

# STATE OF NEW YORK

8270--B

Cal. No. 1401

## IN SENATE

April 25, 2018

Introduced by Sens. GOLDEN, AKSHAR -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

1 Section 1. Legislative findings and declarations. The legislature  
2 hereby finds, declares and reaffirms that the 1967 Public Employees'  
3 Fair Employment Act establishes that the public policy of the state, and  
4 the purpose of the act, is to promote harmonious and cooperative  
5 relationships between government and its employees and to protect the  
6 public by assuring, at all times, the orderly and uninterrupted opera-  
7 tion and functions of government. Included among the policies adopted  
8 was the requirement that the state, local governments, and other poli-  
9 tical subdivisions negotiate and enter into agreements with employee  
10 organizations about terms and conditions of employment. Over the many  
11 years subsequent to the enactment of such act, the negotiability of  
12 discipline, including disciplinary procedures, has been fully endorsed  
13 by the public employment relations board and disciplinary procedures  
14 have been incorporated into collective bargaining agreements throughout  
15 the state. The legislature now declares that this practice of negotiat-  
16 ing fair disciplinary protections and procedures for public employees  
17 must continue.

18 A recent court of appeals' decision involving police officers in the  
19 city of Schenectady has erroneously declared that the "public policy" of  
20 the state is to prohibit absolutely the negotiation of disciplinary  
21 procedures in certain places where there exist legislative enactments on  
22 the subject of discipline. The legislature declares a necessity for the  
23 enactment of this act to ensure that discipline, including disciplinary

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

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1 procedures, will continue as a mandatory subject of collective negoti-  
2 ation, and that collective bargaining agreements addressing that subject  
3 remain valid and enforceable and to enhance the prohibition against  
4 strikes and the protection against the destruction of vital public  
5 services delivered by public employees throughout the state.

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

8 4. The term "terms and conditions of employment" means:

9 (a) salaries, wages, hours and other terms and conditions of employ-  
10 ment provided, however, that such term shall not include any benefits  
11 provided by or to be provided by a public retirement system, or payments  
12 to a fund or insurer to provide an income for retirees, or payment to  
13 retirees or their beneficiaries. No such retirement benefits shall be  
14 negotiated pursuant to this article, and any benefits so negotiated  
15 shall be void.

16 (b) In addition, the terms and conditions of employment for firefigh-  
17 ters and police officers shall include discipline, disciplinary proce-  
18 dures including alternatives to any statutory disciplinary system,  
19 provided, however, that any right of firefighters and police officers  
20 under the terms of any state law to elect coverage under either a statu-  
21 tory disciplinary system or a disciplinary system established by collec-  
22 tive negotiations shall not be impaired, unless any such state law  
23 authorizes exclusivity of a negotiated disciplinary system and provided  
24 further that no provision contained in the town law, general city law,  
25 second class cities law, general municipal law, municipal home rule law,  
26 county law, or other state, local, special law or charter provision, or  
27 any special police act or other special act created by local law or  
28 charter or otherwise created, or this chapter shall prevent or impair  
29 the right to collective bargaining for or to modify disciplinary proce-  
30 dures.

31 § 3. Section 204-a of the civil service law is amended by adding a new  
32 subdivision 4 to read as follows:

33 4. The terms of any current or expired agreement or interest arbi-  
34 tration award between any public employer and any public employee organ-  
35 ization representing firefighters or police officers relating to the  
36 discipline of any firefighters or police officers shall be deemed valid  
37 and enforceable from the effective date of this subdivision.

38 § 4. This act shall take effect immediately.