



New York State Professional Fire Fighters Association, Inc

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REV. JOHN TALLMAN
40 Collins Place
Albany, NY 12208

May 6, 2022

RE: AN ACT to amend the civil service law,
in relation to independent hearing officers
for certain disciplinary hearings

S.8481 (Jackson)

A.9614 (Abbate)

MEMORANDUM IN SUPPORT

The New York State Professional Fire Fighters Association (NYSPFFA), I.A.F.F. AFL-CIO, a not-for-profit association representing approximately 18,000 firefighters in 107 Locals in various cities, villages and towns across New York State, strongly supports the enactment of this legislation, titled the "The New York State Firefighter Bill of Rights Act."

A number of other states across the nation have enacted similar "Firefighter Bill of Rights" laws, that support firefighters during investigations and disciplinary matters. Specifically, this bill will create a fair, independent and neutral process in disciplinary proceedings for firefighters outside of New York City and preserve the ability of firefighters to negotiate disciplinary procedures.

Professional firefighters across New York State are proud that our departments have made great strides towards diversity. Sadly, we have often seen the lack of a fair disciplinary process have a disparate impact on the very firefighters who provide this diversity. We believe that every firefighter, regardless of race, color, creed, national origin, gender, sexual orientation or reason of disability, has the right to a fair workplace. Now is the time to ensure that all firefighters are treated fairly.

Independent Hearing Officer

Currently under the Civil Service Law in New York State, the appointing authority both brings charges and renders decisions in disciplinary proceedings. This clear conflict of interest creates a situation inherently unfair to employees and has no place in our progressive State. This bill corrects this prejudicial situation by providing for the appointment of an independent and neutral hearing officer who will hear charges and render a decision on behalf of the employer.

An impartial, professional and experienced arbitrator will render a determination free from the internal politics that can deny justice and cloud the public's perception of public agency action. Additionally, this bill does not interfere with the collective bargaining process.



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Finally, the bill has a safety mechanism to prevent its unwarranted use, as the employee must split half the cost of the arbitration with the municipality. Further, if certain behavior of either party is determined to be frivolous, the arbitrator may assign costs to the other party, which will prevent abuse of this provision.

Preserving Bargaining of Discipline Procedures

The bill additionally amends the Civil Service Law to modify the language relied on by several courts in holding disciplinary procedures to be outside the protection of the Taylor Law where any other law commits discipline to the discretion of local officials and to make it clear that paid firefighters in this state are entitled to collectively bargain the disciplinary procedures that affect them in their employment. The bill would also restore the provisions of any collective bargaining agreements or interest arbitration awards between public employers and public employee organizations representing firefighters relative to discipline that were invalidated by judicial or administrative decisions.

The fundamental purpose of the Taylor law adopted in 1967 was to make all terms and conditions of employment in the public sector subject to collective bargaining. Early Taylor Law decisions established that disciplinary procedures were terms and conditions of employment subject to collective bargaining, and many collective bargaining agreements containing disciplinary provisions and procedures were adopted across the State, including those negotiated by fire labor unions. Over time, a series of judicial decisions dealing with police, including most notably several cases decided by the Court of Appeals, found a countervailing policy in favor of strong local control of discipline to override the public policy expressed in the Taylor Law favoring the collective bargaining of all terms and conditions of employment. However, the Taylor Law did not repeal or modify any local law or charter provisions vesting control of discipline in local authorities.

This bill would legislatively declare it to be the public policy of the State of New York that for firefighters, disciplinary procedures are terms and conditions of employment subject to mandatory negotiation under the Taylor Law.

For the foregoing reasons, the New York State Professional Fire Fighters Association strongly supports the enactment of this legislation.

Respectfully submitted,

Samuel A. Fresina, President
New York State Professional Fire Fighters Association