

SENATE, No. 2029

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 3, 2010

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Senator KEVIN J. O'TOOLE

District 40 (Bergen, Essex and Passaic)

SYNOPSIS

Clarifies definition of “managerial executives” and “confidential employees” in the “New Jersey Employer-Employee Relations Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2010)

1 AN ACT concerning collective labor negotiations and amending
2 P.L.1941, c.100.

3

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

6

7 1. Section 3 of P.L.1941, c.100 (C.34:13A-3) is amended to
8 read as follows:

9 3. When used in this act:

10 (a) The term "board" shall mean New Jersey State Board of
11 Mediation.

12 (b) The term "commission" shall mean New Jersey Public
13 Employment Relations Commission.

14 (c) The term "employer" includes an employer and any person
15 acting, directly or indirectly, on behalf of or in the interest of an
16 employer with the employer's knowledge or ratification, but a labor
17 organization, or any officer or agent thereof, shall be considered an
18 employer only with respect to individuals employed by such
19 organization. This term shall include "public employers" and shall
20 mean the State of New Jersey, or the several counties and
21 municipalities thereof, or any other political subdivision of the
22 State, or a school district, or any special district, or any authority,
23 commission, or board, or any branch or agency of the public
24 service. The term shall also include the Delaware River Port
25 Authority, established pursuant to R.S.32:3-1 et seq.

26 (d) The term "employee" shall include any employee, and shall
27 not be limited to the employees of a particular employer unless this
28 act explicitly states otherwise, and shall include any individual
29 whose work has ceased as a consequence of or in connection with
30 any current labor dispute or because of any unfair labor practice and
31 who has not obtained any other regular and substantially equivalent
32 employment. This term, however, shall not include any individual
33 taking the place of any employee whose work has ceased as
34 aforesaid, nor shall it include any individual employed by his parent
35 or spouse, or in the domestic service of any person in the home of
36 the employer, or employed by any company owning or operating a
37 railroad or railway express subject to the provisions of the Railway
38 Labor Act (45 U.S.C. s.151 et seq.). This term shall include any
39 public employee, i.e., any person holding a position, by
40 appointment or contract, or employment in the service of a public
41 employer, including the Delaware River Port Authority, except
42 elected officials, members of boards and commissions, managerial
43 executives and confidential employees.

44 (e) The term "representative" is not limited to individuals but
45 shall include labor organizations, and individual representatives

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 need not themselves be employed by, and the labor organization
2 serving as a representative need not be limited in membership to the
3 employees of, the employer whose employees are represented. This
4 term shall include any organization, agency or person authorized or
5 designated by a public employer, public employee, group of public
6 employees, or public employee association to act on its behalf and
7 represent it or them.

8 (f) "Managerial executives" of a public employer, in the case of
9 the Executive Branch of the State of New Jersey, means persons
10 who formulate management policies and practices and includes only
11 personnel at or above the level of assistant commissioner but shall
12 not mean persons who are charged with the responsibility of
13 directing the effectuation of such management policies and
14 practices[, except that, in the case of the Executive Branch of the
15 State of New Jersey, "managerial executive" shall include only
16 personnel at or above the level of assistant commissioner]. In the
17 case of any public employer other than the Executive Branch of the
18 State of New Jersey, "managerial executives" of a public employer
19 means persons who formulate management policies and practices,
20 and persons who are charged with the responsibility of directing the
21 effectuation of such management policies and practices, except that
22 in any school district this term shall include only the superintendent
23 or other chief administrator, and the assistant superintendent of the
24 district.

25 (g) "Confidential employees" of a public employer other than
26 the Executive Branch of the State of New Jersey, means employees
27 whose functional responsibilities or knowledge in connection with
28 the issues involved in the collective negotiations process would
29 make their membership in any appropriate negotiating unit
30 incompatible with their official duties.

31 "Confidential employees" of the Executive Branch of the State of
32 New Jersey means employees who have direct involvement in
33 representing the State in the collective negotiations process making
34 their membership in any appropriate negotiating unit incompatible
35 with their official duties.

36 (cf: P.L.2009, c.314, s.1)

37

38 2. This act shall take effect immediately.

39

40

41

STATEMENT

42

43 This bill amends the definition of "managerial executives" and
44 "confidential employees" in the New Jersey Employer-Employee
45 Relations Act, P.L.1941, c.100 (34:13A-1 et seq.) for the purposes
46 of collective labor negotiations. This bill would clarify the revisions
47 made to these definitions pursuant to P.L.2009, c.314 which
48 allowed certain managers employed by the State to negotiate

1 collectively under the act, by creating a distinction between
2 managers who formulate management policies and practices and
3 those who effectuate the policies and practices.

4 The bill provides that in the case of a public employer *in the*
5 *Executive Branch* the definition of “managerial executives” is
6 persons who formulate management policies and practices and
7 includes only personnel at or above the level of assistant
8 commissioner, but does not mean persons who are charged with the
9 responsibility of directing the effectuation of such management
10 policies and practices. In addition, this bill reorganizes the language
11 concerning assistant commissioners to clarify that managerial
12 executives includes only personnel at or above the level of assistant
13 commissioner. As noted in the committee statement, P.L.2009,
14 c.314 provided for this change in definition so that any manager
15 employed by the Executive Branch of the State Government at a
16 level below the level of assistant commissioner, and any manager
17 employed by the State who is not involved with formulating
18 management policies and practices, may join employee
19 organizations and through these organizations collectively negotiate
20 salaries and benefits with public employers.

21 In the case of a public employer *other than in the Executive*
22 *Branch* “managerial executives” means persons who formulate
23 management policies and practices, and persons who are charged
24 with the responsibility of directing the effectuation of such
25 management policies and practices, except that in any school
26 district this term shall include only the superintendent or other chief
27 administrator, and the assistant superintendent of the district.

28 With regard to “confidential employers,” the bill provides that
29 this term in the case of a public employer *other than the Executive*
30 *Branch* means employees whose functional responsibilities or
31 knowledge in connection with the issues involved in the collective
32 negotiations process would make their membership in any
33 appropriate negotiating unit incompatible with their official duties.

34 In the case of “confidential employees” *of the Executive Branch*
35 this term means employees who have direct involvement in
36 representing the State in the collective negotiations process making
37 their membership in any appropriate negotiating unit incompatible
38 with their official duties.