

5106

2013-2014 Regular Sessions

I N A S S E M B L Y

February 20, 2013

Introduced by M. of A. FITZPATRICK, CORWIN, MONTESANO, LALOR -- read
once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, in relation to removing the
requirement that a public employer continue terms of an expired agree-
ment until a new agreement is negotiated with an employee organization

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

1 Section 1. Subdivision 1 of section 209-a of the civil service law, as
2 amended by chapter 244 of the laws of 2007, is amended to read as
3 follows:
4 1. Improper employer practices. It shall be an improper practice for a
5 public employer or its agents deliberately (a) to interfere with,
6 restrain or coerce public employees in the exercise of their rights
7 guaranteed in section two hundred two of this article for the purpose of
8 depriving them of such rights; (b) to dominate or interfere with the
9 formation or administration of any employee organization for the purpose
10 of depriving them of such rights; (c) to discriminate against any
11 employee for the purpose of encouraging or discouraging membership in,
12 or participation in the activities of, any employee organization; (d) to
13 refuse to negotiate in good faith with the duly recognized or certified
14 representatives of its public employees; (e) [to refuse to continue all
15 the terms of an expired agreement until a new agreement is negotiated,
16 unless the employee organization which is a party to such agreement has,
17 during such negotiations or prior to such resolution of such negoti-
18 ations, engaged in conduct violative of subdivision one of section two
19 hundred ten of this article; (f)] to utilize any state funds appropri-
20 ated for any purpose to train managers, supervisors or other administra-
21 tive personnel regarding methods to discourage union organization or to
22 discourage an employee from participating in a union organizing drive;
23 or [(g)] (F) to fail to permit or refuse to afford a public employee the
24 right, upon the employee's demand, to representation by a representative

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

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1 of the employee organization, or the designee of such organization,
2 which has been certified or recognized under this article when at the
3 time of questioning by the employer of such employee it reasonably
4 appears that he or she may be the subject of a potential disciplinary
5 action. If representation is requested, and the employee is a potential
6 target of disciplinary action at the time of questioning, a reasonable
7 period of time shall be afforded to the employee to obtain such repre-
8 sentation. It shall be an affirmative defense to any improper practice
9 charge under paragraph [(g)] (F) of this subdivision that the employee
10 has the right, pursuant to statute, interest arbitration award, collec-
11 tively negotiated agreement, policy or practice, to present to a hearing
12 officer or arbitrator evidence of the employer's failure to provide
13 representation and to obtain exclusion of the resulting evidence upon
14 demonstration of such failure. Nothing in this section shall grant an
15 employee any right to representation by the representative of an employ-
16 ee organization in any criminal investigation.
17 S 2. This act shall take effect immediately.