

STATE OF NEW YORK

4661

2017-2018 Regular Sessions

IN SENATE

February 23, 2017

Introduced by Sen. MURPHY -- 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:

1 Section 1. Section 7 of chapter 104 of the laws of 1936 relating to
2 providing for the establishment, organization and operation of police
3 departments in the towns of Westchester county, as amended by chapter
4 812 of the laws of 1941, is amended to read as follows:
5 § 7. Discipline and charges. Except as otherwise provided by law, a
6 member of such police department shall continue in office unless
7 suspended or dismissed. The town board or board of police commissioners
8 shall have power and is authorized to adopt and make rules and regu-
9 lations for the examination, hearing, investigation and determination of
10 charges, made or preferred against any member or members of such police
11 department, but no member or members of such police department shall be
12 fined, reprimanded, removed or dismissed until written charges shall
13 have been investigated, examined, heard and determined by such town
14 board or board of police commissioners in such manner, procedure, prac-
15 tice, examination and investigation as such board may, by such rules and
16 regulations from time to time prescribe, except that the trial of such
17 charges shall not be delegated and must be heard before the full town
18 board or full board of police commissioners or a majority of the members
19 of either of such boards, and the affirmative vote of a majority of such
20 members shall be necessary for a conviction on any such charges. Such
21 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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1 the facts upon which such charges are based are known to such town board
2 or board of police commissioners. Any member of such police department
3 at the time of the hearing or trial of such charges before such town
4 board or board of police commissioners shall have the right to a public
5 hearing and trial and to be represented by counsel at any such hearing
6 or trial and any person who shall have preferred such charges or any
7 part of the same shall not sit as a member of such town board or board
8 of police commissioners upon such hearing or trial and any and all
9 witnesses produced upon the trial shall testify under oath.

10 Any member of such department found guilty upon charges after five
11 days' written notice and an opportunity to be heard in his defense, of
12 neglect or dereliction in the performance of official duty, or violation
13 of rules or regulations or disobedience, or incompetency to perform
14 official duty, or an act of delinquency seriously affecting his general
15 character or fitness for office, may be punished by such town board or
16 board of police commissioners before which such charges are tried, by
17 reprimand, forfeiture and the withholding of salary or compensation for
18 a specified time not exceeding twenty days, by suspension from duty for
19 a specified time not exceeding twenty days and the withholding of salary
20 or compensation during such suspension, or by dismissal from the depart-
21 ment. Such town board or board of police commissioners shall have the
22 power to suspend, without pay, pending the trial of charges, any member
23 of such police department for a period not exceeding thirty days. If
24 any member of such police department so suspended shall not be convicted
25 by such board of the charges so preferred, or if on review his
26 conviction shall be reversed, then, notwithstanding such charges and
27 suspension, he shall be entitled to full pay from the date of suspension
28 to the date of reinstatement less the amount of compensation, if any,
29 received by him from any other employment or occupation during the peri-
30 od beginning with such date of suspension to the date of his rein-
31 statement and he shall be entitled to [an] a court order [~~as provided in~~
32 ~~article seventy-eight of the civil practice act~~] to enforce such
33 payment.

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

37 9. Discipline and charges. Except as otherwise provided by law, a
38 member of such police force shall continue in office unless suspended or
39 dismissed. The board of trustees or municipal board shall have power and
40 is authorized to adopt and make rules and regulations for the examina-
41 tion, hearing, investigation and determination of charges, made or
42 preferred against any member or members of such police force, but no
43 member or members of such police force shall be fined, reprimanded,
44 removed or dismissed until written charges shall have been made and
45 preferred against him or them, nor until such charges have been investi-
46 gated, examined, heard and determined by such board of trustees or
47 municipal board in such manner, procedure, practice, examination and
48 investigation as such board may by such rules and regulations from time
49 to time prescribe, except that the trial of such charges shall not be
50 delegated and must be heard before the full board of trustees or full
51 municipal board, or a majority of the members of either of such boards,
52 and the affirmative vote of a majority of such members shall be neces-
53 sary to a conviction on any such charges. Such charges shall not be
54 brought more than ninety days after the time when the facts upon which
55 such charges are based are known to such board of trustees or municipal
56 board. Any member of such police force at the time of the hearing or

1 trial of such charges before such board of trustees or municipal board
2 shall have the right to a public hearing and trial and to be represented
3 by counsel at any such hearing or trial, and any person who shall have
4 preferred such charges or any part of the same shall not sit as a member
5 of such board of trustees or municipal board upon such hearing or trial.
6 Any and all witnesses produced upon the trial shall testify under oath.
7 Any member of such force found guilty upon charges, after five days'
8 written notice and an opportunity to be heard in his defense, of neglect
9 or dereliction in the performance of official duty, or violation of
10 rules and regulations, or disobedience, or incompetency to perform offi-
11 cial duty, or an act of delinquency seriously affecting his general
12 character or fitness for office, may be punished by such board of trus-
13 tees or municipal board before which such charges are tried, by repri-
14 mand, forfeiture and the withholding of salary or compensation for a
15 specified time not exceeding twenty days and the withholding of salary
16 or compensation during such suspension, or by dismissal from the depart-
17 ment. Such board of trustees or municipal board shall have the power to
18 suspend without pay, pending the trial of charges, any member of such
19 police force for a period not to exceed thirty days. If any member of
20 such police force so suspended shall not be convicted by such board of
21 the charges so preferred, or if on review his conviction shall be
22 reversed, then, notwithstanding such charges and suspension, he shall be
23 entitled to receive full pay from the date of suspension to the date of
24 reimbursement less the amount of compensation, if any, received by him
25 from any other employment or occupation during the period beginning with
26 such date of suspension to the date of his reinstatement and he shall be
27 entitled to [an] a court order [~~as provided in article seventy eight of~~
28 ~~the civil practice act~~] to enforce the payment thereof.
29 § 3. This act shall take effect immediately.