

**ASSEMBLY, No. 662**

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**STATE OF NEW JERSEY**

**214th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

**Sponsored by:**

**Assemblywoman LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**Assemblyman RUBEN J. RAMOS, JR.**

**District 33 (Hudson)**

**Co-Sponsored by:**

**Assemblymen Diegnan, Wisniewski, Assemblywoman Voss, Assemblymen McKeon, Burzichelli, Conners, Conaway, Prieto, Giblin, Assemblywoman Vainieri Huttler, Assemblymen Johnson, Milam, Albano, Assemblywoman Tucker, Assemblyman Rudder, Assemblywoman Wagner, Assemblymen Chiappone, DeAngelo and Assemblywoman Addiego**

**SYNOPSIS**

Prohibits unilateral changing of terms and conditions of employment by public employers.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning the unilateral imposition of changes in the  
2 terms and conditions of employment by public employers and  
3 amending and supplementing P.L.1974, c.123.  
4

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

7  
8 1. Section 1 of P.L.1974, c.123 (C.34:13A-5.4) is amended to  
9 read as follows:

10 1. a. Public employers, their representatives or agents are  
11 prohibited from:

12 (1) Interfering with, restraining or coercing employees in the  
13 exercise of the rights guaranteed to them by this act.

14 (2) Dominating or interfering with the formation, existence or  
15 administration of any employee organization.

16 (3) Discriminating in regard to hire or tenure of employment or  
17 any term or condition of employment to encourage or discourage  
18 employees in the exercise of the rights guaranteed to them by this  
19 act.

20 (4) Discharging or otherwise discriminating against any  
21 employee because he has signed or filed an affidavit, petition or  
22 complaint or given any information or testimony under this act.

23 (5) Refusing to negotiate in good faith with a majority  
24 representative of employees in an appropriate unit concerning terms  
25 and conditions of employment of employees in that unit, or refusing  
26 to process grievances presented by the majority representative.

27 (6) Refusing to reduce a negotiated agreement to writing and to  
28 sign such agreement.

29 (7) Violating any of the rules and regulations established by the  
30 commission.

31 (8) Imposing, modifying, amending, deleting, altering or  
32 otherwise changing the terms and conditions of employment prior  
33 to reaching agreement with a majority representative,  
34 notwithstanding that a prior collective bargaining agreement has  
35 expired, that the parties are at an impasse, or that the parties have  
36 exhausted the commission's impasse procedures.

37 b. Employee organizations, their representatives or agents are  
38 prohibited from:

39 (1) Interfering with, restraining or coercing employees in the  
40 exercise of the rights guaranteed to them by this act.

41 (2) Interfering with, restraining or coercing a public employer in  
42 the selection of his representative for the purposes of negotiations  
43 or the adjustment of grievances.

44 (3) Refusing to negotiate in good faith with a public employer,  
45 if they are the majority representative of employees in an

**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.

1 appropriate unit concerning terms and conditions of employment of  
2 employees in that unit.

3 (4) Refusing to reduce a negotiated agreement to writing and to  
4 sign such agreement.

5 (5) Violating any of the rules and regulations established by the  
6 commission.

7 c. The commission shall have exclusive power as hereinafter  
8 provided to prevent anyone from engaging in any unfair practice  
9 listed in subsections a. and b. above. Whenever it is charged that  
10 anyone has engaged or is engaging in any such unfair practice, the  
11 commission, or any designated agent thereof, shall have authority to  
12 issue and cause to be served upon such party a complaint stating the  
13 specific unfair practice charged and including a notice of hearing  
14 containing the date and place of hearing before the commission or  
15 any designated agent thereof; provided that no complaint shall issue  
16 based upon any unfair practice occurring more than 6 months prior  
17 to the filing of the charge unless the person aggrieved thereby was  
18 prevented from filing such charge in which event the 6-month  
19 period shall be computed from the day he was no longer so  
20 prevented.

21 In any such proceeding, the provisions of the Administrative  
22 Procedure Act P.L.1968, c.410 (C.52:14B-1 et seq.) shall be  
23 applicable. Evidence shall be taken at the hearing and filed with the  
24 commission. If, upon all the evidence taken, the commission shall  
25 determine that any party charged has engaged or is engaging in any  
26 such unfair practice, the commission shall state its findings of fact  
27 and conclusions of law and issue and cause to be served on such  
28 party an order requiring such party to cease and desist from such  
29 unfair practice, and to take such reasonable affirmative action as  
30 will effectuate the policies of this act. All cases in which a  
31 complaint and notice of hearing on a charge is actually issued by  
32 the commission, shall be prosecuted before the commission or its  
33 agent, or both, by the representative of the employee organization  
34 or party filing the charge or his authorized representative.

35 d. The commission shall at all times have the power and duty,  
36 upon the request of any public employer or majority representative,  
37 to make a determination as to whether a matter in dispute is within  
38 the scope of collective negotiations. The commission shall serve  
39 the parties with its findings of fact and conclusions of law. Any  
40 determination made by the commission pursuant to this subsection  
41 may be appealed to the Appellate Division of the Superior Court.

42 e. The commission shall adopt such rules as may be required to  
43 regulate the conduct of representation elections, and to regulate the  
44 time of commencement of negotiations and of institution of impasse  
45 procedures so that there will be full opportunity for negotiations and  
46 the resolution of impasses prior to required budget submission  
47 dates.

48 f. The commission shall have the power to apply to the

1 Appellate Division of the Superior Court for an appropriate order  
2 enforcing any order of the commission issued under subsection c. or  
3 d. hereof, and its findings of fact, if based upon substantial evidence  
4 on the record as a whole, shall not, in such action, be set aside or  
5 modified; any order for remedial or affirmative action, if reasonably  
6 designed to effectuate the purposes of this act, shall be affirmed and  
7 enforced in such proceeding.

8 (cf: P.L.1979, c.477, s.1)

9  
10 2. (New section) Notwithstanding any expired collective  
11 negotiations agreement, impasse in negotiations, or exhaustion of  
12 the commission's impasse procedures, no public employer or  
13 representative or agent of the public employer shall unilaterally  
14 impose, modify, amend, delete or alter any terms and conditions of  
15 employment without the specific agreement of the majority  
16 representative.

17  
18 3. This act shall take effect immediately.

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21 STATEMENT

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23 This bill prohibits public employers from unilaterally changing  
24 the terms and conditions of employment before agreement is  
25 reached with a majority representative of a public employee group,  
26 notwithstanding that a collective bargaining agreement may have  
27 expired, that the parties are at an impasse in negotiations, or that the  
28 parties have exhausted the impasse procedures of the New Jersey  
29 Public Employment Relations Commission.

30 The bill also makes it an unfair practice under the "New Jersey  
31 Employer-Employee Relations Act" for a public employer to  
32 unilaterally change the terms and conditions of employment before  
33 agreement is reached with a majority representative of a public  
34 employee group.