

CS VETO # 404

CHAPTER _____

LAWS OF 20 06

SENATE BILL 7751

ASSEMBLY BILL _____

STATE OF NEW YORK

7751

IN SENATE

April 25, 2006

Introduced by Sen. LITTLE -- 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 providing for binding arbitration in negotiations for certain members of the security services collective bargaining unit

A11021 - ABBATE

DATE RECEIVED BY GOVERNOR:

SEP 01 2006

ACTION MUST BE TAKEN BY:

SEP 13 2006

DATE GOVERNOR'S ACTION TAKEN:

SENATE VOTE ___ Y ___ N

HOME RULE MESSAGE ___ Y ___ N

DATE _____

ASSEMBLY VOTE ___ Y ___ N

DATE _____



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

V E T O # 404

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

SEP 16 2006

Senate Bill Number 7751, entitled:

"AN ACT to amend the civil service law, in relation to providing for binding arbitration in negotiations for certain members of the security services collective bargaining unit"

N O T A P P R O V E D

This bill would amend the Civil Service Law to grant binding arbitration for the resolution of collective bargaining disputes to members of the Security Services Unit who are warrant and transfer officers employed by the Division of Parole. The bill would take effect immediately.

In 2001, I approved legislation to provide binding arbitration for resolution of collective bargaining disputes of members in the collective negotiating units designated as "Security Services" and "Security Supervisors." See Chapter 586 of the Laws of 2001. As a condition of my approval of that measure, the State Legislature passed a chapter amendment to limit the application of Chapter 586 to State correction officers and police officers within the Security Services and Security Supervisors Units. See Chapter 220 of the Laws of 2002.

While I appreciate the hard work and dedicated service of the warrant and transfer officers employed by the Division of Parole, I am constrained to disapprove this bill because extending binding arbitration to these officers is inconsistent with my agreement to approve Chapter 586.

The bill is disapproved.

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THE SENATE
STATE OF NEW YORK

CHAIRMAN
COMMITTEE ON LOCAL
GOVERNMENT

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Elizabeth O'C. Little
SENATOR, 45TH DISTRICT

September 7, 2006

Governor George E. Pataki
Executive Chamber
State Capitol
Albany, New York 12224

Dear Governor Pataki:

I am writing in support of Senate bill 7751 which is presently awaiting your consideration.

Senate bill 7751 amends the civil service law, in relation to providing for binding arbitration in negotiations for certain members of the security services collective bargaining unit. Binding arbitration legislation with respect to compensatory issues for all members of the Security Services collective bargaining unit became law during the 2001 Legislative Session. During the subsequent Legislative Session, however, through the enactment of Chapter 220 of the Laws of 2002, binding arbitration was limited to members of the bargaining unit who were correctional officers. Warrant and transfer officers employed by the Division of Parole are statutorily defined as peace officers who are charged with the critical duty of recovering parole violators who have fled the State of New York. It is the duty of these law enforcement officers to arrange for the safe return of these parole violators to the State, regardless of the location of the absconder and regardless of the level of danger associated with returning a particular offender. Despite the critical functions performed by warrant and transfer officers- functions which are not dissimilar to the functions performed by police officers- they are not currently afforded the benefits of binding arbitration. This proposal recognizes this inequity and grants binding arbitration in collective negotiations to these dedicated individuals.

Your approval of this legislation is appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Betty Little".

Elizabeth O'C. Little
Senator

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**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S7751

SPONSOR: LITTLE

TITLE OF BILL: An act to amend the civil service law, in relation to providing for binding arbitration in negotiations for certain members of the security services collective bargaining unit

PURPOSE: To provide for binding arbitration to warrant and transfer officers employed by the Division of Parole.

SUMMARY OF PROVISIONS: Section 1 of the bill amends § 209(2) of the Civil Service Law to include within its provisions members of the Security Services collective bargaining unit who hold the title of warrant and transfer officer.

Section 2 of the bill amends the opening paragraph of § 209(4) of the Civil Service Law in the same manner.

Section 3 of the bill amends § 209(4) of the Civil Service Law to limit application of binding arbitration to compensatory issues.

Section 4 of the bill provides the effective date.

EXISTING LAW: Currently, binding arbitration in collective negotiations is available only to correctional officer members of the Security Services collective bargaining unit.

JUSTIFICATION: Binding arbitration legislation with respect to compensatory issues for all members of the Security Services collective bargaining unit passed the Legislature and became law during the 2001 Legislative Session. (See Chapter 586 of the Laws of 2001.) During the subsequent Legislative Session, however, through the enactment of Chapter 220 of the Laws of 2002, binding arbitration was limited to members of the bargaining unit who were correctional officers. Warrant and transfer officers employed by the Division of Parole are statutorily defined as peace officers who are charged with the critical duty of recovering parole violators who have fled the State of New York. It is the duty of these law enforcement officers to arrange for the safe return of these parole violators to the State, regardless of the location of the absconder and regardless of the level of danger associated with returning a particular offender. Despite the critical functions performed by warrant and transfer officers- functions which are not dissimilar to the functions performed by police officers- they are not currently afforded the benefits of binding arbitration. This proposal recognizes this inequity and grants binding arbitration in collective negotiations to these dedicated individuals.

LEGISLATIVE HISTORY: New bill.

FISCAL IMPLICATIONS: None.

EFFECTIVE DATE: Immediately.



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ELIOT SPITZER
Attorney General

Legislative Bureau

TO: COUNSEL TO THE GOVERNOR

Re: SENATE 7751

ASSEMBLY

Inasmuch as this bill does not appear to relate to the functions of the Department of Law, I am not commenting thereon. However, if there is a particular aspect of the bill upon which you wish comment, please advise me.

ELIOT SPITZER
ATTORNEY GENERAL

Date : June 16, 2006

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SENATE:
No. 7751

Introduced by: Little

ASSEMBLY:
No.

Law: Civil Service

Sections: 209, subdivisions 2, 4

Division of the Budget recommendation on the above bill:

Approve: _____ Veto: X No Objection: _____ No Recommendation: _____

1. Subject and Purpose:

This bill would provide binding arbitration to Warrant and Transfer Officers in the Division of Parole, who are members of the security services collective bargaining unit.

2. Summary of Provisions:

Effective immediately, this bill would amend subdivisions 2 and 4 of Section 209 of the Civil Service Law to provide binding arbitration for compensation issues to Warrant and Transfer Officers in the Division of Parole.

3. Legislative History:

Chapter 586 of the Laws of 2001 granted binding arbitration to all members of the Security Services collective bargaining unit. The following year, Chapter 220 of the Laws of 2002 limited binding arbitration to members of the bargaining unit who were Correctional Officers. In 2004, the Governor vetoed bill S.6519 which would have given Police Officer status to Warrant and Transfer Officers.

4. Arguments in Support:

Proponents of this bill argue that Warrant and Transfer Officers perform critical functions that are not dissimilar to the functions of police officers who currently have the benefit of binding arbitration.

5. Arguments in Opposition:

- With the exception of Correction Officers in the Department of Correctional Services, it was never the intention of the Administration to provide binding arbitration to positions with peace officer status. Accordingly, Warrant and Transfer Officers, who are peace officers, were intentionally excluded from previous binding arbitration legislation.
- This bill is the latest in an on-going attempt to proliferate the availability of binding arbitration to selective groups of public employees. If this bill is enacted, it is likely that other peace officers would seek similar treatment. This would have far reaching effects for

the State and local governments. The State alone employs over 2,500 peace officers (in addition to Warrant and Transfer Officers) in several State agencies including the Office of Mental Health, the Office of Mental Retardation and Developmental Disabilities, the Department of Correctional Services and the Division of Parole. This significant expansion of binding arbitration could be very costly since past experience clearly demonstrates that binding arbitration often results in awards that have significantly more generous and thus more costly than those agreed to in the normal collective bargaining process.

- Although third party arbitration panels are required to consider the employers' financial ability to pay when awarding contracts, it is just one of many factors such panels are allowed to consider. Case law has rendered the "financial ability of the public employer to pay" provision as meaningless through the following rationale: since government employers can raise unlimited funds through their taxing powers, a public employer's ability to pay is unlimited. Last year, the Governor's mandate relief program bill proposed major reform to the binding arbitration provisions in section 209 of the Civil Service Law. Specifically, binding arbitration panels would be required, above all other factors, to give primary consideration to the public employer's financial ability to pay for compensation awards without creating the need for new revenue or increased taxes. Regrettably, that bill was not approved by the Legislature. Absent the reforms proposed by the Governor, it would be ill-advised to approve this bill.
- Finally, this bill is unnecessary because the Taylor Law already provides effective mechanisms for resolving collective bargaining impasses through mediation, fact-finding, and legislative intervention. Under the Taylor Law, even during the most difficult times, the State's collective bargaining process has worked and thus it is not necessary to expand the availability of binding arbitration to more public employees.

6. Other State Agencies Interested:

Division of the Parole has taken "no position" on this bill.

7. Other Interested Groups:

The New York State Correctional Officers and Police Benevolent Association, which represents the Security Services collective bargaining unit, would have an interest in this bill.

8. Budget Implications:

There are currently 15 Warrant and Transfer Officers and 1 Senior Warrant and Transfer Officer in the unit who would be subject to binding arbitration under this bill. These 16 officers comprise a base payroll worth about \$933,000. Therefore, the State would incur increased costs of roughly \$18,000 annually for each additional 1 percent in general salary increase provided to such law enforcement members as a result of binding arbitration. If binding arbitration resulted in an additional 2 percent in general salary increases (beyond what traditional bargaining would otherwise yield) for each year of a four-year period, then this bill would increase the cumulative cost of State employee compensation for this group by approximately \$190,600 over such four-year period.

9. Recommendation:

This bill would extend binding arbitration rights to Warrant and Transfer Officers (who are peace officers) in the Security Services collective negotiating unit. There is no compelling need for this bill, and it is contradictory to this Administration's position regarding the availability of binding arbitration to peace officers, as specified in Chapter 220 of the Laws of 2002. Also, if enacted, this bill could have significant fiscal consequences for the State because while this instant group of employees is not large, it is likely that other public employees who are also peace officers will demand equal treatment. Moreover, since the current binding arbitration statute does not require arbitrators to primarily take into account the ability of governments to pay for increased costs associated with their decisions (a reform which the Governor has repeatedly proposed without success), it would be ill-advised to enact this bill. Accordingly, the Division of the Budget recommends veto.



STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF PAROLE
97 CENTRAL AVENUE
ALBANY, NEW YORK 12206

ROBERT DENNISON
CHAIRMAN

ANTHONY G. ELLIS, II
EXECUTIVE DIRECTOR

June 20, 2006

Honorable Richard Platkin
Counsel to the Governor
Executive Chamber
The Capitol
Albany, New York 12224

Re: S.7751

Dear Mr. Platkin:

The New York State Division of Parole has been asked to comment upon S.7751, a bill relating to providing for binding arbitration in negotiations for certain members of the security services collective bargaining unit. Please be advised that the Division of Parole takes no position with respect to this legislation.

Thank you for your attention in this matter and for affording the Division the opportunity to comment on this legislation.

Respectfully yours,

Terrence X. Tracy
Counsel

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CSEA has no position on S7751

Dear Governor Pataki,


I am writing to urge you to sign into law Binding Arbitration for **Warrant and Transfer Officers** represented by NYSCOPBA. (Senate bill # S7751 /Assembly bill # A.11021).

Binding arbitration is currently provided to all Police Officers in the State and to many other law enforcement officers. As Warrant and Transfer Officers we perform many of the same law enforcement functions and deserve binding arbitration.

This legislation will:

- Allow a neutral third party to determine compensation in a fair and equitable manner;
- Assist in the recruitment and retention of Warrant and Transfer Officers
- Provide compensation parity between Warrant and Transfer Officers and other law enforcement officers in New York State

Thank you in Advance,


TOWARDS WARREN

57751

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I am writing to urge you to sign into law Binding Arbitration for **Warrant and Transfer Officers** represented by NYSCOPBA. (Senate bill # S7751 /Assembly bill # A.11021).

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This legislation will:

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- Assist in the recruitment and retention of Warrant and Transfer Officers
- Provide compensation parity between Warrant and Transfer Officers and other law enforcement officers in New York State

Thank you in Advance,



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STATE OF NEW YORK

7751

IN SENATE

April 25, 2006

Introduced by Sen. LITTLE -- 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 providing for binding arbitration in negotiations for certain members of the security services collective bargaining unit

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2 of section 209 of the civil service law, as
2 amended by section 1 of chapter 737 of the laws of 2005, is amended to
3 read as follows:
4 2. Public employers are hereby empowered to enter into written agree-
5 ments with recognized or certified employee organizations setting forth
6 procedures to be invoked in the event of disputes which reach an impasse
7 in the course of collective negotiations. Such agreements may include
8 the undertaking by each party to submit unresolved issues to impartial
9 arbitration. In the absence or upon the failure of such procedures,
10 public employers and employee organizations may request the board to
11 render assistance as provided in this section, or the board may render
12 such assistance on its own motion, as provided in subdivision three of
13 this section, or, in regard to officers or members of any organized fire
14 department, or any unit of the public employer which previously was a
15 part of an organized fire department whose primary mission includes the
16 prevention and control of aircraft fires, police force or police depart-
17 ment of any county, city, town, village or fire or police district, or
18 detective-investigators employed in the office of a district attorney of
19 a county not contained within a city with a population of one million or
20 more, or in regard to any organized unit of troopers, commissioned or
21 noncommissioned officers of the division of state police, or in regard
22 to investigators, senior investigators and investigator specialists of
23 the division of state police, or in regard to members of collective
24 negotiating units designated as security services and security supervi-
25 sors who are police officers or who are employed by the state department
26 of correctional services and are designated as peace officers pursuant
27 to subdivision twenty-five of section 2.10 of the criminal procedure law

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

LBD16297-01-6

S. 7751

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1 or who are warrant and transfer officers in the division of parole, or
2 in regard to members of the collective negotiating unit designated as
3 the agency law enforcement services unit who are police officers pursu-
4 ant to subdivision thirty-four of section 1.20 of the criminal procedure
5 law, or in regard to organized units of deputy sheriffs who are engaged
6 directly in criminal law enforcement activities that aggregate more than
7 fifty per centum of their service as certified by the county sheriff and
8 are police officers pursuant to subdivision thirty-four of section 1.20
9 of the criminal procedure law as certified by the municipal police
10 training council or Suffolk county correction officers, as provided in
11 subdivision four of this section.

12 § 2. The opening paragraph of subdivision 4 of section 209 of the
13 civil service law, as amended by section 3 of chapter 737 of the laws of
14 2005, is amended to read as follows:

15 On request of either party or upon its own motion, as provided in
16 subdivision two of this section, and in the event the board determines
17 that an impasse exists in collective negotiations between such employee
18 organization and a public employer as to the conditions of employment of
19 officers or members of any organized fire department, or any other unit
20 of the public employer which previously was a part of an organized fire
21 department whose primary mission includes the prevention and control of
22 aircraft fires, police force or police department of any county, city,
23 town, village or fire or police district, and detective-investigators or
24 criminal investigators employed in the office of a district attorney of
25 a county not contained within a city with a population of one million or
26 more, or as to the conditions of employment of members of any organized
27 unit of troopers, commissioned or noncommissioned officers of the divi-
28 sion of state police or as to the conditions of employment of members of
29 any organized unit of investigators, senior investigators and investi-
30 gator specialists of the division of state police, or as to the terms
31 and conditions of employment of members of collective negotiating units
32 designated as security services and security supervisors, who are police
33 officers or who are employed by the state department of correctional
34 services and are designated as peace officers pursuant to subdivision
35 twenty-five of section 2.10 of the criminal procedure law or who are
36 warrant and transfer officers in the division of parole, or in regard to
37 members of the collective negotiating unit designated as the agency law
38 enforcement services unit who are police officers pursuant to subdivi-
39 sion thirty-four of section 1.20 of the criminal procedure law, or as to
40 the conditions of employment of any organized unit of deputy sheriffs
41 who are engaged directly in criminal law enforcement activities that
42 aggregate more than fifty per centum of their service as certified by
43 the county sheriff and are police officers pursuant to subdivision thir-
44 ty-four of section 1.20 of the criminal procedure law as certified by
45 the municipal police training council or Suffolk county correction offi-
46 cers, the board shall render assistance as follows:

47 § 3. Paragraph (f) of subdivision 4 of section 209 of the civil
48 service law, as amended by chapter 641 of the laws of 2003, is amended
49 to read as follows:

50 (f) With regard to any members of collective negotiating units desig-
51 nated as security services or security supervisors, who are police offi-
52 cers or who are employed by the state department of correctional
53 services and are designated as peace officers pursuant to subdivision
54 twenty-five of section 2.10 of the criminal procedure law or who are
55 warrant and transfer officers in the division of parole, or in regard to
56 members of the collective negotiating unit designated as the agency law

S. 7751

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1 enforcement services unit who are police officers pursuant to subdivi-
2 sion thirty-four of section 1.20 of the criminal procedure law, the
3 provisions of this section shall only apply to the terms of collective
4 bargaining agreements directly relating to compensation, including, but
5 not limited to, salary, stipends, location pay, insurance, medical and
6 hospitalization benefits; and shall not apply to non-compensatory issues
7 including, but not limited to, job security, disciplinary procedures and
8 actions, deployment or scheduling, or issues relating to eligibility for
9 overtime compensation which shall be governed by other provisions
10 proscribed by law.

11 § 4. This act shall take effect immediately; provided that the amend-
12 ments to subdivisions 2 and 4 of section 209 of the civil service law
13 made by sections one, two and three, respectively, of this act shall not
14 affect the expiration of such subdivisions and shall be deemed to expire
15 therewith.
