

[First Reprint]

ASSEMBLY, No. 3590

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED DECEMBER 9, 2010

Sponsored by:

Assemblywoman LINDA STENDER

District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

Senators Sweeney, Madden and Rice

SYNOPSIS

Permits collective bargaining on matters covered by civil service; requires civil service examinations to be offered on continual basis; creates title reduction task force; requires posting of layoff plans.

CURRENT VERSION OF TEXT

As reported by the Assembly State Government Committee on December 9, 2010, with amendments.



(Sponsorship Updated As Of: 12/14/2010)

A3590 [1R] STENDER

2

1 AN ACT concerning civil service and amending various parts of the
2 statutory law and supplementing Title 11A of the New Jersey
3 Statutes.

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

7
8 1. N.J.S.11A:4-1 is amended to read as follows:

9 11A:4-1. Examinations. The commission shall provide for:

10 a. The announcement and administration of examinations on a
11 continual basis which shall test fairly the knowledge, skills and
12 abilities required to satisfactorily perform the duties of a title or
13 group of titles. The examinations may include, but are not limited
14 to, written, oral, performance and evaluation of education and
15 experience;

16 b. The rating of examinations;

17 c. The security of the examination process and appropriate
18 sanctions for a breach of security;

19 d. The selection of special examiners to act as subject matter
20 specialists or to provide other assistance. Employees of the State or
21 political subdivisions may be so engaged as part of their official
22 duties during normal working hours with the approval of their
23 appointing authority. Extra compensation may be provided for such
24 service outside normal working hours; and

25 e. The right to appeal adverse actions relating to the
26 examination and appointment process, which shall include but not
27 be limited to rejection of an application, failure of an examination
28 and removal from an eligible list.

29 The commission shall provide for the completion and submission
30 of an application for an examination on the website of the
31 commission.

32 (cf: P.L.2008, c.29, s.28)

33

34 2. Section 1 of P.L.1992, c.197 (C.11A:4-1.1) is amended to
35 read as follows:

36 1. a. Except as provided in subsection b. of this section
37 concerning law enforcement officer and firefighter examinations,
38 the commission shall establish a \$25 fee for each application for an
39 open competitive or promotional examination and a \$15 fee for
40 each application for an open competitive or promotional
41 examination by a veteran. Persons receiving public assistance
42 benefits pursuant to P.L.1947, c.156 (C.44:8-107 et seq.), P.L.1973,
43 c.256 (C.44:7-85 et seq.), or P.L.1997, c.38 (C.44:10-55 et seq.)
44 shall not be required to pay this fee if they apply for an open
45 competitive examination. Receipts derived from application fees

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:

¹Assembly ASG committee amendments adopted December 9, 2010.

1 established by this subsection shall be appropriated to the
2 commission. On or after July 1, 2015, and every five years
3 thereafter, the chairperson of the commission shall review the \$25
4 fee established by this subsection and may modify the fee,
5 provided, however, that the fee, along with the \$15 fee, shall not
6 exceed the cost of developing, procuring, and administering the
7 examination.

8 b. The commission shall establish a fee for each application for
9 an open competitive or promotional examination for a law
10 enforcement officer or firefighter title. The fee shall not exceed the
11 cost of developing, procuring and administering the examination.
12 Persons receiving public assistance benefits pursuant to P.L.1947,
13 c.156 (C.44:8-107 et seq.), P.L.1973, c.256 (C.44:7-85 et seq.), or
14 P.L.1997, c.38 (C.44:10-55 et seq.) shall not be required to pay this
15 fee if they apply for an open competitive examination. Receipts
16 derived from application fees established by this subsection shall be
17 appropriated to the commission for use in developing, procuring
18 and administering law enforcement officer and firefighter
19 examinations.

20 c. In addition to the fees established in subsections a. and b. of
21 this section, the commission shall establish a \$15 fee for each
22 application for an open competitive or promotional examination for
23 a position in State service. Persons receiving public assistance
24 benefits pursuant to P.L.1947, c.156 (C.44:8-107 et seq.), P.L.1973,
25 c.256 (C.44:7-85 et seq.), or P.L.1997, c.38 (C.44:10-55 et seq.)
26 shall not be required to pay this fee if they apply for an open
27 competitive examination. Receipts derived from the application fee
28 established pursuant to this subsection shall be appropriated
29 annually to the commission for the costs of the displaced workers
30 pool program. This fee shall not be assessed and collected unless
31 the commission implements a displaced workers pool program. If
32 the displaced workers pool program is terminated at any time by the
33 commission, the assessment and collection of this additional fee
34 shall also be terminated.

35 d. The commission shall establish a \$20 fee for each appeal
36 filed under the provisions of subsection a. or b. of N.J.S.11A:2-6,
37 subsection e. of N.J.S.11A:4-1, N.J.S.11A:8-4, and the rules
38 promulgated thereunder. Persons who are receiving public
39 assistance benefits pursuant to P.L.1947, c.156 (C.44:8-107 et seq.),
40 P.L.1973, c.256 (C.44:7-85 et seq.), or P.L.1997, c.38 (C.44:10-55
41 et seq.), or persons who are veterans, shall not be required to pay
42 this fee.

43 e. The commission shall provide for the payment by credit or
44 debit card of any fee for an examination application submitted to
45 the commission on the commission's website.

46 (cf: P.L.2010, c.26, s.1)

47

48 3. N.J.S.11A:4-5 is amended to read as follows:

1 11A:4-5. Use of eligible list. Once the [examination] process
2 has been initiated due to the appointment of a provisional or an
3 appointing authority's request for a list to fill a vacancy, the affected
4 appointing authority shall be required to make appointments from
5 the list if there is a complete certification, unless otherwise
6 permitted by the commission for valid reason such as fiscal
7 constraints. If the commission permits an appointing authority to
8 leave a position vacant in the face of a complete list, the
9 commission may order the appointing authority to reimburse the
10 commission for the costs of the selection process.

11 (cf: P.L.2008, c.29, s.34)

12

13 4. N.J.S.11A:4-9 is amended to read as follows:

14 11A:4-9. Types of eligible lists. The commission may establish
15 the following types of eligible lists:

16 a. Open competitive, which shall include all qualified eligibles
17 without regard to whether they are currently employed by the State
18 or a political subdivision;

19 b. Promotional, which shall include qualified permanent
20 eligibles;

21 c. Regular reemployment, which shall include former
22 permanent employees who resigned in good standing and whose
23 reemployment is certified by the appointing authority as in the best
24 interest of the service. The name of any such employee shall not
25 remain on a reemployment list for more than three years from the
26 date of resignation, unless otherwise extended pursuant to
27 N.J.S.11A:4-6;

28 d. Police or fire reemployment, which shall include former
29 permanent uniformed members of a police or fire department who
30 have resigned in good standing and whose reemployment is
31 certified by the appointing authority as in the best interest of the
32 service; and

33 e. Special reemployment, which shall include permanent
34 employees laid off or demoted in lieu of layoff from permanent
35 titles but, in the case of a political subdivision of the State, shall not
36 include any such employee who has turned down a reemployment
37 opportunity in a position that is one with the same or substantially
38 similar job duties as, the same title and series as, the same or
39 substantially similar hours of work as, and a location within a
40 twenty-five mile radius of, the position from which the employee
41 was laid off or demoted in lieu of layoff.

42 (cf: P.L.2008, c.39, s.37)

43

44 5. N.J.S.11A:4-13 is amended to read as follows:

45 11A:4-13. Types of appointment. The commission shall provide
46 for the following types of appointment:

47 a. Regular appointments shall be to a title in the competitive
48 division of the career service upon examination and certification or

1 to a title in the noncompetitive division of the career service upon
2 appointment. The appointments shall be permanent after
3 satisfactory completion of a working test period;

4 b. Provisional appointments shall be made only in the
5 competitive division of the career service and only in the absence of
6 a complete certification, if the appointing authority certifies that in
7 each individual case the appointee meets the minimum
8 qualifications for the title at the time of appointment and that failure
9 to make a provisional appointment will seriously impair the work of
10 the appointing authority. In no case shall any provisional
11 appointment exceed a period of 12 months;

12 c. Temporary appointments may be made, without regard to the
13 provisions of this chapter, to temporary positions established for a
14 period aggregating not more than six months in a 12-month period
15 as approved by the commission. These positions include, but are not
16 limited to, seasonal positions. Seasonal positions may be
17 established for a period aggregating not more than nine months in a
18 12-month period for the following titles in local government
19 service, provided the position was not previously a 12-month
20 position: Animal Attendant, Archery Instructor, Bathroom
21 Attendant, County Park Ranger, Election Worker, Farm
22 Maintenance Worker, Gardener, Golf Ranger, Golf Starter, Greens
23 Keeper, Groundskeeper, Horseback Riding Instructor, Human
24 Service Youth Employee, Life Guard, Life Guard Supervisor,
25 Mosquito Extermination Inspector, Naturalist Educator, Park
26 Attendant, Park Laborer, Park Maintenance Worker, Park
27 Naturalist, Range Instructor, Recreation Leader, Recreation
28 Program Supervisor, Recreation Supervisor, and Zoo Aide.
29 Positions established as a result of a short-term grant may be
30 established for a maximum of 12 months. Appointees to temporary
31 positions shall meet the minimum qualifications of a title;

32 d. Emergency appointments shall not exceed 30 days and shall
33 only be permitted where nonappointment will result in harm to
34 persons or property;

35 e. Senior executive service appointments shall be made
36 pursuant to N.J.S.11A:3-3; and

37 f. Unclassified appointments shall be made pursuant to
38 N.J.S.11A:3-4 and N.J.S.11A:3-5.

39 (cf: P.L.2008, c.29, s.39)

40

41 6. N.J.S.11A:4-15 is amended to read as follows:

42 11A:4-15. Working test period. The purpose of the working test
43 period is to permit an appointing authority to determine whether an
44 employee satisfactorily performs the duties of a title. A working
45 test period is part of the examination process which shall be served
46 in the title to which the certification was issued and appointment
47 made. The commission shall provide for:

- 1 a. A working test period following regular appointment of four
2 months, which may be extended to six months at the discretion of
3 the commission, except that the working test period for political
4 subdivision employees shall be ~~three~~ six months and the working
5 test period for entry level law enforcement, correction officer, and
6 firefighter titles shall be 12 months;
- 7 b. Progress reports to be made by the appointing authority and
8 provided to the employee at such times during the working test
9 period as provided by rules of the commission and a final progress
10 report at the end of the entire working test period shall be provided
11 to the employee and the commission;
- 12 c. Termination of an employee at the end of the working test
13 period and termination of an employee for cause during the working
14 test period; and
- 15 d. The retention of permanent status in the lower title by a
16 promoted employee during the working test period in the higher
17 title and the right to return to such permanent title if the employee
18 does not satisfactorily complete the working test period, but
19 employees removed for cause during a working test period shall not
20 be so returned.
21 (cf: P.L.2008, c.29, s.41)

22
23 7. N.J.S.11A:8-1 is amended to read as follows:

- 24 11A:8-1. a. A permanent employee may be laid off for economy,
25 efficiency or other related reason. A permanent employee shall
26 receive 45 days' written notice, unless in State government a greater
27 time period is ordered by the commission, which shall be served
28 personally or by certified mail, of impending layoff or demotion
29 and the reasons therefor. The notice shall expire 120 days after
30 service unless extended by the commission for good cause. At the
31 same time the notice is served, the appointing authority shall
32 provide the commission with a list of the names and permanent
33 titles of all employees receiving the notice. The Civil Service
34 Commission shall adopt rules to implement employee layoff rights
35 consistent with the provisions of this section. The commission shall
36 consult with the advisory board representing labor organizations
37 prior to such recommendations.
- 38 b. Permanent employees in the service of the State or a
39 political subdivision shall be laid off in inverse order of seniority.
40 As used in this subsection, "seniority" means the length of
41 continuous permanent service in the jurisdiction, regardless of title
42 held during the period of service, except that for police and
43 firefighting titles, "seniority" means the length of continuous
44 permanent service only in the current permanent title and any other
45 title that has lateral or demotional rights to the current permanent
46 title. Seniority for all titles shall be based on the total length of
47 calendar years, months and days in continuous permanent service

1 regardless of the length of the employee's work week, work year or
2 part-time status.

3 c. For purposes of State service, a "layoff unit" means a
4 department or autonomous agency and includes all programs
5 administered by that department or agency. For purposes of
6 political subdivision service, the "layoff unit" means a department
7 in a county or municipality, an entire autonomous agency, or an
8 entire school district, except that the commission may establish
9 broader layoff units.

10 d. For purposes of State service, "job location" means a county.
11 The commission shall assign a job location to every facility and
12 office within a State department or autonomous agency. For
13 purposes of local service, "job location" means the entire political
14 subdivision and includes any facility operated by the political
15 subdivision outside its geographic borders.

16 e. For purposes of determining lateral title rights in State and
17 political subdivision service, title comparability shall be determined
18 by the commission based upon whether the: (1) titles have
19 substantially similar duties and responsibilities; (2) education and
20 experience requirements for the titles are identical or similar; (3)
21 employees in an affected title, with minimal training and
22 orientation, could perform the duties of the designated title by
23 virtue of having qualified for the affected title; and (4) special
24 skills, licenses, certifications or registration requirements for the
25 designated title are similar and do not exceed those which are
26 mandatory for the affected title. Demotional title rights shall be
27 determined by the commission based upon the same criteria, except
28 that the demotional title shall have lower but substantially similar
29 duties and responsibilities as the affected title.

30 f. In State service, a permanent employee in a position affected
31 by a layoff action shall be provided with applicable lateral and
32 demotional title rights first, at the employee's option, within the
33 municipality in which the facility or office is located and then to the
34 job locations selected by the employee within the department or
35 autonomous agency. The employee shall select individual job
36 locations in preferential order from the list of all job locations and
37 shall indicate job locations at which the employee will accept lateral
38 and demotional title rights. In local service, a permanent employee
39 in a position affected by a layoff action shall be provided lateral and
40 demotional title rights within the layoff unit.

41 g. Following the employee's selection of job location
42 preferences, lateral and demotional title rights shall be provided in
43 the following order:

44 (1) a vacant position that the appointing authority has previously
45 indicated it is willing to fill;

46 (2) a position held by a provisional employee who does not have
47 permanent status in another title, and if there are multiple

1 employees at a job location, the specific position shall be
2 determined by the appointing authority;

3 (3) a position held by a provisional employee who has
4 permanent status in another title, and if there are multiple
5 provisional employees at a job location, the specific position shall
6 be determined based on level of the permanent title held and
7 seniority;

8 (4) the position held by the employee serving in a working test
9 period with the least seniority;

10 (5) in State service, and in local jurisdictions having a
11 performance evaluation program approved by the commission, the
12 position held by the permanent employee whose performance rating
13 within the most recent 12 months in the employee's permanent title
14 was significantly below standards or an equivalent rating;

15 (6) in State service, and in local jurisdictions having a
16 performance evaluation program approved by the commission, the
17 position held by the permanent employee whose performance rating
18 within the most recent 12 months in the employee's permanent title
19 was marginally below standards or an equivalent rating; and

20 (7) the position held by the permanent employee with the least
21 seniority.

22 h. A permanent employee shall be granted special
23 reemployment rights based on the employee's permanent title at the
24 time of the layoff action and the employee shall be certified for
25 reappointment after the layoff action to the same, lateral and lower
26 related titles. Special reemployment rights shall be determined by
27 the commission in the same manner as lateral and demotional
28 rights.

29 i. Notwithstanding the provisions above, at no time shall any
30 person on a military leave of absence for active service in the
31 Armed Forces of the United States in time of war or emergency be
32 laid off.

33 j. A layoff plan submitted to the commission by an appointing
34 authority of the State or a local jurisdiction shall be posted on the
35 website of the commission upon receipt, and the website of the
36 appointing authority upon submission along with all the information
37 required by the commission to be submitted with the plan and the
38 posting shall include the analysis and calculations prepared by the
39 appointing authority to determine the expenditure reductions that
40 will result from the implementation of the layoff plan.

41 k. Public employers and majority representatives may enter
42 into agreements to avoid or reduce layoffs, including, but not
43 limited to, agreements that achieve savings and economies through
44 temporary layoffs and other reductions in work time. Agreements
45 entered into by a public employer and a majority representative to
46 avoid or reduce layoffs are binding on the parties. The New Jersey
47 Public Employment Relations Commission shall enforce the
48 obligations of majority representatives and public employers to

1 negotiate in good faith with respect to such agreements and shall
2 resolve disputes that arise over the scope of negotiations with
3 respect to such matters pursuant to its authority under the New
4 Jersey Employer-Employee Relations Act, P.L.1941, c.100
5 (C.34:13A-1 et seq.).

6 (cf: P.L.2008, c.29, s.69)

7
8 8. (New section) Notwithstanding the provisions of Title 11A
9 of the New Jersey Statutes, 'the State and the employees of the
10 State who have a majority representative for collective negotiations
11 purposes and' a political subdivision of the State that has adopted
12 the provisions of Title 11A of the New Jersey Statutes and the
13 employees of that political subdivision who have a majority
14 representative for collective negotiations purposes ^{1,1} in accordance
15 with section 7 of the New Jersey Employer-Employee Relations
16 Act, P.L.1968, c.303 (C.34:13A-5.3), may negotiate and provide for
17 in a collective negotiations agreement any matter that involves
18 appeal, classification, selection, appointment, preference, leave,
19 **'[layoff] layoffs'** , and any other term, condition, or process for
20 employment otherwise directly or indirectly covered in Title 11A,
21 in which event the provisions of Title 11A shall be suspended for
22 the term of that agreement with regard to that employer and those
23 employees represented by that majority representative and covered
24 by that agreement. No party shall make a unilateral decision that
25 results in the inclusion in the collective bargaining agreement of a
26 process, requirement, term, or condition involving a matter
27 negotiable under this section that may reasonably be construed to be
28 less restrictive or less protective than the identifiably similar
29 provision as set forth in Title 11A and in the regulations
30 promulgated thereto.

31

32 9. N.J.S.11A:2-13 is amended to read as follows:

33 11A:2-13. Opportunity for appointing authority hearing,
34 alternative procedures.

35 Except as otherwise provided herein, before any disciplinary
36 action in subsection a.(1), (2) and (3) of N.J.S.11A:2-6 is taken
37 against a permanent employee in the career service or a person
38 serving a working test period, the employee shall be notified in
39 writing and shall have the opportunity for a hearing before the
40 appointing authority or its designated representative. The hearing
41 shall be held within 30 days of the notice of disciplinary action
42 unless waived by the employee. Both parties may consent to an
43 adjournment to a later date.

44 When the State of New Jersey and the majority representative
45 have agreed pursuant to the New Jersey Employer-Employee
46 Relations Act, section 7 of P.L.1968, c.303 (C.34:13A-5.3), to a
47 procedure for appointing authority review before disciplinary action
48 in subsection a.(1), (2) and (3) of N.J.S.11A:2-6, which would be

1 otherwise appealable to the Civil Service Commission under
2 N.J.S.11A:2-14, is taken against a permanent employee in the
3 career service or a person serving a working test period, such
4 procedure shall be the exclusive procedure for review before the
5 appointing authority.

6 A political subdivision of the State that has adopted the
7 provisions of Title 11A of the New Jersey Statutes and the majority
8 representative of its employees shall negotiate, pursuant to the New
9 Jersey Employer-Employee Relations Act, section 7 of P.L.1968,
10 c.303 (C.34:13A-5.3), the procedure for appointing authority review
11 before disciplinary action in subsection a.(1), (2) and (3) of
12 N.J.S.11A:2-6, which would be otherwise appealable to the Civil
13 Service Commission under N.J.S.11A:2-14, is taken against a
14 permanent employee in the career service or a person serving a
15 working test period. Negotiations may result in a determination
16 that the provisions of Title 11A and the regulations promulgated
17 thereto shall be the review procedure. A provision in a collective
18 negotiations agreement for such a review shall be the exclusive
19 procedure for appointing authority review before disciplinary action
20 is taken. If the parties are unable to reach agreement after
21 negotiations, the review procedure shall be subject to binding
22 arbitration. Arbitrators shall be selected in accordance with the
23 provisions of the New Jersey Employer-Employee Relations Act,
24 P.L.1941, c.100 (C.34:13A-1 et seq.).

25 This section shall not prohibit the immediate suspension of an
26 employee without a hearing if the appointing authority determines
27 that the employee is unfit for duty or is a hazard to any person if
28 allowed to remain on the job or that an immediate suspension is
29 necessary to maintain safety, health, order or effective direction of
30 public services. In addition, where a suspension is based on a
31 formal charge of a crime of the first, second or third degree, or a
32 crime of the fourth degree if committed on the job or directly
33 related to the job, the suspension may be immediate and continue
34 until a disposition of the charge. The Civil Service Commission
35 shall establish, by rule, procedures for hearings and suspensions
36 with or without pay.
37 (cf: P.L.2008, c.119, s.10)

38

39 10. N.J.S.11A:2-14 is amended to read as follows:

40 11A:2-14. Notice to employee of right to appeal, alternative
41 procedures.

42 Except as otherwise provided herein, within 20 days of the
43 hearing provided in N.J.S.11A:2-13, the appointing authority shall
44 make a final disposition of the charges against the employee and
45 shall furnish the employee with written notice. If the appointing
46 authority determines that the employee is to be removed, demoted
47 or receive a suspension or a fine greater than five days, the
48 employee shall have a right to appeal to the Civil Service

1 Commission. The suspension or fine of an employee for five days
2 or less shall be appealable if an employee's aggregate number of
3 days suspended or fined in any one calendar year is 15 days or
4 more. Where an employee receives more than three suspensions or
5 fines of five or less days in a calendar year, the last suspension or
6 fine is appealable.

7 When the State of New Jersey and the majority representative
8 have agreed pursuant to the New Jersey Employer-Employee
9 Relations Act, section 7 of P.L.1968, c.303 (C.34:13A-5.3), to a
10 disciplinary review procedure that provides for binding arbitration
11 of disputes involving disciplinary action in subsection a.(1), (2) and
12 (3) of N.J.S.11A:2-6, which would be otherwise appealable to the
13 Civil Service Commission under N.J.S.11A:2-14, being taken
14 against a permanent employee in the career service or a person
15 serving a working test period, such procedure shall be the exclusive
16 procedure for any appeal of such disciplinary action.

17 A political subdivision of the State that has adopted the
18 provisions of Title 11A of the New Jersey Statutes and the majority
19 representative of its employees shall negotiate, pursuant to the New
20 Jersey Employer-Employee Relations Act, section 7 of P.L.1968,
21 c.303 (C.34:13A-5.3), the disciplinary review procedure, including
22 binding arbitration, for disputes involving disciplinary action in
23 subsection a.(1), (2) and (3) of N.J.S.11A:2-6, which would be
24 otherwise appealable to the Civil Service Commission under
25 N.J.S.11A:2-14, being taken against a permanent employee in the
26 career service or a person serving a working test period.
27 Negotiations may result in a determination that the provisions of
28 Title 11A and the regulations promulgated thereto shall be the
29 disciplinary review procedure. A provision in a collective
30 negotiations agreement for the disciplinary review procedure shall
31 be the exclusive procedure for any appeal of such disciplinary
32 action. If the parties are unable to reach agreement after
33 negotiations, the review procedure shall be subject to binding
34 arbitration. Arbitrators shall be selected in accordance with the
35 provisions of the New Jersey Employer-Employee Relations Act,
36 P.L.1941, c.100 (C.34:13A-1 et seq.).
37 (cf: P.L.2008, c.119, s.11)
38

39 11. Section 7 of P.L.1968, c.303 (C.34:13A-5.3) is amended to
40 read as follows:

41 7. Except as hereinafter provided, public employees shall have,
42 and shall be protected in the exercise of, the right, freely and
43 without fear of penalty or reprisal, to form, join and assist any
44 employee organization or to refrain from any such activity;
45 provided, however, that this right shall not extend to elected
46 officials, members of boards and commissions, managerial
47 executives, or confidential employees, except in a school district the
48 term managerial executive shall mean the superintendent of schools

1 or his equivalent, nor, except where established practice, prior
2 agreement or special circumstances dictate the contrary, shall any
3 supervisor having the power to hire, discharge, discipline, or to
4 effectively recommend the same, have the right to be represented in
5 collective negotiations by an employee organization that admits
6 nonsupervisory personnel to membership, and the fact that any
7 organization has such supervisory employees as members shall not
8 deny the right of that organization to represent the appropriate unit
9 in collective negotiations; and provided further, that, except where
10 established practice, prior agreement, or special circumstances
11 dictate the contrary, no policeman shall have the right to join an
12 employee organization that admits employees other than policemen
13 to membership. The negotiating unit shall be defined with due
14 regard for the community of interest among the employees
15 concerned, but the commission shall not intervene in matters of
16 recognition and unit definition except in the event of a dispute.

17 Representatives designated or selected by public employees for
18 the purposes of collective negotiation by the majority of the
19 employees in a unit appropriate for such purposes, by the majority
20 of the employees voting in an election conducted by the
21 commission as authorized by this act or, at the option of the
22 representative in a case in which the commission finds that only one
23 representative is seeking to be the majority representative, by a
24 majority of the employees in the unit signing authorization cards
25 indicating their preference for that representative, shall be the
26 exclusive representatives for collective negotiation concerning the
27 terms and conditions of employment of the employees in such unit.
28 An authorization card indicating preference shall not be valid unless
29 it is printed in a language understood by the employees who signs
30 it.

31 Nothing herein shall be construed to prevent any official from
32 meeting with an employee organization for the purpose of hearing
33 the views and requests of its members in such unit so long as (a) the
34 majority representative is informed of the meeting; (b) any changes
35 or modifications in terms and conditions of employment are made
36 only through negotiation with the majority representative; and (c) a
37 minority organization shall not present or process grievances.
38 Nothing herein shall be construed to deny to any individual
39 employee his rights under Civil Service laws or regulations. When
40 no majority representative has been selected as the bargaining agent
41 for the unit of which an individual employee is a part, he may
42 present his own grievance either personally or through an
43 appropriate representative or an organization of which he is a
44 member and have such grievance adjusted.

45 A majority representative of public employees in an appropriate
46 unit shall be entitled to act for and to negotiate agreements covering
47 all employees in the unit and shall be responsible for representing
48 the interest of all such employees without discrimination and

1 without regard to employee organization membership. Proposed
2 new rules or modifications of existing rules governing working
3 conditions shall be negotiated with the majority representative
4 before they are established. In addition, the majority representative
5 and designated representatives of the public employer shall meet at
6 reasonable times and negotiate in good faith with respect to
7 grievances, disciplinary disputes, agreements to avoid or reduce
8 layoffs, and other terms and conditions of employment. Terms and
9 conditions of employment set by civil service law or regulation may
10 be modified by a written agreement entered into between a public
11 employer and a majority representative. Absent a written
12 agreement between a public employer and a majority representative,
13 existing civil service laws and regulations that set terms and
14 conditions of employment shall remain in full force and effect.
15 Nothing herein shall be construed as permitting negotiation of the
16 standards or criteria for employee performance or of layoff rights
17 set by civil service law or regulation. Public employers and
18 majority representatives may enter into agreements to avoid or
19 reduce layoffs, including, but not limited to, agreements that
20 achieve savings and economies through temporary layoffs and other
21 reductions in work time. Agreements entered into by a public
22 employer and a majority representative to avoid or reduce layoffs
23 are binding on the parties.

24 When an agreement is reached on the terms and conditions of
25 employment, it shall be embodied in writing and signed by the
26 authorized representatives of the public employer and the majority
27 representative.

28 Public employers shall negotiate written policies setting forth
29 grievance and disciplinary review procedures by means of which
30 their employees or representatives of employees may appeal the
31 interpretation, application or violation of policies, agreements, and
32 administrative decisions, including disciplinary determinations,
33 affecting them, provided that such grievance and disciplinary
34 review procedures shall be included in any agreement entered into
35 between the public employer and the representative organization.
36 Such grievance and disciplinary review procedures may provide for
37 binding arbitration as a means for resolving disputes. Except as
38 otherwise provided herein, the procedures agreed to by the parties
39 may not replace or be inconsistent with any alternate statutory
40 appeal procedure nor may they provide for binding arbitration of
41 disputes involving the discipline of employees with statutory
42 protection under tenure or civil service laws, except as permitted by
43 civil service laws and except that such procedures may provide for
44 binding arbitration of disputes involving the minor discipline of any
45 public employees protected under the provisions of section 7 of
46 P.L.1968, c.303 (C.34:13A-5.3), other than public employees
47 subject to discipline pursuant to R.S.53:1-10. Grievance and
48 disciplinary review procedures established by agreement between

1 the public employer and the representative organization shall be
2 utilized for any dispute covered by the terms of such agreement.
3 For the purposes of this section, minor discipline shall mean a
4 suspension or fine of less than five days unless the employee has
5 been suspended or fined an aggregate of 15 or more days or
6 received more than three suspensions or fines of five days or less in
7 one calendar year.

8 Where the State of New Jersey, or a political subdivision of the
9 State that has adopted the provisions of Title 11A of the New Jersey
10 Statutes, and the majority representative have agreed to a
11 disciplinary review procedure that provides for binding arbitration
12 of disputes involving the major discipline of any public employee
13 protected under the provisions of this section, other than public
14 employees subject to discipline pursuant to R.S.53:1-10, the
15 grievance and disciplinary review procedures established by
16 agreement between the State of New Jersey, or a political
17 subdivision thereof, and the majority representative shall be utilized
18 for any dispute covered by the terms of such agreement. For the
19 purposes of this section, major discipline shall mean a removal,
20 disciplinary demotion, suspension or fine of more than five days, or
21 less where the aggregate number of days suspended or fined in any
22 one calendar year is 15 or more days or unless the employee
23 received more than three suspensions or fines of five days or less in
24 one calendar year.

25 In interpreting the meaning and extent of a provision of a
26 collective negotiation agreement providing for grievance
27 arbitration, a court or agency shall be bound by a presumption in
28 favor of arbitration. Doubts as to the scope of an arbitration clause
29 shall be resolved in favor of requiring arbitration.

30 (cf: P.L.2005, c.380, s.1)

31

32 12. Section 11 of P.L.2007, c.63 (C.40A:65-11) is amended to
33 read as follows:

34 11. a. When a local unit contracts, through a shared service or
35 joint meeting, to have another local unit or a joint meeting provide a
36 service it is currently providing using public employees and one or
37 more of the local units have adopted Title 11A, Civil Service, then
38 the agreement shall include an employment reconciliation plan in
39 accordance with this section that and, if one or more of the local
40 units have adopted Title 11A, Civil Service, shall specifically set
41 forth the intended jurisdiction of the Civil Service Commission. An
42 employment reconciliation plan shall be subject to the following
43 provisions:

44 (1) a determination of those employees, if any, that shall be
45 transferred to the providing local unit, retained by the recipient
46 local unit, or terminated from employment for reasons of economy
47 or efficiency, subject to the provisions of any existing collective
48 bargaining agreements within the local units.

1 (2) any employee terminated for reasons of economy or
2 efficiency by the local unit providing the service under the shared
3 service agreement **[shall]** , at the option of the local unit or
4 pursuant to a collective negotiations agreement between the local
5 unit and a majority representative, may be given a terminal leave
6 payment of not less than a period of one month for each five-year
7 period of past service as an employee with the local unit, or other
8 enhanced benefits that may be provided or negotiated. For the
9 purposes of this paragraph, "terminal leave payment" means a
10 single, lump sum payment, paid at termination, calculated using the
11 regular base salary at the time of termination. Unless otherwise
12 negotiated or provided by the employer, a terminal leave benefit
13 shall not include extended payment, or payment for retroactive
14 salary increases, bonuses, overtime, longevity, sick leave, accrued
15 vacation or other time benefit, or any other benefit.

16 (3) the Civil Service Commission shall place any employee that
17 has permanent status pursuant to Title 11A, Civil Service, of the
18 New Jersey Statutes that is terminated for reasons of economy or
19 efficiency at any time by either local unit on a special
20 reemployment list for any civil service employer within the county
21 of the agreement or any political subdivision therein.

22 (4) when a proposed shared service agreement affects
23 employees in local units subject to Title 11A, Civil Service, of the
24 New Jersey Statutes, an employment reconciliation plan shall be
25 filed with the Civil Service Commission prior to the approval of the
26 shared service agreement. The commission shall review it for
27 consistency with this section within 45 days of receipt and it shall
28 be deemed approved, subject to approval of the shared service
29 agreement by the end of that time, unless the commission has
30 responded with a denial or conditions that must be met in order for
31 it to be approved.

32 (5) when an action is required of the Civil Service Commission
33 by this section, parties to a planned shared service agreement may
34 consult with that commission in advance of the action and the
35 commission shall provide such technical support as may be
36 necessary to assist in the preparation of an employment
37 reconciliation plan or any other action required of the commission
38 by this section.

39 b. If all the local units that are parties to the agreement are
40 subject to the provisions of Title 11A, Civil Service, of the New
41 Jersey Statutes, the Civil Service Commission shall create an
42 implementation plan for the agreement that will: (1) transfer
43 employees with current status in current title unless reclassified, or
44 (2) reclassify employees into job titles that best reflect the work to
45 be performed. The Civil Service Commission shall review whether
46 any existing hiring or promotional lists should be merged,
47 inactivated, or re-announced. Non-transferred employees shall be
48 removed or suspended only for good cause and after the opportunity

1 for a hearing before the Civil Service Commission; provided,
2 however, that they may be laid-off in accordance with the
3 provisions of N.J.S.11A:8-1 et seq., and the regulations
4 promulgated thereunder. The final decision of which employees
5 shall transfer to the new employer is vested solely with the local
6 unit that will provide the service and subject to the provisions of
7 any existing collective bargaining agreements within the local units.

8 c. If the local unit that will provide the service pursuant to a
9 shared service agreement is subject to Title 11A, Civil Service, of
10 the New Jersey Statutes, but the local unit to receive the service is
11 not subject to that Title, and the contracting local units desire that
12 some or all employees of the recipient local unit are to be
13 transferred to the providing local unit, the Civil Service
14 Commission shall vest only those employees who have been
15 employed for one year or more in permanent status pursuant to
16 N.J.S.11A:9-9 in appropriate titles, seniority, and tenure with the
17 providing local unit based on the duties of the position. The final
18 decision of which employees shall transfer to the new employer is
19 vested solely with the local unit that will provide the service and
20 subject to the provisions of any existing collective bargaining
21 agreements within the local units.

22 d. If the local unit that will provide the service is not subject to
23 the provisions of Title 11A, Civil Service, of the New Jersey
24 Statutes, but the local unit that will receive the service is subject to
25 that Title and the parties desire that some or all employees of the
26 recipient local unit are to be transferred to the providing local unit,
27 the transferred employees shall be granted tenure in office and shall
28 only be removed or suspended for good cause and after a hearing;
29 provided, however, that they may be laid-off in accordance with the
30 provisions of N.J.S.11A:8-1 et seq., and the regulations
31 promulgated thereunder. The transferred employees shall be
32 subject to layoff procedures prior to the transfer to the new entity.
33 Once transferred, they will be subject to any employment contracts
34 and provisions that exist for the new entity. The final decision of
35 which employees shall transfer to the new employer is vested solely
36 with the local unit that will provide the service and subject to the
37 provisions of any existing collective bargaining agreements within
38 the local units.

39 (cf: P.L.2008, c.29, s.101)

40

41 13. a. There shall be established within the Civil Service
42 Commission a Civil Service Title Reduction Task Force. The
43 purpose of the task force shall be to develop a list of titles within
44 the civil service, not including public safety titles, that are to be
45 consolidated or abolished with the result that the number of titles
46 that exist on July 1, 2010 shall be reduced by at least 33 percent.

47 b. The task force shall be comprised of six members as follows:

48 (1) one person appointed by the Governor;

1 (2) one representative of the New Jersey League of
2 Municipalities recommended thereby, appointed by the President of
3 the Senate;

4 (3) one representative of the New Jersey Association of
5 Counties recommended thereby, appointed by the Speaker of the
6 General Assembly;

7 (4) one member of the New Jersey State AFL-CIO representing
8 State and local employees in New Jersey recommended thereby,
9 appointed by the Governor;

10 (5) one member of the New Jersey State AFL-CIO representing
11 State and local employees in New Jersey recommended thereby,
12 appointed by the President of the Senate; and

13 (6) one member of the New Jersey State AFL-CIO representing
14 State and local employees in New Jersey recommended thereby,
15 appointed by the Speaker of the General Assembly.

16 Members of the task force shall be appointed no later than 30
17 days after the enactment date of P.L. , c. (pending before the
18 Legislature as this bill). A vacancy in the membership of the task
19 force shall be filled in the same manner as the original appointment.

20 The task force shall organize within 30 days following the
21 appointment of its members. The task force shall select a
22 chairperson and may appoint a secretary who need not be a member
23 of the task force. The commission shall provide the equipment,
24 materials, and personnel the task force may request for the conduct
25 of its work.

26 The members of the task force shall serve without compensation
27 and shall not be reimbursed for any expenses incurred in the
28 performance of their duties.

29 Members of the task force who are absent for two consecutive
30 meetings of the full task force without being excused for good cause
31 by the chairperson shall be deemed to have vacated the position.

32 Four members of the task force shall constitute a quorum, and a
33 meeting of the task force shall be called upon the request of four
34 members.

35 The task force shall meet and hold no fewer than three public
36 hearings in various parts of the State.

37 c. Each appointing authority in the civil service shall review
38 the titles within its jurisdiction commencing on the enactment date
39 of P.L. , c. (pending before the Legislature as this bill) and
40 identify those titles that should be consolidated or abolished
41 because they are deemed to be redundant, obsolete, or too narrow in
42 scope. The commission shall notify all appointing authorities of
43 this requirement within three business days after the enactment
44 date.

45 Each appointing authority shall report to the task force the results
46 of its review no later than the 45 days following the enactment date.
47 The task force may, in whole or in part and after review and

1 acceptance, use the results of the review by the appointing
2 authorities for the list developed by the task force.

3 d. The task force shall develop and submit to the commission
4 no later than 90 days following its initial meeting the list of titles to
5 be consolidated or abolished.

6
7 14. a. Pursuant to N.J.S.11A:3-1, the Civil Service Commission
8 shall initiate the process to consolidate and abolish the titles on the
9 list contained in the report submitted to the commission by the Civil
10 Service Title Reduction Task Force. At the conclusion of the
11 process, the number of titles that exist on July 1, 2010 shall be
12 reduced by at least 33 percent.

13 In the event that the task force is unable to agree on a list of titles
14 to be consolidated and abolished within 90 days of its initial
15 meeting, or in the event the list of titles submitted by the task force
16 is inadequate to meet the reduction goal, the commission shall
17 review the work of the task force, and develop a list of titles or of
18 additional titles to be consolidated and abolished. Pursuant to
19 N.J.S.11A:3-1, the commission shall initiate the process to
20 consolidate and abolish the titles on the list that it has developed.

21 b. When the commission consolidates or abolishes a title
22 pursuant to this section, there shall be no adverse affect on the
23 seniority rights, layoff rights, compensation of incumbents in titles,
24 or the composition of collective negotiations units in titles that have
25 been selected to be consolidated or abolished.

26 c. When titles within the civil service are to be consolidated
27 pursuant to this section and such titles are in a negotiations unit, the
28 employer and the majority representative selected or designated
29 pursuant to section 7 of P.L.1968, c.303 (C.34:13A-5.3) shall
30 together negotiate the compensation or wage rate for the new title.

31

32 15. During the six-month period following the enactment date of
33 P.L. , c. (pending before the Legislature as this bill), no new
34 title shall be created within the civil service for any appointing
35 authority in the civil service.

36

37 16. (New section) When an appointing authority in the civil
38 service seeks to have a new title created, the appointing authority
39 shall provide the Civil Service Commission with a report describing
40 in detail the reasons for the need to request the creation of the new
41 title. Before the commission determines whether to authorize the
42 creation of the title, notice of the proposed creation of a new title
43 shall be posted on the homepage of the website of the commission,
44 together with the report submitted by the appointing authority.

45

46 17. This act shall take effect immediately, except that sections 1,
47 2, and 3 shall take effect 90 days following enactment, and except
48 that the Civil Service Commission may take such anticipatory

A3590 [1R] STENDER

19

- 1 actions as may be deemed necessary and appropriate for the
- 2 implementation of sections 1 through 3 of this act.