Except as otherwise provided by law, a member of such police force shall continue in office unless suspended or dismissed. The board of trustees or municipal board shall have power and is authorized to adopt and make rules and regulations for the examination, hearing, investigation and determination of charges, made or preferred against any member or members of such police force, but no member or members of such police force shall be fined, reprimanded, removed or dismissed until written charges shall have been made and preferred against him or them, nor until such charges have been investigated, examined, heard and determined by such board of trustees or municipal board in such manner, procedure, practice, examination and investigation as such board may by such rules and regulations from time to time prescribe, except that the trial of such charges shall not be delegated and must be heard before the full board of trustees or full municipal board, or a majority of the members of either of such boards, and the affirmative vote of a majority of such members shall be necessary to a conviction on any such charges. Such charges shall not be brought more than ninety days after the time when the facts upon which such charges are based are known to such board of trustees or municipal board. Any member of such police force at the time of the hearing or

trial of such charges before such board of trustees or municipal board shall have the right to a public hearing and trial and to be represented by counsel at any such hearing or trial, and any person who shall have preferred such charges or any part of the same shall not sit as a member of such board of trustees or municipal board upon such hearing or trial. Any and all witnesses produced upon the trial shall testify under oath. Any member of such force found guilty upon charges, after five days' written notice and an opportunity to be heard in his defense, of neglect or dereliction in the performance of official duty, or violation of rules and regulations, or disobedience, or incompetency to perform official duty, or an act of delinquency seriously affecting his general character or fitness for office, may be punished by such board of trustees or municipal board before which such charges are tried, by reprimand, forfeiture and the withholding of salary or compensation for a specified time not exceeding twenty days and the withholding of salary or compensation during such suspension, or by dismissal from the department. Such board of trustees or municipal board shall have the power to suspend without pay, pending the trial of charges, any member of such police force FOR A PERIOD NOT TO EXCEED THIRTY DAYS. If any member of such police force so suspended shall not be convicted by such board of the charges so preferred, or if on review his conviction shall be reversed, then, notwithstanding such charges and suspension, he shall be entitled to receive full pay from the date of suspension to the date of reimbursement less the amount of compensation, if any, received by him from any other employment or occupation during the period beginning with such date of suspension to the date of his reinstatement and he shall be entitled to [an] A COURT order [as provided in article seventy-eight of the civil practice act] to enforce the payment thereof.

S 3. This act shall take effect immediately.