

[First Reprint]

**SENATE, No. 2137**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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INTRODUCED MARCH 5, 2018

**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:

<sup>1</sup>Senate 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.'<sup>1</sup> 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, <sup>1</sup>as  
44 the term electronic signature is defined in section 2 of P.L.2001,  
45 c.116, (C.12A:12-2),<sup>1</sup> 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.