

STATE OF NEW YORK

10371

IN ASSEMBLY

April 18, 2018

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 disciplinary procedures affecting police officers

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 such 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 in
8 1967, and continuing to date, is the requirement that public employers
9 negotiate and enter into agreements with employee organizations about
10 terms and conditions of employment. Over the many years since the public
11 employees' fair employment act became the law and the declared public
12 policy of this state, matters pertaining to employee discipline, includ-
13 ing disciplinary procedures, have been negotiated into many collective
14 bargaining agreements covering all types of public employees, including
15 police officers. The legislature now declares that this practice of
16 allowing and requiring the negotiation of fair disciplinary protections
17 and procedures for all public employees must continue. Despite the
18 clarity of this state's policy and law requiring negotiations about
19 terms and conditions of employment, a few court decisions have erro-
20 neously held that the law and "public policy" of the state is to prohib-
21 it absolutely the negotiation of disciplinary procedures for police
22 officers whenever there exists laws on the subject of police officer
23 discipline that were enacted before 1958 when section 75 of the civil
24 service law was enacted. The legislature declares a necessity for the
25 enactment of this act to ensure that disciplinary procedures will
26 continue as a mandatory subject of collective negotiations for police
27 officers to enhance the prohibition against strikes and to protect the
28 delivery of vital public services.

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

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

3 4. (a) The term "terms and conditions of employment" means salaries,
4 wages, hours and other terms and conditions of employment provided,
5 however, that such term shall not include any benefits provided by or to
6 be provided by a public retirement system, or payments to a fund or
7 insurer to provide an income for retirees, or payment to retirees or
8 their beneficiaries. No such retirement benefits shall be negotiated
9 pursuant to this article, and any benefits so negotiated shall be void.

10 (b) (i) Notwithstanding any other general or special law, rule or
11 regulation to the contrary, "terms and conditions of employment" shall
12 include for all employees who are police officers under law alternatives
13 to any statutory or regulatory disciplinary provisions relating to the
14 adjudication and disposition of disciplinary charges except those charg-
15 es alleging a police officer has used unlawful, unauthorized or exces-
16 sive force in the course of employment.

17 (ii) The terms of any current or expired agreement or interest arbi-
18 tration award between any public employer and any public employee organ-
19 ization relating to any aspect of police officer discipline that is a
20 term and condition of employment as provided in this subdivision which
21 were invalidated or rendered unenforceable by any decision, order or
22 judgment of any court, administrative agency or other adjudicatory
23 tribunal shall be deemed valid from the date any such agreements or
24 awards were first reached or issued, and those agreements or awards
25 shall be applied and enforced as to any disciplinary charges pending at
26 the effective date of the chapter of laws of two thousand eighteen that
27 amended this subdivision and to any disciplinary charges filed thereaft-
28 er.

29 (iii) Nothing in this subdivision shall impair the right of a public
30 employee under any state law to elect coverage under either a statutory
31 disciplinary system or an alternative disciplinary system established by
32 collective negotiations, unless any such state law requires or author-
33 izes exclusivity of a negotiated disciplinary system.

34 § 3. This act shall take effect immediately.