

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CIVIL SERVICE AND LABOR

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June 27, 2012
Start: 1:33 p.m.
Recess: 1:41 p.m.

HELD AT: Council Chambers
City Hall

B E F O R E:
JAMES SANDERS, JR.
Chairpersons

COUNCIL MEMBERS:
James F. Gennaro
Melissa Mark-Viverito
Michael C. Nelson
Domenic M. Recchia, Jr.
Larry B. Seabrook
Eric A. Ulrich

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2 CHAIRPERSON SANDERS: We will begin
3 this hearing. Good afternoon and thank you for
4 coming. My name is Council Member James Sanders,
5 Jr. and I am the chair of the Committee on Civil
6 Service and Labor. First a quick reminder that we
7 are now webcasting live and recordings of the
8 hearings will be available on our website. Today
9 we are voting upon whether to accept the Mayor's
10 veto message M 818-2012, communication from the
11 Mayor, Mayor's veto and disapproval message of
12 introductory number 658-A in relation to a local
13 law to amend the administrative code of the city
14 of New York in relation to the waiver of public
15 employees organizations' rights when submitting
16 grievances to arbitration under the New York City
17 collective bargaining law and voting on whether to
18 override the Mayor's veto of Introduction 658-A.

19 As I said at the first hearing,
20 this is a bill that I am proud to sponsor even
21 though it's technical and relates to just one
22 paragraph of the collective bargaining law of the
23 city of New York. When a unionized city worker
24 goes to his or her union with a contract dispute,
25 they are required to go to binding arbitration

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2 with the city at the independent New York City
3 Office of Collective Bargaining. When a grievance
4 is filed, the member and the union are required
5 under Section 12.3.12 of the New York City Code to
6 sign a waiver. No one disputes that this waiver
7 prevents the worker or union from going to court
8 to relitigate [phonetic] the contract claims.
9 These claims can only be decided by arbitration;
10 however, it has been recently disputed as to
11 whether separate claims by the worker or union are
12 not related to the contract. In other words, the
13 statutory constitutional or common law claims can
14 be separately brought in court. The Office of
15 Collective Bargaining testified at our February
16 208th, 2012 hearing that the waiver should only
17 apply to the contract claims, but a recent court
18 decision Roberts v. Bloomberg has stated that all
19 claims are waived even claims that the arbiter
20 cannot legally decide. This bill would amend the
21 collective bargaining law to clarify the only
22 contract claims are waived, which would allow
23 other noncontract claims to be decided by a court.
24 That is the essence of this bill. The Mayor's
25 veto states in relevant part "this bill would all

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2 but eliminate the longstanding statutory waiver
3 requirements that is codified in the city's
4 collective bargaining law found in the Section 12-
5 312.D of the administrative code. This will
6 invite inconsistent decisions, outcomes and orders
7 and will result in unnecessary litigation and
8 waste of judicial resources." On this point, I
9 will defer to the independent Office of Collective
10 Bargaining, the people who actually obtain these
11 waivers. Their policy has been for at least 15
12 years that these waivers can only apply to
13 contract claims. The general counsel for the OCB
14 testified at the first hearing of this bill in
15 favor of this legislation and told us this bill
16 returns the city to the status quo before Robert
17 v. Bloomberg reinterpreted this section. Thank
18 you again for coming. We have been joined by
19 Council Members Gennaro, Recchia, Melissa Mark-
20 Viverito, and other Council Members will come as
21 it goes through. I would like to thank the
22 Committee staff, Matthew Carlin our counsel and
23 Faith Corbett our policy analyst. We will now
24 proceed to the vote to accept and file the Mayor's
25 veto message M818-2012 and readopt Intro No. 658-A

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2 and recommend that the full Council override this
3 veto. I urge my colleagues to vote yes on both.
4 Our clerk will now record the vote.

5 COMMITTEE CLERK: Kevin Pin,
6 Committee Clerk. Roll call in the Committee on
7 Civil Service and Labor. Council Member Sanders?

8 Chairperson sanders: Absolutely.

9 COMMITTEE CLERK: Gennaro?

10 COUNCIL MEMBER GENNARO: Yes, and I
11 thank you for your leadership, Mr. Chairman, and
12 I'm proud to be a co-sponsor of this measure. I
13 vote yes.

14 COUNCIL MEMBER RECCHIA: Aye on
15 all.

16 COMMITTEE CLERK: Mark-Viverito?

17 COUNCIL MEMBER MARK-VIVERITO: I
18 vote aye.

19 COMMITTEE CLERK: By vote of four
20 in the affirmative, zero in the negative and no
21 abstentions, the items have been adopted.
22 Members, please sign the Committee report.

23 CHAIRPERSON SANDERS: This hearing
24 will be left open for a half an hour so that
25 colleagues in different hearings can get to it. I

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thank everyone for being here.

[gavel]

COMMITTEE CLERK: Ulrich?

COUNCIL MEMBER ULRICH: Mr.

Chairman, I vote aye. Thank you very much.

COMMITTEE CLERK: The vote stands
at five in the affirmative.

[long pause]

COMMITTEE CLERK: Nelson?

COUNCIL MEMBER NELSON: Aye.

COMMITTEE CLERK: The vote stands
at six in the affirmative.

[pause]

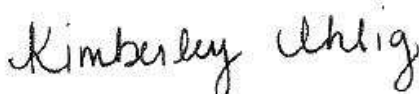
COUNCIL MEMBER NELSON: This
meeting is adjourned.

[gavel]

C E R T I F I C A T E

I, Kimberley Uhlig certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature _____

Date _____ 7/20/12