

STATE OF NEW YORK

5803

2019-2020 Regular Sessions

IN SENATE

May 15, 2019

Introduced by Sen. GOUNARDES -- 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 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
24 procedures, will continue as a mandatory subject of collective negoti-
25 ation, and that collective bargaining agreements addressing that subject

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

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1 remain valid and enforceable and to enhance the prohibition against
2 strikes and the protection against the destruction of vital public
3 services delivered by public employees throughout the state.

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

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

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

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

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

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

36 § 4. This act shall take effect immediately.