

[First Reprint]

SENATE, No. 2137

STATE OF NEW JERSEY
218th LEGISLATURE

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Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

“Workplace Democracy Enhancement Act.”

CURRENT VERSION OF TEXT

As reported by the Senate Labor Committee on March 5, 2018, with amendments.



1 AN ACT concerning public employment relations, supplementing
2 P.L.1941, c.100 (C.34:13A-1 et seq.), and amending P.L.1967,
3 c.310.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) This act shall be known and may be cited as
9 the “Workplace Democracy Enhancement Act.”

10
11 2. (New section) The Legislature finds and declares that
12 collective negotiations promote labor stability in the public sector
13 and enhance the delivery and avoid the disruption of public
14 services. The Legislature further declares that it is in the public
15 interest to ensure that any employee organization that has been
16 designated as the exclusive representatives of employees in a
17 collective negotiations unit is able to effectively carry out its
18 statutory duties by having access to and being able to communicate
19 with the employees it represents.

20
21 3. (New section) a. Public employers shall provide to
22 exclusive representative employee organizations access to members
23 of the negotiations units.

24 b. Access includes, but is not limited to, the following:

25 (1) the right to meet with individual employees on the premises
26 of the public employer during the work day to investigate and
27 discuss grievances, workplace-related complaints, and other
28 workplace issues;

29 (2) the right to conduct worksite meetings during lunch and
30 other non-work breaks, and before and after the workday, on the
31 employer’s premises to discuss workplace issues, collective
32 negotiations, the administration of collective negotiations
33 agreements, other matters related to the duties of an exclusive
34 representative employee organization, and internal union matters
35 involving the governance or business of the exclusive representative
36 employee organization; and

37 (3) the right to meet with newly hired employees, without
38 charge to the pay or leave time of the employees, for a minimum of
39 30 minutes, within 30 calendar days from the date of hire, during
40 new employee orientations, or if the employer does not conduct
41 new employee orientations, at individual or group meetings.

42 c. Within 10 calendar days from the date of hire of negotiations
43 unit employees, public employers shall provide the following
44 contact information to an exclusive representative employee

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SLA committee amendments adopted March 5, 2018.

1 organization in an Excel file format or other format agreed to by the
2 exclusive representative employee organization: name, job title,
3 worksite location, home address, work telephone numbers, and any
4 home and personal cellular telephone numbers on file with the
5 public employer, date of hire, and work email address and any
6 personal email address on file with the public employer. Every 120
7 calendar days beginning on January 1 following the effective date
8 of this act, public employers shall provide exclusive representative
9 employee organizations, in an Excel file or similar format agreed to
10 by the employee organization, the following information for all
11 negotiations unit employees: name, job title, worksite location,
12 home address, work, home and personal cellular telephone numbers,
13 date of hire, and work email address and personal email address on
14 file with the public employer.

15 d. The home addresses, phone numbers, email addresses, dates
16 of birth, and negotiation units and groupings of employees, and the
17 emails or other communications between employee organizations
18 and their members, are not government records and are exempt
19 from any disclosure requirements of P.L.1963, c.73 (C.47:1A-1 et
20 seq.).

21 e. Exclusive representative employee organizations shall have
22 the right to use the email systems of public employers to
23 communicate with negotiations unit members regarding collective
24 negotiations, the administration of collective negotiations
25 agreements, the investigation of grievances, other workplace-related
26 complaints and issues, and internal union matters involving the
27 governance or business of the union.

28 f. Exclusive representative employee organizations shall have
29 the right to use government buildings and other facilities that are
30 owned or leased by government entities to conduct meetings with
31 their unit members regarding collective negotiations, the
32 administration of collective negotiations agreements, the
33 investigation of grievances, other workplace-related complaints and
34 issues, and internal union matters involving the governance or
35 business of the union, provided such use does not interfere with
36 governmental operations. Meetings conducted in government
37 buildings pursuant to this section shall not be for the purpose of
38 supporting or opposing any candidate for partisan political office, or
39 for the purpose of distributing literature or information regarding
40 partisan elections. An exclusive representative employee
41 organization conducting a meeting in a government building or
42 other government facility pursuant to this section may be charged
43 for maintenance, security and other costs related to the use of the
44 government building or facility that would not otherwise be
45 incurred by the government entity.

46 g. Upon the request of an exclusive representative employee
47 organization, a public employer shall negotiate in good faith over
48 contractual provisions to memorialize the parties' agreement to

1 implement the provisions of subsections a. through f. of this
2 section. Negotiations shall commence within 10 calendar days from
3 the date of a request by the employee organization, even if a
4 collective negotiations agreement is in effect on the effective date
5 of this act. Agreements between a public employer and an
6 exclusive representative employee organization implementing
7 subsections a. through f. of this section shall be incorporated into
8 the parties' collective negotiations agreement and shall be
9 enforceable through the parties' grievance procedure, which shall
10 include binding arbitration. The requirements set forth in
11 subsections a. through f. of this section establish the minimum
12 requirements for access to and communication with negotiations
13 unit employees by an exclusive representative employee
14 organization.

15 h. If the parties are unable to reach agreement within 30
16 calendar days from the commencement of negotiations regarding
17 access to and communications with negotiations unit members, the
18 exclusive employee organization or the public employer may file a
19 petition with the Public Employment Relations Commission to
20 resolve the negotiations dispute. Upon receipt of a petition, the
21 commission shall appoint an arbitrator, who shall issue a binding
22 award resolving the parties' negotiations disputes consistent with
23 subsections a. through f. of this section. The commission shall
24 establish a panel of arbitrators to resolve negotiations pursuant to
25 this section and shall promulgate rules to implement this section.

26 i. For the purposes of this section, "exclusive representative
27 employee organization" means an employee organization which has
28 been designated as the exclusive representatives of employees in a
29 collective negotiations unit.

30

31 4. (New section) a. A public employer shall not encourage
32 negotiations unit members to resign or relinquish membership in an
33 exclusive representative employee organization and shall not
34 encourage negotiations unit members to revoke authorization of the
35 deduction of fees to an exclusive representative employee
36 organization.

37 b. A public employer shall not encourage or discourage an
38 employee from joining, forming or assisting an employee
39 organization.

40 c. A public employer that violates any provision of subsection
41 a. or b. of this section shall be regarded as having engaged in an
42 unfair practice in violation of subsection a. of section 1 of P.L.1974,
43 c.123 (C.34:13A-5.4), and, upon a finding that the violation has
44 occurred, the Public Employment Relations Commission, in
45 addition to implementing any other remedies authorized by that
46 section, shall order the public employer to make whole the
47 exclusive representative employee organization for any losses

1 suffered by the organization as a result of the public employer's
2 unlawful conduct and any other remedial relief deemed appropriate.

3

4 5. (New section) a. All regular full-time and part-time
5 employees of the public employer who perform negotiations unit
6 work shall be included in the negotiations unit represented by the
7 exclusive representative employee organization.

8 b. Negotiations unit work means work that is performed by any
9 employees who are included in a negotiations unit represented by an
10 'exclusive representative' employee organization without regard to
11 job title, job classification or number of hours worked, except that
12 employees who are confidential employees 'or managerial
13 executives', as '[that term is] those terms are' defined by
14 '[subsection (g) of]' section 1 of P.L.1941, c.100 (C.34:13A-3),
15 'or elected officials, members of boards and commissions.'¹ or
16 casual employees, may be excluded from the negotiations unit.
17 Casual employees are employees who work an average of fewer
18 than four hours per week over a period of 90 'calendar' days.

19 c. Employees who are performing negotiations unit work and
20 who are not included in a negotiations unit because they did not
21 meet the threshold of hours or percent of time worked as set forth in
22 a certification of representative, recognition clause or other
23 provision in a collective negotiations agreement, shall be included
24 in the negotiations unit by operation of this act, within 90 calendar
25 days from the effective date of this act.

26 d. The Public Employment Relations Commission shall
27 promulgate rules to implement this section, including rules to
28 resolve disputes over the inclusion of employees performing
29 negotiations unit work in the appropriate negotiations unit. The
30 rules promulgated by the commission shall provide for the
31 resolution of disputes that arise under this section, within 60
32 calendar days from the submission of the dispute to the commission
33 by either the exclusive representative employee organization or the
34 public employer.

35

36 6. Section 1 of P.L.1967, c.310 (C.52:14-15.9e) is amended to
37 read as follows:

38 1. Whenever any person holding employment, whose
39 compensation is paid by this State or by any county, municipality,
40 board of education or authority in this State, or by any board, body,
41 agency or commission thereof shall indicate in writing, including by
42 electronic communications, and which writing or communication
43 may be evidenced by the electronic signature of the employee, ¹as
44 the term electronic signature is defined in section 2 of P.L.2001,
45 c.116, (C.12A:12-2),¹ to the proper disbursing officer his desire to
46 have any deductions made from his compensation, for the purpose
47 of paying the employee's dues to a bona fide employee

1 organization, designated by the employee in such request, and of
2 which said employee is a member, such disbursing officer shall
3 make such deduction from the compensation of such person and
4 such disbursing officer shall transmit the sum so deducted to the
5 employee organization designated by the employee in such request.

6 **【Any such written authorization may be withdrawn by such
7 person holding employment at any time by the filing of notice of
8 such withdrawal with the above-mentioned disbursing officer. The
9 filing of notice of withdrawal shall be effective to halt deductions as
10 of the January 1 or July 1 next succeeding the date on which notice
11 of withdrawal is filed.】**

12 Employees who have authorized the payroll deduction of fees to
13 employee organizations may revoke such authorization by
14 providing written notice to their public employer during the 10 days
15 following each anniversary date of their employment. Within five
16 days of receipt of notice from an employee of revocation of
17 authorization for the payroll deduction of fees, the public employer
18 shall provide notice to the employee organization of an employee's
19 revocation of such authorization. An employee's notice of
20 revocation of authorization for the payroll deduction of employee
21 organization fees shall be effective on the 30th day after the
22 anniversary date of employment.

23 Nothing herein shall preclude a public employer and a duly
24 certified majority representative from entering into a collectively
25 negotiated written agreement which provides that employees
26 included in the negotiating unit may only request deduction for the
27 payment of dues to the duly certified majority representative. Such
28 collectively negotiated agreement may include a provision that
29 existing written authorizations for payment of dues to an employee
30 organization other than the duly certified majority representative be
31 terminated. Such collectively negotiated agreement may also
32 include a provision specifying the effective date of a termination in
33 deductions as of the July 1 next succeeding the date on which notice
34 of withdrawal is filed by an employee with the public employer's
35 disbursing officer.

36 This authorization for negotiation of exclusive dues deduction
37 provisions shall not apply to any negotiating unit which includes
38 employees of any local school district or county college.

39 As used in this section, dues shall mean all moneys required to
40 be paid by the employee as a condition of membership in an
41 employee organization and any voluntary employee contribution to
42 a committee or fund established by such organization, including but
43 not limited to welfare funds, political action committees, charity
44 funds, legal defense funds, educational funds, and funds for
45 donations to schools, colleges, and universities.

46 (cf: P.L.1981, c.345, s.1)

47

48 7. This act shall take effect immediately.