



NYSPELRA Newsletter: May 2005

ANNUAL TRAINING CONFERENCE SET FOR JULY 24-27 IN SARATOGA

Your 31st Annual Training Conference will again be held in Saratoga Springs at the Holiday Inn, beginning with registration on Sunday July 24. Presentations run from Monday morning, July 25 through Wednesday noon July 27. Registration information has been sent. Those wishing to make a hotel reservation should call the Holiday Inn at 518/484-4550. Mention that you are registering for the NYSPELRA Annual Conference. The block on hotel reservations at \$139 daily, single or double, extends through July 2.

Your Board contends that, hour for hour and dollar for dollar, your Annual Conference represents the best training value available in our field. Once again, most of the presentations that will be offered are the direct result of the training needs expressed by Association members to Board members since last July. The early registration fee (prior to June 27) is \$275. Topics to be offered include:

- employee discipline and just cause;
- employee representation when employees are questioned;
- computer use forensics;
- an update on decisions of the Public Employment Relations Board and staff;
- an overview of the extension of compulsory arbitration to deputies;
- health care cost containment strategies;
- the annual assessment of grievance arbitrators;
- computer use misconduct cases: what works and what doesn't;
- employee counseling: why and how;
- your duty to provide information to a union in a disciplinary action; and
- an update on bills in the 2005 Legislative Session affecting public employers.

NOMINATIONS SOUGHT

Your Association seeks nominations for the William L. Holcomb Award for Public Service in Labor Relations for 2004–2005. A nominee(s) must have demonstrated:

- an extraordinary achievement in the field resulting in significant efficiencies, benefits or savings to their employer; and/or
- a record of leadership and accomplishment in labor relations; and/or
- a long term commitment to public service exhibiting innovation, creativity, and positive change in the field of labor relations.

You may direct any questions about the criteria or other issues related to a nomination to any of these Board members: Louis Giardina at 716/851-5900; Walt Pellegrini at 518/474-4090; or Elayne Gold at 518/464-1300. Information about the award and a **nomination form** has been sent. Please respond to the address provided on the form by June 15.

LEGISLATIVE UPDATE

These bills are among several that are moving towards passage by both houses of the State Legislature in what will likely be the final 3 weeks of the 2005 regular Session. All would have an adverse impact upon those public employers that would be affected by them. Those concerned with any particular bill should contact your 2 State legislators or have elected officials do so. Use either the NYS Assembly web site (www.assembly.state.ny.us) or the NYS Senate one at

(www.senate.state.ny.us) to secure information about the status of a bill. Both allow an update on a bill's status, a view or download of a bill's text, and the introductory memo that was submitted by its sponsor(s). Both site provide legislators' e-mail addresses.

- A. 8052/S. 4874 which would amend the Retirement and Social Security Law to provide that any heart disability incurred by a deputy sheriff currently covered by any heart disability provision in the Retirement and Social Security Law or by a police officer or firefighter would be presumed to be an accident. Such a presumption would basically be irrebutable by the Comptroller who administers the 2 Retirement Systems covering these employees;
- A. 8074/S. 5478 which would extend to employees in the labor class with 5 or more years of service Civil Service Law §75 rights;
- A. 7621/S. 3214 which would extend the amount of leave available to a public employee due to an occupational injury or disease from 1 year to 2 years and extend the leave available due to an injury resulting from a workplace assault from 2 years to 3 years;
- A. 6343/S. 3487 which would amend Civil Service Law §75 to provide that an employee represented by a union cannot be terminated unless an arbitrator so decides;
- A. 2120 which would restore heightened risk to the §207-c process; AND
- A. 7395/S. 4458 which would amend §207-k of the General Municipal Law to create a presumption that, should any police officer or firefighter suffer a stroke or have hypertension, it will be presumed to be job related. If enacted, this will be used for disability retirement purposes. Strokes and hypertension have no known medical cause, although there are several risk factors all having nothing to do with work, and about 35% of all males over age 45 have hypertension. If enacted, the hit on the Retirement System will be in the millions and place the State in probably the singular position of having a public pension system that allows a pension for heart disabilities that have not been shown to be job-related.

PERB DECISIONS

The following are summaries of decisions which have been issued by either the Public Employment Relations Board (PERB) or its staff. Any summary that might be of interest should be reviewed as to the facts and circumstances of the case to assure the decision might be applicable to circumstances in which you may have an interest. In addition, any decision by an ALJ should be researched to ascertain its subsequent disposition, if in fact an appeal to the Board was made, and, if it was, further researched to determine if a court appeal occurred. E-mail your editor, John Galligan, at galli14@earthlink.net for a copy of any decision summarized. Use the PERB web site, www.perb.state.ny.us where summaries of decisions issued since 1986 can be obtained and the agency's forms can be downloaded.

- an employee may be considered casual and therefore not eligible for unionization under the Taylor Law if the employee in a particular title does not work a sufficient number of hours per week or weeks per year to evidence regular and continuous employment. The standards used to determine coverage for seasonal employees are not applicable to employees who provide a service during a period of time that is substantially the same as the employer's scheduled work year. In addition, the standards used to determine coverage under the Taylor Law are applied to occupational titles and not to individual employees. February 1 ALJ decision in City of Jamestown;
- when an employee acts as a union rep, a disrespectful comment about a supervisor is protected. February 10 ALJ decision in West Genesee CSD; and

- in order to prevail in a petition seeking injunctive relief, a union must demonstrate that immediate and irreparable injury, loss, or damage would result from the employer's alleged improper practice, such that an injunction is necessary to ensure that the Board can eventually provide meaningful relief in the improper practice proceeding, should a violation eventually be found. February 7 ALJ decision in Village of Rye Brook. Order to prevail in a petition seeking injunctive relief, a union must demonstrate that immediate and irreparable injury, loss, or damage would result from the employer's alleged improper practice, such that an injunction is necessary to ensure that the Board can eventually provide meaningful relief in the improper practice proceeding, should a violation eventually be found. February 7 at ALJ decision in Village of Rye Brook.