

VETO MESSAGE - No. 26

TO THE ASSEMBLY:

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

Assembly Bill Number 10345, entitled:

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

NOT APPROVED

This bill would bar a public employer from terminating represented public employees without a hearing before an independent adjudicator. Similar proposals have been vetoed at least seven times by Governors Cuomo, Pataki and Spitzer. As in the past, this proposal is vociferously opposed by numerous state agencies and local government groups. Since many of the objections raised have great validity, I am compelled to disapprove this bill.

This bill would effect a wholesale revolution in public employee discipline. It would impose a single process for discharge - involving the selection of an independent hearing officer - on all state and local government agencies, overturning local and state laws and undoing hundreds of collective bargaining agreements where employers and unions have consensually opted for less stringent procedures. It would do so regardless of the particular needs and circumstances of each employer-employee relationship, the desires of the local electorate or the governing legal framework.

I see no reason to impose such a uniform and broad change in such an important matter. In most cases, employee representatives can seek greater disciplinary protections in the collective bargaining process. If that process is flawed in certain circumstances, then targeted reforms might be appropriate. This bill, however, imposes a single approach on every corner of the State which, seemingly, is not the right way to address this issue.

I note, finally, that this bill retains the same flaw noted in last year's veto message (Veto No. 33 of 2007), as it would allow an inde-

pendent arbitrator with jurisdiction over discharge cases to impose a lesser sanction if he or she believed that was warranted. As a result, an employer who decides to terminate an employee - that is, who believes an employee's infraction is of the greatest severity - cedes control over the entire disciplinary proceeding, while an employer who opts for a lesser sanction does not. The result is to grant employees accused of the most significant misdeeds the greatest protection against all sanctions, and to deter employers from seeking discharge even when it is justified.

The bill is disapproved.

(signed) DAVID A. PATERSON