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:

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 the 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 was the requirement that the state, local governments, and other political subdivisions negotiate and enter into agreements with employee organizations about terms and conditions of employment. Over the many years subsequent to the enactment of such act, the negotiability of discipline, including disciplinary procedures, has been fully endorsed by the public employment relations board and disciplinary procedures have been incorporated into collective bargaining agreements throughout the state. The legislature now declares that this practice of negotiating fair disciplinary protections and procedures for public employees must continue.

A recent court of appeals' decision involving police officers in the city of Schenectady has erroneously declared that the "public policy" of the state is to prohibit absolutely the negotiation of disciplinary procedures in certain places where there exist legislative enactments on the subject of discipline. The legislature declares a necessity for the enactment of this act to ensure that discipline, including disciplinary procedures, will continue as a mandatory subject of collective negotiation, and that collective bargaining agreements addressing that subject

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

LBD07900-01-9

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

§ 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. The term "terms and conditions of employment" means**:**

(a) 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) In addition, the terms and conditions of employment for firefighters and police officers shall include discipline, disciplinary procedures including alternatives to any statutory disciplinary system, provided, however, that any right of firefighters and police officers under the terms of any state law to elect coverage under either a statutory disciplinary system or a disciplinary system established by collective negotiations shall not be impaired, unless any such state law authorizes exclusivity of a negotiated disciplinary system and provided further that no provision contained in the town law, general city law, second class cities law, general municipal law, municipal home rule law, county law, or other state, local, special law or charter provision, or any special police act or other special act created by local law or charter or otherwise created, or this chapter shall prevent or impair the right to collective bargaining for or to modify disciplinary procedures.

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

4. The terms of any current or expired agreement or interest arbitration award between any public employer and any public employee organization representing firefighters or police officers relating to the discipline of any firefighters or police officers shall be deemed valid and enforceable from the effective date of this subdivision.

§ 4. This act shall take effect immediately.