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ASSEMBLY, No. 3686

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MARCH 13, 2018

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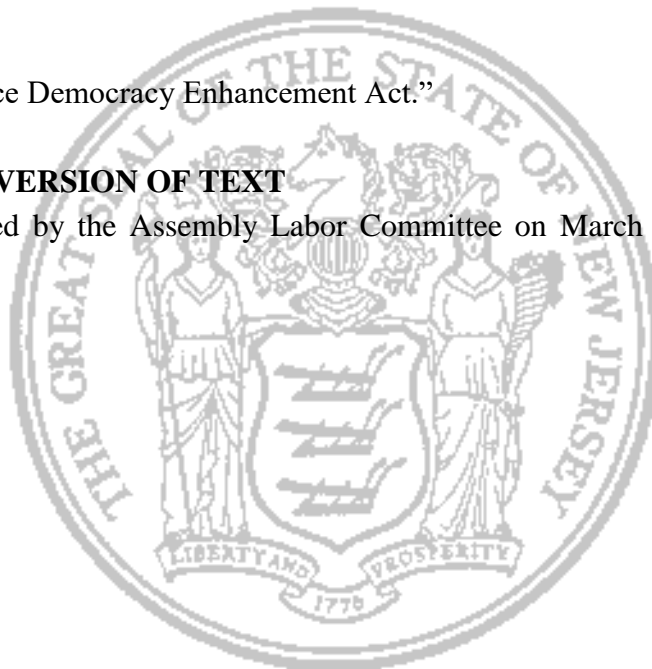
Assemblyman Giblin, Assemblywomen Mosquera and Pintor Marin

SYNOPSIS

“Workplace Democracy Enhancement Act.”

CURRENT VERSION OF TEXT

As reported by the Assembly Labor Committee on March 22, 2018, with amendments.



(Sponsorship Updated As Of: 4/13/2018)

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 exclusive
22 representative employee organizations access to members of the
23 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 of
26 the public employer during the work day to investigate and discuss
27 grievances, workplace-related complaints, and other workplace issues;

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

35 (3) the right to meet with newly hired employees, without charge
36 to the pay or leave time of the employees, for a minimum of 30 ¹and a
37 maximum of 120¹ minutes, within 30 calendar days from the date of
38 hire, during new employee orientations, or if the employer does not
39 conduct new employee orientations, at individual or group meetings.

40 c. Within 10 calendar days from the date of hire of negotiations
41 unit employees, public employers shall provide the following contact
42 information to an exclusive representative employee organization in an
43 Excel file format or other format agreed to by the exclusive
44 representative employee organization: name, job title, worksite
45 location, home address, work telephone numbers, and any home and

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 ALA committee amendments adopted March 22, 2018.

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

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

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

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

41 g. Upon the request of an exclusive representative employee
42 organization, a public employer shall negotiate in good faith over
43 contractual provisions to memorialize the parties' agreement to
44 implement the provisions of subsections a. through f. of this section.
45 Negotiations shall commence within 10 calendar days from the date of
46 a request by the employee organization, even if a collective
47 negotiations agreement is in effect on the effective date of this act.
48 Agreements between a public employer and an exclusive

1 representative employee organization implementing subsections a.
2 through f. of this section shall be incorporated into the parties'
3 collective negotiations agreement and shall be enforceable through the
4 parties' grievance procedure, which shall include binding arbitration.
5 The requirements set forth in subsections a. through f. of this section
6 establish the minimum requirements for access to and communication
7 with negotiations unit employees by an exclusive representative
8 employee organization.

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

20 i. For the purposes of this section, "exclusive representative
21 employee organization" means an employee organization which has
22 been designated as the exclusive representatives of employees in a
23 collective negotiations unit.

24
25 4. (New section) a. A public employer shall not encourage
26 negotiations unit members to resign or relinquish membership in an
27 exclusive representative employee organization and shall not
28 encourage negotiations unit members to revoke authorization of the
29 deduction of fees to an exclusive representative employee
30 organization.

31 b. A public employer shall not encourage or discourage an
32 employee from joining, forming or assisting an employee
33 organization.

34 c. A public employer that violates any provision of subsection
35 a. or b. of this section shall be regarded as having engaged in an
36 unfair practice in violation of subsection a. of section 1 of P.L.1974,
37 c.123 (C.34:13A-5.4), and, upon a finding that the violation has
38 occurred, the Public Employment Relations Commission, in
39 addition to implementing any other remedies authorized by that
40 section, shall order the public employer to make whole the
41 exclusive representative employee organization for any losses
42 suffered by the organization as a result of the public employer's
43 unlawful conduct and any other remedial relief deemed appropriate.

44
45 5. (New section) a. All regular full-time and part-time
46 employees of the public employer who perform negotiations unit
47 work shall be included in the negotiations unit represented by the
48 exclusive representative employee organization.

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

12 c. Employees who are performing negotiations unit work and
13 who are not included in a negotiations unit because they did not
14 meet the threshold of hours or percent of time worked as set forth in
15 a certification of representative, recognition clause or other
16 provision in a collective negotiations agreement, shall be included
17 in the negotiations unit by operation of this act, within 90 calendar
18 days from the effective date of this act.

19 d. The Public Employment Relations Commission shall
20 promulgate rules to implement this section, including rules to
21 resolve disputes over the inclusion of employees performing
22 negotiations unit work in the appropriate negotiations unit. The
23 rules promulgated by the commission shall provide for the
24 resolution of disputes that arise under this section, within 60
25 calendar days from the submission of the dispute to the commission
26 by either the exclusive representative employee organization or the
27 public employer.

28

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

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

46 【Any such written authorization may be withdrawn by such
47 person holding employment at any time by the filing of notice of
48 such withdrawal with the above-mentioned disbursing officer. The

1 filing of notice of withdrawal shall be effective to halt deductions as
2 of the January 1 or July 1 next succeeding the date on which notice
3 of withdrawal is filed.】

4 Employees who have authorized the payroll deduction of fees to
5 employee organizations may revoke such authorization by
6 providing written notice to their public employer during the 10 days
7 following each anniversary date of their employment. Within five
8 days of receipt of notice from an employee of revocation of
9 authorization for the payroll deduction of fees, the public employer
10 shall provide notice to the employee organization of an employee's
11 revocation of such authorization. An employee's notice of
12 revocation of authorization for the payroll deduction of employee
13 organization fees shall be effective on the 30th day after the
14 anniversary date of employment.

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

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

31 As used in this section, dues shall mean all moneys required to
32 be paid by the employee as a condition of membership in an
33 employee organization and any voluntary employee contribution to
34 a committee or fund established by such organization, including but
35 not limited to welfare funds, political action committees, charity
36 funds, legal defense funds, educational funds, and funds for
37 donations to schools, colleges, and universities.

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

39

40 7. This act shall take effect immediately.