

STATE OF NEW YORK

10217

IN ASSEMBLY

May 13, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Paulin) --
read once and referred to the Committee on Governmental Employees

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
22 the facts upon which such charges are based are known to such town board
23 or board of police commissioners. Any member of such police department
24 at the time of the hearing or trial of such charges before such town

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

LBD14779-01-4

1 board or board of police commissioners shall have the right to a public
2 hearing and trial and to be represented by counsel at any such hearing
3 or trial and any person who shall have preferred such charges or any
4 part of the same shall not sit as a member of such town board or board
5 of police commissioners upon such hearing or trial and any and all
6 witnesses produced upon the trial shall testify under oath.

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

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

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

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