STATE OF NEW YORK

1329

2019-2020 Regular Sessions

IN SENATE

January 14, 2019

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

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:

Section 1. Legislative findings and declarations. The legislature hereby finds, declares and reaffirms that the 1967 public employees' fair employment act establishes that the public policy of the state, and the purpose of such act, is to promote harmonious and cooperative relationships between government and its employees and to protect the public by assuring, at all times, the orderly and uninterrupted operation and functions of government. Included among the policies adopted in 1967, and continuing to date, is the requirement that public employers negotiate and enter into agreements with employee organizations about terms and conditions of employment. Over the many years since the public employees' fair employment act became the law and the declared public policy of this state, matters pertaining to employee discipline, including disciplinary procedures, have been negotiated into many collective bargaining agreements covering all types of public employees, including police officers. The legislature now declares that this practice of allowing and requiring the negotiation of fair disciplinary protections and procedures for all public employees must continue. Despite the clarity of this state's policy and law requiring negotiations about terms and conditions of employment, a few court decisions have erroneously held that the law and "public policy" of the state is to prohibit absolutely the negotiation of disciplinary procedures for police officers whenever there exists laws on the subject of police officer discipline that were enacted before 1958 when section 75 of the civil service law was enacted. The legislature declares a necessity for the enactment of this act to ensure that disciplinary procedures will

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

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continue as a mandatory subject of collective negotiations for police officers to enhance the prohibition against strikes and to protect the delivery of vital public services.

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

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

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

(ii) Nothing in this subdivision shall impair the right of a public employee under any state law to elect coverage under either a statutory disciplinary system or an alternative disciplinary system established by collective negotiations, unless any such state law requires or authorizes exclusivity of a negotiated disciplinary system.

§ 3. This act shall take effect immediately.