

DW

VETO # 25 CHAPTER _____

LAWS OF 20 08

SENATE BILL _____

ASSEMBLY BILL A9719

STATE OF NEW YORK

9719

IN ASSEMBLY

January 22, 2008

Introduced by M. of A. DESTITO, ABBATE, SCHROEDER -- Multi-Sponsored by -- M. of A. BARRA, KOON, LUPARDO -- read once and referred to the Committee on Governmental Employees

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

56836 Griffio

DATE RECEIVED BY GOVERNOR:

JUN 27 2008

ACTION MUST BE TAKEN BY:

JUL 09 2008

DATE GOVERNOR'S ACTION TAKEN:

JUL 07 2008

000001

SENATE VOTE 62 Y 0 N

HOME RULE MESSAGE Y N

DATE 6/16/08

ASSEMBLY VOTE 128 Y 9 N

DATE 5/21/08

000002

A9719 Destito (MS) Same as S 6836 GRIFFO

06/16/08 A9719

Senate Vote

Aye: 62 Nay: 0

05/21/08 A9719

Assembly Vote

Yes: 128 No : 9

Go to Top of Page

06/16/08 A9719 Senate Vote Aye: 62 Nay: 0

Aye Adams	Aye Alesi	Aye Aubertine	Aye Bonacic
Aye Breslin	Aye Bruno	Aye Connor	Aye DeFrancisco
Aye Diaz	Aye Dilan	Aye Duane	Aye Farley
Aye Flanagan	Aye Fuschillo	Aye Golden	Aye Gonzalez
Aye Griffo	Aye Hannon	Aye Hassell- Thompson	Aye Huntley
Aye Johnson C	Aye Johnson O	Aye Klein	Aye Krueger
Aye Kruger	Aye Lanza	Aye Larkin	Aye LaValle
Aye Leibell	Aye Libous	Aye Little	Aye Maltese
Aye Marcellino	Aye Maziarz	Aye Montgomery	Aye Morahan
Aye Nozzolio	Aye Onorato	Aye Oppenheimer	Aye Padavan
Aye Parker	Aye Perkins	Aye Rath	Aye Robach
Aye Sabini	Aye Saland	Aye Sampson	Aye Savino
Aye Schneiderman	Aye Serrano	Aye Seward	Aye Skelos
Aye Smith	Aye Stachowski	Aye Stavisky	Aye Stewart-Cousins
Aye Thompson	Aye Trunzo	Aye Valesky	Aye Volker
Aye Winner	Aye Young		

Go to Top of Page

05/21/08 A9719 Assembly Vote Yes: 128 No : 9

Yes Abbate	Yes Alessi	Yes Alfano	Yes Amedore
Yes Arroyo	Yes Aubry	Yes Bacalles	Yes Ball
Yes Barclay	Yes Barra	Yes Benedetto	Yes Benjamin
Yes Bing	Yes Boyland	Yes Boyle	Yes Bradley
Yes Brennan	Yes Brodsky	ER Brook-Krasny	No Burling
Yes Butler	Yes Cahill	Yes Calhoun	ER Camara
Yes Canestrari	ER Carrozza	Yes Christensen	Yes Clark
No Cole	Yes Colton	Yes Conte	Yes Cook
Yes Crouch	Yes Cusick	Yes Cymbrowitz	Yes DelMonte
Yes Destito	Yes Diaz L	ER Diaz R	Yes Dinowitz
Yes Duprey	Yes Eddington	Yes Englebright	Yes Errigo
Yes Espaillat	Yes Farrell	Yes Fields	Yes Finch
No Fitzpatrick	No Gabryszak	Yes Galef	ER Gantt
Yes Gianaris	Yes Giglio	Yes Glick	Yes Gordon
Yes Gottfried	Yes Greene	Yes Gunther A	Yes Hawley
No Hayes	Yes Heastie	Yes Hevesi	Yes Hikind
Yes Hooper	Yes Hoyt	Yes Hyer-Spencer	Yes Jacobs
Yes Jaffee	Yes Jeffries	Yes John	Yes Kavanagh
Yes Kellner	Yes Kirwan	No Kolb	Yes Koon
ER Lafayette	Yes Lancman	Yes Latimer	Yes Lavine
Yes Lentol	ER Lifton	No Lopez P	Yes Lopez V
Yes Lupardo	Yes Magee	ER Magnarelli	Yes Maisel
Yes Markey	Yes Mayersohn	Yes McDonald	Yes McDonough
Yes McEneny	Yes McKeivitt	ER Miller	Yes Millman

000003

Yes Molinaro	Yes Morelle	ER Nolan	Yes Oaks
Yes O'Donnell	ER O'Mara	Yes Ortiz	Yes Parment
Yes Paulin	Yes Peoples	Yes Peralta	Yes Perry
Yes Pheffer	Yes Powell	Yes Pretlow	No Quinn
Yes Rabbitt	Yes Raia	Yes Ramos	Yes Reilich
Yes Reilly	Yes Rivera J	Yes Rivera N	Yes Rivera P
Yes Robinson	Yes Rosenthal	Yes Saladino	Yes Sayward
Yes Scarborough	Yes Schimel	No Schimminger	Yes Schroeder
Yes Scozzafava	Yes Seminerio	Yes Spano	Yes Stirpe
Yes Sweeney	Yes Tedisco	Yes Thiele	Yes Titone
Yes Titus	Yes Tobacco	Yes Towns	Yes Townsend
Yes Walker	Yes Weinstein	Yes Weisenberg	Yes Weprin
Yes Wright	Yes Young	Yes Zebrowski K	Yes Mr. Speaker

000004



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

June 17, 2008

Honorable Roann M. Destito
New York State Assembly
Legislative Office Building – Room 621
Albany, New York 12248

Honorable Joseph Griffo
New York State Senate
Legislative Office Building – Room 944
Albany, New York 12248

Dear Assemblywoman Destito and Senator Griffo:

As you know, legislation that you have sponsored (A.9719/S.6836) has now passed both houses of the Legislature, and will soon be sent to the Governor for action.

In order to assist the Governor in reviewing this legislation and deciding whether it should be signed into law, we would greatly appreciate receiving any relevant documents or information that you have on this bill. In particular, we would very much like to receive:

- copies of the sponsor's memorandum in support of this bill;
- copies of any comment letters in support of or in opposition to this bill that you received from outside organizations, individuals or other third parties;
- if hearings were held on the bill, copies of the transcripts of those hearings; and
- any other documents or information that you believe should be considered by the Governor.

The State Constitution gives the Governor only 10 days to act on bills after they have been forwarded by the Legislature, and we therefore would appreciate receiving

000006

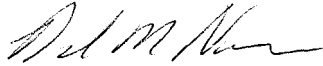
the above information at your earliest convenience. Please send any materials you have to:

Kristin Rosenstein
Legislative Secretary's Office
Executive Chamber
State Capitol – Room 225
Albany, New York 12224

Any information that you provide will be included in the bill jacket that is maintained by the State Archives and constitutes the legislative history of bills that have been signed into law.

Thank you for your consideration and assistance, and please feel free to contact this office if you have any questions.

Sincerely,



David M. Nocenti
Counsel to the Governor

cc: K. Rosenstein

V25

THE SENATE
STATE OF NEW YORK



JOSEPH A. GRIFFO
Senator, 47th District

ALBANY OFFICE:
ROOM 944
LEGISLATIVE OFFICE BUILDING
ALBANY, NEW YORK 12247
(518) 455-3334
FAX: (518) 426-6921

UTICA OFFICE:
207 GENESEE STREET
UTICA, NEW YORK 13501
(315) 793-9072
FAX: (315) 793-0298

MASSENA OFFICE #:
(315) 769-7932

LOWVILLE OFFICE #:
(315) 376-3325

EMAIL ADDRESS:
griffo@senate.state.ny.us

- CHAIRMAN
- ELECTIONS COMMITTEE
- COMMITTEE ASSIGNMENTS
- COMMERCE, ECONOMIC DEVELOPMENT & SMALL BUSINESS
 - CONSUMER PROTECTION
 - CRIME VICTIMS, CRIME & CORRECTION
 - ENVIRONMENTAL CONSERVATION
 - ENERGY & TELECOMMUNICATIONS
 - HIGHER EDUCATION
 - RACING, GAMING & WAGERING
 - VETERANS, HOMELAND SECURITY & MILITARY AFFAIRS

July 3, 2008

Ms. Kristen Rosenstein
Legislative Secretary's Office
Executive Chamber
State Capitol - Room 225
Albany, New York 12224

Re: A.9719/S.6836

Dear Ms. Rosenstein:

I am writing in support of the above captioned legislation which allows Security Hospital Treatment Assistants to avail themselves of binding arbitration procedures to resolve impasses on compensation-related matters in collective bargaining.

Security Hospital Treatment Assistants (SHTA) are at risk of assault on a daily basis because they work in forensic units or hospitals and deal with the most dangerous individuals in the State. SHTAs are in **direct contact** with these sentenced and non-sentenced mentally ill inmates. Provisions of binding arbitration to this group would ensure that their safety and security responsibilities would not be threatened with disruption. New York needs to view the Office of Mental Health's SHTAs and the duties they perform in the same light as the Department of Correctional Services's Correctional Officers since they share similar job functions and benefits.

I urge the Governor to carefully review this request and grant Security Hospital Treatment Assistants this opportunity due them.

Sincerely,

Joseph A. Griffo
State Senator

JAG:cgp

000008



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

BILL NUMBER: S6836

SPONSOR: GRIFFO

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 binding arbitration to security hospital treatment assistant ("SHTA") members of the Security Services collective bargaining unit.

SUMMARY OF PROVISIONS:

Section 1 of the bill amends §209(2) of the Civil Service Law to include within its provisions SHTA members of the Security Services collective bargaining unit.

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)(f) of the Civil Service Law to limit application of binding arbitration to compensatory issues.

Section 4 of the bill provides the effective date of the legislation.

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 are correctional officers. SHTAs perform work very similar in nature and scope to that of New York's correctional officers. These dedicated public servants perform their services within the State's forensic psychiatric facilities, providing care and custody to some of the most dangerous individuals in the State--those deemed criminally insane by a court of law. In fact, SHTAs and correctional officers employed by the State are part of the same service-based retirement plan, permitting SHTAs and correctional officers to transfer between titles without loss or diminution of retirement benefits, providing further evidence of the similarity between the two Titles. Considering that an SHTA's job duties so closely parallel the duties of a correctional officer, it is only logical that they should be afforded the benefits of binding arbitration

000009

during the process of collective negotiations. This bill seeks to achieve this laudable goal.

LEGISLATIVE HISTORY:

2007 - Passed both houses. Veto Memo #36

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

Immediate.

000010

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A9719

SPONSOR: Destito (MS)

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 OR GENERAL IDEA OF BILL: To provide binding arbitration to security hospital treatment assistant ("SHTA") members of the Security Services collective bargaining unit.

SUMMARY OF SPECIFIC PROVISIONS: Section 1 of the bill amends §209(2) of the Civil Service Law to include within its provisions SHTA members of the Security Services collective bargaining unit. 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)(f) of the Civil Service Law to limit application of binding arbitration to compensatory issues. Section 4 of the bill provides the effective date of the legislation.

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 are correctional officers. SHTAs perform work very similar in nature and scope to that of New York's correctional officers. These dedicated public servants perform their services within the State's forensic psychiatric facilities, providing care and custody to some of the most dangerous individuals in the State--those deemed criminally insane by a court of law. In fact, SHTAs and correctional officers employed by the State are part of the same service-based retirement plan, permitting SHTAs and correctional officers to transfer between titles without loss or diminution of retirement benefits, providing further evidence of the similarity between the two titles. Considering that an SHTA's job duties so closely parallel the duties of a correctional officer, it is only logical that they should be afforded the benefits of binding arbitration during the process of collective negotiations. This bill seeks to achieve this laudable goal.

PRIOR LEGISLATIVE HISTORY: 2007: A.803 - Passed Both Houses; Veto Memo #36 2006: A.10884 - Passed Both Houses; Vetoed Memo #405

FISCAL IMPLICATIONS: None.

000012

EFFECTIVE DATE: Immediately.

000013

DIVISION OF THE BUDGET BILL MEMORANDUM

Session Year 2008

SENATE:
No.

ASSEMBLY:
No. 9719

Primary Sponsor: Destito

Law: Civil Service

Sections: 209

Division of the Budget recommendation on the above bill

APPROVE: ___ VETO: X NO OBJECTION: ___

1&2. Subject and Purpose & Summary of Provisions:

Effective immediately, this bill would amend subdivisions 2 and 4 of section 209 of the Civil Service Law to add Security Hospital Treatment Assistants employed by the Office of Mental Health (OMH) – in the Security Services Unit – to the list of employees eligible to utilize binding arbitration to settle contract disputes relating to compensation issues.

3. Legislative History:

The same bill was vetoed in 2007 (Veto no.36) and in 2006 (Veto no.405) on the grounds that Chapter 220 of the Laws of 2002 deliberately excluded all Security Services and Security Supervisor titles, except for correction officers and police officers, from receiving binding arbitration benefits. A similar bill extending analogous benefits to all Security Services and Security Supervisor titles within OMH, the Office of Mental Retardation and Developmental Disabilities, and the Department of Health was also vetoed in 2006 on the same grounds (Veto no.403).

4. Arguments in Support:

Proponents of this bill argue that Security Hospital Treatment Assistants should be treated like correctional officers, who are eligible for binding arbitration in the event of impasse. Specifically, proponents argue that since Security Hospital Treatment Assistants perform work similar in nature and scope to correctional officers, binding arbitration should also be available to them. Proponents further argue that binding arbitration is needed for this group of employees to ensure labor harmony in the event of a breakdown in collective bargaining.

5. Arguments in Opposition:

- Correctional officers were afforded binding arbitration for compensation matters in 2002 to reflect their status as “peace officers.” Security Hospital Treatment Assistants have the peace officer status only to a very limited degree, i.e., when transporting persons convicted of a crime. Importantly, their job primarily entails providing care to patients in addition to providing for their security and safety, whereas correction officers are responsible for the

daily oversight of individuals convicted of serious crimes. The Security Hospital Treatment Assistants' job duties reflect an emphasis on therapeutic and clinical activities in contrast to correctional officers, whose primary responsibility is the oversight of convicted criminals to ensure the order and safety of correctional facilities.

- Currently, Section 209 of the Civil Service Law prescribes four factors which binding arbitration panels must consider when developing arbitration award decisions: 1) comparable wages and compensation paid to similar employees in other jurisdictions; 2) the financial ability of the public employer to pay; 3) comparable peculiarities such as job hazards and physical qualifications; and 4) past terms of collective bargaining agreements negotiated between the public employer and the applicable union.

Past experience demonstrates that the binding arbitration process results in more generous compensation awards in comparison to the normal collective negotiation process. Historical experience suggests that binding arbitration panels have given inadequate consideration to governmental fiscal concerns and instead have interpreted the existing ability to pay factor in the most extreme terms. Case law has rendered the "financial ability of the public employer to pay" provisions meaningless through the following rationale: since employers can raise unlimited funds through their ability to tax, a public employer's ability to pay is unlimited. This "unlimited capacity" theory has led to awards that have the potential to be very disruptive to the employer's finances and operations. As a result, the expanded authorization of binding arbitration should be restrained.

- In the past, major reform was consistently proposed to reform the binding arbitration provisions in Section 209 to accord first priority to the financial ability of a governmental employer to pay an arbitration award. For example, most recently in 2006, legislation was advanced that would require arbitrators to consider, above all other factors, the public employer's financial ability to pay without the need for new or increased taxes. Regrettably, these reforms have not been enacted. Absent such enactment, it is ill-advised to expand binding arbitration.
- Other arguments against the extension of compulsory binding arbitration include:
 - It is inappropriate to permit a third party arbitrator, who may be unfamiliar with the day-to-day operations of the public employer, to make determinations about work rules, wages and benefits.
 - One prominent arbitrator who has presided over numerous arbitrations in this State (both NYS and local government) recently stated that granting binding arbitration status to the members of a particular negotiating unit, is interpreted as a signal by the Legislature to treat such employees more generously.
 - Binding arbitration encourages parties to rigidly hold to their original positions (which are often unreasonable) throughout the bargaining process, the result being that arbitrators are given an unrealistic set of parameters within which to determine a settlement. As such, it could be argued that the availability of arbitration deters good faith collective bargaining by the parties and has resulted in settlements that are both inequitable and exorbitant.

- Finally, this bill is objectionable because it would perpetuate a significant technical flaw in Section 209, subdivision 2 of the Civil Service Law, which was created by the passage of Chapter 696 of the Laws of 2003 (i.e., the initial Sheriffs' Binding Arbitration Bill).

Through the passage of Chapter 696, a second competing subdivision 2 was established in the Civil Service Law (i.e., there are two subdivision 2's in the law). This second subdivision, which should be eliminated, identifies a partial list of the covered employees eligible for binding arbitration and excludes local police and fire personnel in New York City. The first subdivision, which should remain in the law, identifies all the covered employee groups eligible for binding arbitration, including local police and fire personnel in New York City. The legislative intent since 1998 has been to provide New York City local police and fire personnel with binding arbitration. Therefore, the second subdivision contradicts the intent of the law and should be eliminated.

6. Other State Agencies Interested:

OMH and the Governor's Office of Employee Relations are opposed to this bill.

7. Other Interested Groups:

NYSCOPBA is in support of this bill.

8. Budget Implications:

There are approximately 640 Security Hospital Treatment Assistants employed by OMH with an annual payroll of approximately \$42 million (including overtime). Therefore, if this bill were approved, the cost for each one percent general salary increase beyond settlements reached without binding arbitration would be an additional \$420,000 in annual costs to the State.

9. Recommendation:

This bill would add Security Hospital Treatment Assistants, who are represented by the Security Services Unit, to the list of employees eligible for binding arbitration. Importantly, there is no compelling justification to extend binding arbitration to this group of employees. Security Hospital Treatment Assistants are different from correctional officers both in their therapeutic job duties and their minimal involvement in criminal justice matters.

Moreover, the availability of binding arbitration for resolution of unsuccessful collective bargaining efforts has often had the adverse impact of leading the parties to develop and maintain extreme positions in the collective bargaining process. This has resulted in arbitration awards which are much more costly than those which might otherwise have been agreed to in collective bargaining. Accordingly, the expanded authorization of binding arbitration should be restrained. It is reasonable to assume that if this bill is approved, incumbents of other civilian titles will seek similar benefits, which could lead to increased costs for the State.

For these reasons, the Division of the Budget recommends again that this bill be vetoed.



STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

DAVID A. PATERSON
GOVERNOR

LORRAINE A. CORTÉS-VÁZQUEZ
SECRETARY OF STATE

MEMORANDUM

To: Honorable David Nocenti, Esq.
Counsel to the Governor

From: Matthew W. Tebo, Esq.
Legislative Counsel

Date: June 26, 2008

Subject: A.9719 (M. of A. Destito)
Recommendation: No comment

The Department of State has no comment on the above referenced bill.

If you have any questions or comments regarding our position on the bill, or if we can otherwise assist you, please feel free to contact me at (518) 474-6740.

MWT/mel

000017



State of New York
Governor's Office of Employee Relations
Counsel's Office
2 Empire State Plaza, Suite 1201, Albany, New York 12223
(518) 473-4596 • (518) 486-7303 (Fax)

David A. Paterson
Governor

Gary Johnson
Director

MEMORANDUM

July 1, 2008

TO: Terry Brown Clemons
FROM: Michael N. Volforte
SUBJECT: A.9719

This bill would amend the Civil Service Law to provide binding interest arbitration regarding compensation for Security Hospital Treatment Assistants (SHTAs) in the Office of Mental Health who are members of the Security Services collective bargaining unit.

Currently, sections 209(2) and 209(4) of the Civil Service Law provide binding interest arbitration by a public arbitration panel in the event of impasse in collective negotiations for, in relevant part, officers or members of any organized fire department, police force or police department of any county, city, town, village or fire or police district, or detective-investigators in the office of a district attorney of a county not contained within a city with a population of one million or more, or troopers, commissioned or noncommissioned officers, investigators, senior investigators, and investigator specialists in the Division of State Police, or members of the Security Services and Security Supervisors collective bargaining units who are police officers, forest ranger captains, or employed by the Department of Correctional Services as peace officers, or members of the Agency Law Enforcement Services collective bargaining unit who are police officers or forest rangers, or any organized unit of deputy sheriffs directly engaged in criminal law enforcement, or Suffolk county correction officers.

000018

The Governor's Office of Employee Relations opposes this bill. Currently, binding interest arbitration for members of the Security Services unit is limited to correctional officers. In 2002, SHTAs in the Security Services unit were specifically excluded from binding interest arbitration by a 2002 chapter amendment, as part of the agreement that led to the inclusion of correctional officers. Similar legislation was vetoed in 2006 and 2007. See Veto No. 405 (2006) and Veto No. 36. To date, binding arbitration has been limited to certain specific groups engaged in law enforcement, fire fighting and public transportation. Originally, binding arbitration was limited to these specific groups to ensure these vital public services would continue uninterrupted.

This bill would unnecessarily expand the boundaries set on the groups who participate in this process and would extend binding arbitration into new areas. As Governor Spitzer noted in his 2007 Veto, that while SHTAs are peace officers for some purposes they also perform numerous therapeutic tasks, unlike correctional officers. Inclusion of these titles in the group that has binding interest arbitration would simply invite demands from other employee groups who deem their work to be comparable to that of SHTAs including other peace officers and those who work in other capacities in the mental health field.

Thank you for the opportunity to comment on this legislation.

MNV/lhv

000019



STATE OF NEW YORK
OFFICE OF MENTAL HEALTH
COUNSEL

JOHN V. TAURIELLO
Deputy Commissioner and Counsel

44 Holland Avenue
Albany, New York 12229

July 14, 2007

Honorable Terryl Brown Clemons
Acting Counsel to the Governor
Executive Chamber
State Capitol Building
Albany, NY 12224

Re: A.9719

Dear Ms. Brown Clemons:

The Office of Mental Health (OMH) is opposed to this bill, which has passed both houses of the Legislature and is now before the Governor for Executive action. This bill would amend the Civil Service Law, in regard to providing binding arbitration in negotiations for Security Hospital Treatment Assistants (SHTAs), who are employed by OMH. A similar bill was vetoed in 2007 (Veto Message #36).

Section one of this bill amends §209 (2) of the Civil Service Law to include SHTA members of the Security Services collective bargaining unit among the law enforcement and security related positions subject to required binding arbitration. Section two of this bill amends the opening paragraph of §209 (4) of the Civil Service Law in the same manner. Section three of the bill amends §209 (4) (f) to add SHTA to the list of law enforcement and security related positions, for whom such binding arbitration is limited to compensatory matters only.

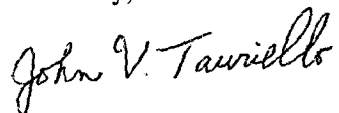
The justification for this bill is that SHTAs perform work similar in nature and scope to that of correctional officers, and as their job duties so closely parallel the duties of a correctional officer, it is logical they should be afforded the benefits of binding arbitration. From the OMH perspective, the role of the SHTA in a hospital is primarily therapeutic in nature and is not similar to that of a correctional officer, whose primary role is providing security. A justification that equates SHTAs and correctional officers raises concerns, as this move could blur the lines between treatment and security in OMH hospitals. Further, OMH opposes this bill because binding arbitration, by involving

000020

time limits and independent arbitrators, limits the State's options in collecting bargaining negotiations.

Thank you for the opportunity to comment on this legislation.

Sincerely,

A handwritten signature in cursive script that reads "John V. Tauriello".

John V. Tauriello
Deputy Commissioner and Counsel

000021



Denis M. Hughes
President

Terrence L. Melvin
Secretary-Treasurer

50 Broadway, 35th Fl.
New York, NY 10004
(212) 777-6040
Fax - (212) 777-8422

100 South Swan Street
Albany, NY 12210
(518) 436-8516
Fax - (518) 436-8470

June 26, 2008

Honorable David Paterson
Governor of the State of New York
State Capitol
Albany, New York 12224

ATT: Counsel

RE: A9719

Dear Governor Paterson:

The New York State AFL-CIO, representing over 2 million union members, their families as well as our retirees and their families supports the above referenced legislation.

Therefore, we urge you to sign this bill forthwith.

For further information contact Ed Donnelly, Legislative Director at 518-436-8516.

Sincerely,

A handwritten signature in black ink that reads "Ed Donnelly". The signature is written in a cursive style with a large, looping "D" and "N".

Ed Donnelly
Legislative Director

ED:eb
opeiu-153
Letter #22/2008

000022



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd., Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



July 8, 2008

Dear Governor Paterson,

A.9719 would extend the state's binding arbitration law to compensation issues for the Security Hospital treatment Assistant's, who are Law Enforcement Members of the Security Services Unit and Security Supervisors Unit in NYSCOPBA.

As you may know, binding arbitration allows a neutral third party to determine compensatory issues for members of the Security Services and Security Supervisors. This legislation passed the Legislature and became law during the 2001 Legislative Session. (See Chapter 586 of the Laws of 2001). During the 2002 Legislative Session, however, through the enactment of Chapter 220 of the Laws of 2002, binding arbitration was limited to members of the Security Services and Security Supervisors units who are state correctional officers.

When Chapter 586 of the Laws of 2001 passed the Legislature, it was the clear intent of the legislative members from both Houses to provide binding arbitration to all titles within the Security Services and Security Supervisors collective bargaining units. Enactment of this bill into law will ensure that the original legislative intent with respect to Chapter 586 of the Laws of 2001 is carried out.

Pattern bargaining is NOT an effective method of reaching a contract with disparate bargaining units as evidenced by these brave men and women working in New York's Psychiatric Facilities and performing similar duties to NYS Correction Officers. The state has recognized law enforcement group's unique position, in the past, through binding arbitration and NYSCOPBA asks that you recognize the SHTA's by signing A.9719 into law.

Sincerely,

Donald Rowe
President

President
Donald Rowe

Executive Vice President
Chris Hickey

Recording Secretary
Diane Davis

Treasurer
John Telisky

Vice President
Northern Region
Randy Page

Vice President
Mid-Hudson Region
Kevin Walker

Vice President
Law Enforcement
Jerry Dewitt

Vice President
Central Region
Tom Haas

Vice President
Western Region
Al Mothershed

Vice President
Southern Region
Willie Perez

000023

LAW ENFORCEMENT OFFICERS UNION



LEGISLATIVE SUPPORT MEMO

Binding Arbitration for Security Hospital Treatment Assistants S6836/A9719

Council 82, AFSCME represents security hospital treatment assistant supervisors (SHTA) in the Office of Mental Health. This legislation would extend binding arbitration to security hospital treatment assistants.

Currently, binding arbitration in collective negotiations is available only to correctional officer members of the Security Services collective bargaining unit and to correctional officer members and police officers of the Security Supervisors collective bargaining unit.

SHTAs perform work similar in nature and scope to that of New York's correctional officers. These dedicated public servants perform their services within the State's forensic psychiatric facilities, providing care and custody to some of the most dangerous individuals in the State--those deemed criminally insane by a court of law. In fact, SHTAs and correctional officers employed by the State are part of the same service-based retirement plan, permitting SHTAs and correctional officers to transfer between titles without loss of diminution of retirement benefits, providing further evidence of the similarity between the two Titles.

Considering that an SHTA's job duties so closely parallel the duties of a correctional officer, it is only logical that they should be afforded the benefits of binding arbitration during the process of collective negotiations.

Council 82 supports the enactment of this legislation.

Respectfully submitted,

James F. Lyman
President

AFSCME COUNCIL 82, AFL-CIO
63 COLVIN AVENUE, ALBANY, NEW YORK 12206 (518) 489-8424
www.council82.org



000024

Dear Mr. Nocenti,

A.9719 would extend the state's binding arbitration law to compensation issues for the Security Hospital treatment Assistant's, who are Law Enforcement Members of the Security Services Unit and Security Supervisors Unit in NYSCOPBA.

As you may know, binding arbitration allows a neutral third party to determine compensatory issues for members of the Security Services and Security Supervisors. This legislation passed the Legislature and became law during the 2001 Legislative Session. (See Chapter 586 of the Laws of 2001). During the 2002 Legislative Session, however, through the enactment of Chapter 220 of the Laws of 2002, binding arbitration was limited to members of the Security Services and Security Supervisors units who are state correctional officers.

When Chapter 586 of the Laws of 2001 passed the Legislature, it was the clear intent of the legislative members from both Houses to provide binding arbitration to all titles within the Security Services and Security Supervisors collective bargaining units. Enactment of this bill into law will ensure that the original legislative intent with respect to Chapter 586 of the Laws of 2001 is carried out.

Pattern bargaining is NOT an effective method of reaching a contract with disparate bargaining units as evidenced by these brave men and women working in New York's Psychiatric Facilities and performing similar duties to NYS Correction Officers. The state has recognized law enforcement group's unique position, in the past, through binding arbitration and NYSCOPBA asks that you recognize the SHTA's by signing A.9719 into law.

Chris Leo

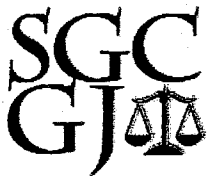
Legislative Director

NYSCOPBA

518-427-1551 Ext.245 www.nyscopba.org

IMPORTANT NOTICE: This e-mail is meant only for the use of the intended recipient. It may contain confidential information which is legally privileged or otherwise protected by law. If you received this e-mail in error or from someone who was not authorized to send it to you, you are strictly prohibited from reviewing, using, disseminating, distributing or copying the e-mail. PLEASE NOTIFY US IMMEDIATELY OF THE ERROR BY RETURN E-MAIL AND DELETE THIS MESSAGE FROM YOUR SYSTEM. Thank you for your cooperation.

000025



SHEEHAN GREENE CARRAWAY
GOLDERMAN & JACQUES LLP

Attorneys at Law

99 Pine Street • Suite 402 • Albany, NY 12207
p: 518.462.0110 • f: 518.462.5260 • www.SGCGJLAW.com

L 621

May 9, 2006

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

S.7757 (Little)
A.10884 (Destito)

SUPPORT MEMORANDUM

Submitted on behalf of
The New York State Correctional Officers and Police Benevolent Association, Inc.

This legislation would amend the Civil Service Law to provide binding arbitration to security hospital treatment assistant ("SHTA") members of the Security Services collective bargaining unit. On behalf of the New York State Correctional Officers and Police Benevolent Association, Inc. ("NYSCOPBA"), which represents more than 22,000 members employed within several State agencies, including SHTAs employed by the Office of Mental Health, we strongly support the enactment of this legislation.

This legislation seeks to provide the benefits of binding arbitration to New York's SHTAs, benefits currently afforded to State correctional officers. New York's SHTAs perform work very similar in scope and nature to that of a correctional officer. Like correctional officers who are responsible for the care and custody of individuals confined within the State's correctional system, SHTAs are responsible for the care and custody of individuals adjudicated criminally insane and confined within New York's forensic psychiatric institutions. In fact, the SHTA occupation so closely parallels that of our State's correctional officers, the two titles are part of the same retirement plan, authorizing individuals to transfer between the two titles without diminution of retirement benefits.

However, unlike State correctional officers who currently enjoy the benefits of binding arbitration, the compensation levels for SHTAs are determined through the traditional collective bargaining process. Ironically, when binding arbitration was first made available to State correctional officers through Chapter 586 of the Laws of 2001, the statute also applied to SHTAs

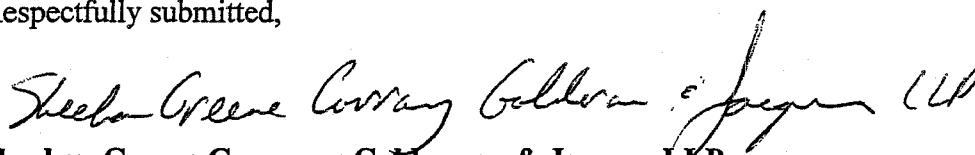
000026

and other members of the bargaining unit. Through legislative enactment the subsequent year, however, binding arbitration benefits were limited to members of the unit who held the title of correctional officer.

This legislation simply recognizes the original intent of the Legislature in enacting Chapter 586 of the Laws of 2001 and grants the benefits of binding arbitration to SHTA members of the Security Services collective bargaining unit.

For the reasons stated herein, on behalf of NYSCOPBA, we strongly support the enactment of this proposal.

Respectfully submitted,



Sheehan Greene Carraway Golderman & Jacques LLP

Counsel for the New York State Correctional Officers

and Police Benevolent Association, Inc.

SGCGJ01 881199.1

STATE OF NEW YORK

9719

IN ASSEMBLY

January 22, 2008

Introduced by M. of A. DESTITO, ABBATE, SCHROEDER -- Multi-Sponsored by
-- M. of A. BARRA, KOON, LUPARDO -- read once and referred to the
Committee on Governmental Employees

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

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

1 Section 1. Subdivision 2 of section 209 of the civil service law, as
2 amended by chapter 190 of the laws of 2007, is amended to read as
3 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, or rackets investigators employed in the office
19 of a district attorney of a county, or in regard to any organized unit
20 of troopers, commissioned or noncommissioned officers of the division of
21 state police, or in regard to investigators, senior investigators and
22 investigator specialists of the division of state police, or in regard
23 to members of collective negotiating units designated as security
24 services and security supervisors who are police officers, who are
25 forest ranger captains or who are employed by the state department of
26 correctional services and are designated as peace officers pursuant to

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

LBD14809-02-8

A. 9719

2

1 subdivision twenty-five of section 2.10 of the criminal procedure law or
2 who are security hospital treatment assistants in the office of mental
3 health, or in regard to members of the collective negotiating unit
4 designated as the agency law enforcement services unit who are police
5 officers pursuant to subdivision thirty-four of section 1.20 of the
6 criminal procedure law or who are forest rangers, or in regard to organ-
7 ized units of deputy sheriffs who are engaged directly in criminal law
8 enforcement activities that aggregate more than fifty per centum of
9 their service as certified by the county sheriff and are police officers
10 pursuant to subdivision thirty-four of section 1.20 of the criminal
11 procedure law as certified by the municipal police training council or
12 Suffolk county correction officers, as provided in subdivision four of
13 this section.

14 § 2. The opening paragraph of subdivision 4 of section 209 of the
15 civil service law, as amended by chapter 190 of the laws of 2007, is
16 amended to read as follows:

17 On request of either party or upon its own motion, as provided in
18 subdivision two of this section, and in the event the board determines
19 that an impasse exists in collective negotiations between such employee
20 organization and a public employer as to the conditions of employment of
21 officers or members of any organized fire department, or any other unit
22 of the public employer which previously was a part of an organized fire
23 department whose primary mission includes the prevention and control of
24 aircraft fires, police force or police department of any county, city,
25 town, village or fire or police district, and detective-investigators,
26 criminal investigators or rackets investigators employed in the office
27 of a district attorney, or as to the conditions of employment of members
28 of any organized unit of troopers, commissioned or noncommissioned offi-
29 cers of the division of state police or as to the conditions of employ-
30 ment of members of any organized unit of investigators, senior investi-
31 gators and investigator specialists of the division of state police, or
32 as to the terms and conditions of employment of members of collective
33 negotiating units designated as security services and security supervi-
34 sors, who are police officers, who are forest ranger captains or who are
35 employed by the state department of correctional services and are desig-
36 nated as peace officers pursuant to subdivision twenty-five of section
37 2.10 of the criminal procedure law or who are security hospital treat-
38 ment assistants in the office of mental health, or in regard to members
39 of the collective negotiating unit designated as the agency law enforce-
40 ment services unit who are police officers pursuant to subdivision thir-
41 ty-four of section 1.20 of the criminal procedure law or who are forest
42 rangers, or as to the conditions of employment of any organized unit of
43 deputy sheriffs who are engaged directly in criminal law enforcement
44 activities that aggregate more than fifty per centum of their service as
45 certified by the county sheriff and are police officers pursuant to
46 subdivision thirty-four of section 1.20 of the criminal procedure law as
47 certified by the municipal police training council or Suffolk county
48 correction officers, the board shall render assistance as follows:

49 § 3. Paragraph (f) of subdivision 4 of section 209 of the civil
50 service law, as amended by chapter 694 of the laws of 2006, is amended
51 to read as follows:

52 (f) With regard to any members of collective negotiating units desig-
53 nated as security services or security supervisors, who are police offi-
54 cers, who are forest ranger captains or who are employed by the state
55 department of correctional services and are designated as peace officers
56 pursuant to subdivision twenty-five of section 2.10 of the criminal

A. 9719

3

1 procedure law or who are security hospital treatment assistants in the
2 office of mental health, or in regard to members of the collective nego-
3 tiating unit designated as the agency law enforcement services unit who
4 are police officers pursuant to subdivision thirty-four of section 1.20
5 of the criminal procedure law or who are forest rangers, the provisions
6 of this section shall only apply to the terms of collective bargaining
7 agreements directly relating to compensation, including, but not limited
8 to, salary, stipends, location pay, insurance, medical and hospitaliza-
9 tion benefits; and shall not apply to non-compensatory issues including,
10 but not limited to, job security, disciplinary procedures and actions,
11 deployment or scheduling, or issues relating to eligibility for overtime
12 compensation which shall be governed by other provisions proscribed by
13 law.

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