



LEGISLATIVE UPDATE

Spring 2021

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NEW! Access up to the minute legislative tracking on the LEGISLATIVE ACTION PAGE of the new ESSAA website

Spotlight on Advocacy Priorities

- *Legalization of Marijuana*

On March 31, Governor Cuomo signed legislation legalizing adult-use cannabis. Legislation (S.854-A/A.1248-A), The New York State Marijuana Regulation and Taxation Act ("MRTA") establishes the Office of Cannabis Management, expands NY's existing medical marijuana program, establishes a licensing system and creates a "social and economic equity" program that is intended to encourage individuals disproportionately impacted by cannabis enforcement to participate in the industry. Resultant tax collection is projected to reach \$350 million annual and potentially create 30,000 to 60,000 jobs. The tax revenue will be deposited into the New York state cannabis revenue fund to cover reasonable administration and implementation costs. Remaining funds will be split as follows: 40% to education, 40% to community grant reinvestment funds, 20% to drug treatment and public education funds.

The signed legislation provides protections for the use of cannabis and workplace safety, most notably prohibiting against unlawful discrimination through an amendment to NYS Labor Law Section 201-d ("legal activities law"). This amendment prohibits an employer from refusing to hire, employ or license; discharge from employment or otherwise discriminate against an individual because of lawful cannabis use outside of work hours, off the employer's premises and without use of the employer's equipment or other property. An employment would not be in violation of the law where it takes action required by state or federal statute or mandate, if the employee is impaired by the use of cannabis, or if the employers' action would result in a violation of federal law, or loss of a federal contract or funding.

- *Early Retirement Incentives*

There is an active bill regarding a retirement incentive for public employees in New York State, including school district employees. The bill provides for an incentive under the limited circumstances in which an employee's position is being eliminated or in which the District will make up the cost of the salary by other reductions within two years. This incentive is likely to have little impact on our membership.

The bill also provides an incentive which would allow employees age fifty-five or older and with at least twenty-five years of service in the system to retire without penalty. This incentive has greater potential for benefit to our membership.

It is important to note, however, that the bill has not been passed into law, and even if it is, both incentives require local districts to opt-in to participation. Therefore, the applicability of the bill to you is dependent not only on passage by the State but participation by your employer.

Another bill related to early retirement is pending in the Assembly. There is no companion bill in the Senate. This bill establishes a temporary retirement incentive for certain public employees who are above age fifty-five and with twenty-five years of service. Unlike the other early retirement bills, this one removes the early retirement penalty for those who are 55 with 25 years of experience. It does not have a local option. ESSAA will monitor the bill and keep members apprised if it is likely to pass.





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NEW! ESSAA's legislation tracking page

ESSAA is committed to bringing you the most up-to-date information on the status of pending legislation that matters most to school leaders. Access our legislative action page for real-time status of priority legislation and ESSAA stance by clicking the link, above.

Federal Legislation

Protect the Right to Organize Act

On March 9, the US House approved a bill that would provide enhanced protections for workers trying to unionize. The bill passed with a 225-206 vote, with five republicans joining. The bill, called the Protect the Right to Organize Act of 2021 (PRO Act), is currently under consideration in the US Senate, where it is unlikely to pass. While the house bill would make it easier for private sector workers to join unions, it is not likely to significantly impact organizations representing government employees. Two notable impacts of the bill if passed would be to reverse the fair share fees established by the Supreme Court in Janus v. AFSCME and binding arbitration requirements. More information regarding the PRO Act is [LINKED HERE](#).

New York Legislation

APPR

- S5576/A6750- Relates to the granting of tenure to probationary classroom teachers or building principals; provides that no school district shall complete an annual professional performance review for the two thousand twenty--two thousand twenty-one school year. Passed the Senate on May 10, 2021 and delivered to Assembly. ESSAA is closely monitoring the development of this bill.

Special Education

- A1201/S02994- Requires school districts to provide educational and support services to students with disabilities until such students turn twenty-three years of age. This bill has slight partisan support in the Assembly and is partisan in the Senate. The general view is that despite amendment movement, it is unlikely to gain enough traction to pass.
- S06517- This bill enhances supports and services for students with disabilities for postsecondary success starting in the 2021-2022 academic year; funds shall be appropriated proportionally for each student with a disability enrolled in an institution of higher education. The bill passed the Senate High Education Committee role call and was reported and committed to finance.

Retaliation/Absences Related to Covid-19

- S4201/A04063- Prohibits public employers from taking retaliatory adverse personnel actions against employees who use sick leave or compensatory time to quarantine, seek medical treatment, or for other absences related to COVID-19. This bill is engrossed in the Senate, yet is stalled in Assembly committee.