

ASSEMBLY, No. 5862

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 9, 2021

Sponsored by:

Assemblyman JOHN ARMATO

District 2 (Atlantic)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Assemblywomen Reynolds-Jackson, Murphy, Assemblymen Giblin, Verrelli, Zwicker, Assemblywomen Chaparro, Sumter, Jasey, McKnight, Assemblyman McKeon, Assemblywoman Carter, Assemblyman Stanley and Assemblywoman Lopez

SYNOPSIS

“Responsible Collective Negotiations Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/21/2021)

1 AN ACT concerning public employment relations, amending
2 P.L.1967, c.310 and P.L. 2018, c.15, and supplementing Title 34
3 of the Revised Statutes.

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

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8 1. (New section) This act shall be known and may be cited as
9 the “Responsible Collective Negotiations Act.”

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11 2. (New section) It is hereby declared as the public policy of
12 this State that the public interest is best served in the prompt
13 settlement of labor disputes and in achieving cost effective and
14 creative solutions to ensure the efficient delivery of public services
15 and that policy is best achieved by entrusting democratically elected
16 government officials with broad authority to negotiate over the terms
17 of employment of their employees; that the constitutional mandate
18 that public employees have the right to organize and present
19 grievances to their employers will be promoted by the establishment
20 of an system of collective negotiations between public employers and
21 the representatives of public employees that includes all matters that
22 intimately and directly affect employee work and welfare, unless a
23 negotiated agreement would prevent government from carrying out
24 its statutory mission; and that when public employers and employee
25 representatives agree upon subjects of collective negotiations, it is in
26 the public interest that those agreements are enforceable by both
27 public employee organizations and public employers and that the
28 parties to a collective negotiations agreement respect and abide by
29 their mutual promises and agreements.

30
31 3. (New section) Notwithstanding any provisions of the “New
32 Jersey Employer-Employee Relations Act,” P.L.1941, c.100
33 (C.34:13A-1 et seq.), or any other law to the contrary, as used in
34 sections 1 through 9 of P.L. , c. (C.) (now pending before
35 the legislature as this bill):

36 a. The term “commission” means the New Jersey Public
37 Employment Relations Commission.

38 b. The term “employer” means the State of New Jersey, or the
39 several counties and municipalities thereof, or any other political
40 subdivision of the State, or any special district, or any county college,
41 or any authority, commission or board, or any branch or agency of
42 the public service, except that the term does not include any local or
43 regional school district, or board or commission under the authority
44 of the Commissioner of Education or the State Board of Education.

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 c. The term “employee” means an employee of an employer as
2 defined by subparagraph b above, but does not include firefighting
3 employees of public fire departments or employees engaged in
4 performing police services for public police departments as those
5 terms are defined by section 2 of P.L.1977, c.85 (C.34:13A-15).

6 d. “Terms and conditions of employment” are all matters that
7 intimately and directly affect the work and welfare of public
8 employees. Examples of terms and conditions of employment
9 include, but are not limited to: compensation; hours and schedules of
10 work; fringe benefits; layoffs; subcontracting and privatization;
11 criteria and procedures for promotions, performance evaluations and
12 hiring; transfers of employees; assignments and reassignments of
13 employees; transfer of negotiations unit work; and job security,
14 discipline disputes and disciplinary review procedures.

15 e. “Disciplinary review procedures” are procedures to review all
16 forms of discipline, including but not limited to, oral and written
17 reprimands, written warnings, suspensions with and without pay,
18 fines, terminations, non-renewals, non-reappointments, demotions,
19 disciplinary transfers and all other adverse personnel actions based
20 on employee performance or conduct.

21 f. The terms “employee organization” and “majority
22 representative”, unless otherwise specified, means the “exclusive
23 majority representative” either certified by the commission or
24 recognized by the public employer.

25

26 4. (New section) Notwithstanding any provisions of the “New
27 Jersey Employer-Employee Relations Act,” P.L.1941, c.100
28 (C.34:13A-1 et seq.), or any other law to the contrary, if an employee
29 who does not pay dues to a majority representative requests that the
30 majority representative represent the employee in arbitration
31 proceedings to enforce the terms of the collective negotiations
32 agreement between the majority representative and the public
33 employer, including arbitration proceedings involving the resolution
34 of disciplinary disputes, the majority representative may charge an
35 employee for the cost of representing the employee in the arbitration
36 proceedings, and may decline to represent an employee in the
37 arbitration unless the employee agrees to pay for the cost of the
38 representation.

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40 5. (New section) Only the parties to a collective negotiations
41 agreement shall have the authority to invoke the arbitration
42 procedures of the agreement and the public employer and the
43 employee organization shall be the only parties to the arbitration
44 proceeding invoked pursuant to the collective negotiations
45 agreement.

46

47 6. (New section) An authorization card or petition submitted to
48 the Commission for purposes of conducting an election to select a

1 majority representative or certifying an employee organization as the
2 exclusive majority representative based on a majority of employees
3 in the unit signing authorization cards or a petition, may bear the
4 electronic signature of the employee, as the term electronic signature
5 is defined in section 2 of P.L. 2001, c. 116, (C. 12A:12-2).

6
7 7. (New section) Notwithstanding any provisions of the “New
8 Jersey Employer-Employee Relations Act,” P.L.1941, c.100
9 (C.34:13A-1 et seq.), or any other law to the contrary:

10 a. Mandatory subjects for collective negotiation in public
11 employment shall include terms and conditions of employment of
12 public employees that are not specifically exempted from collective
13 negotiations by State statute, unless a negotiated agreement would
14 prevent government from carrying out its statutory mission. Statutes
15 and administrative regulations that set terms and conditions of
16 employment or that grant public employers authority over terms and
17 conditions of employment do not preempt collective negotiations and
18 do not supersede the provisions of any negotiated agreement, except
19 that terms and conditions of employment set by statutes and
20 regulations shall not be diminished by a negotiated agreement.

21 b. Grievance and disciplinary review procedures shall provide
22 for binding arbitration as a means for resolving disputes involving
23 mandatory subjects for collective negotiations.

24 c. Notwithstanding the expiration of a collective negotiations
25 agreement, an impasse in negotiations, an exhaustion of the
26 Commission’s impasse procedures, or the utilization or completion
27 of the procedures required by of P.L. , c. (C.)(now pending
28 before the legislature as this bill) to resolve disputes involving
29 collective negotiations, and notwithstanding any law or regulation to
30 the contrary, no public employer, its representatives, or its agents
31 shall unilaterally impose, modify, amend, delete or alter any terms
32 and conditions of employment as set forth in the expired or expiring
33 collective negotiations agreement, or unilaterally impose, modify,
34 amend, delete, or alter any other negotiable terms and conditions of
35 employment, without the specific written agreement of the majority
36 representative. Following contract expiration, and notwithstanding
37 any law or regulation to the contrary, absent express language in a
38 collective negotiations agreement providing that a specific term of
39 the agreement will not continue after the expiration of the collective
40 negotiations agreement, all terms and conditions of the agreement,
41 including, but not limited to the payment of salary increments, shall
42 remain in effect following the agreement’s expiration until the parties
43 reach agreement on a successor collective negotiations agreement.

44
45 8. (New section) The communications between a majority
46 representative of employees and its unit members regarding
47 collective negotiations, the administration of collective negotiations
48 agreements, the investigation of grievances, other workplace related

1 complaints and issues, or any other matters that are within the scope
2 of a majority representative's duty of fair representation, and internal
3 union matters involving the governance or business of the union,
4 shall be treated as confidential communications and shall not be
5 subject to disclosure under the discovery rules of New Jersey
6 administrative agencies, including, but not limited to the Office of
7 Administrative Law and the Commission, or pursuant to section 17
8 of P.L.2003, c.95 (C.2A:23B-17), and other applicable state laws
9 authorizing arbitrators, presiding at labor arbitrations, to issue
10 subpoenas.

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12 9. (New section) Complaints issued based on a violation of
13 paragraph (3) of subsection (a) of section 1 of P.L.1974, c.123
14 (C.34:13A-5.4) shall be scheduled for hearing within 60 to 90
15 calendar days from date of complaint issuance, unless the parties
16 agree to extend the time for complaint issuance. Within 60 calendar
17 days of the filing of an unfair practice charge alleging the violation
18 the commission shall decide whether or not to issue a complaint. The
19 commission shall promulgate rules to provide for discovery prior to
20 the commencement of a hearing.

21

22 10. Section 5 of P.L.2018, c.15 (C.34:13A-5.15) is amended to
23 read as follows:

24 5. a. All regular full-time and part-time employees of the public
25 employer who perform negotiations unit work shall be included in
26 the negotiations unit represented by the exclusive representative
27 employee organization.

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

38 c. Every 120 calendar days beginning on January 1 following
39 the effective date of P.L. , c. (C.)(now pending before the
40 legislature as this bill), public employers shall provide to an
41 exclusive representative employee organization in an Excel file
42 format or other format agreed to by the exclusive representative
43 employee organization, the following information for all employees
44 not represented by any exclusive representative employee
45 organization: name, job title, worksite location, work email and work
46 phone number. Within 30 days of a request by an exclusive
47 representative employee organization, a public employer shall
48 provide a job description for each non-represented employee,

1 including the names and job titles of all employees supervised by the
2 employer subject to the request.

3 d. Employees who are performing negotiations unit work and
4 who are not included in a negotiations unit because they did not meet
5 the threshold of hours or percent of time worked as set forth in a
6 certification of representative, recognition clause or other provision
7 in a collective negotiations agreement, shall be included in the
8 negotiations unit by operation of this act, within 90 calendar days
9 from the effective date of this act.

10 **[d.] e.** The Public Employment Relations Commission shall
11 promulgate rules to implement this section, including rules to resolve
12 disputes over the inclusion of employees performing negotiations
13 unit work in the appropriate negotiations unit. The rules promulgated
14 by the commission shall provide for the resolution of disputes that
15 arise under this section, within 60 calendar days from the submission
16 of the dispute to the commission by either the exclusive
17 representative employee organization or the public employer.
18 (cf: P.L.2018, c.15, s.5)

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

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

37 Employees who have authorized the payroll deduction of fees to
38 employee organizations prior to the effective date of the “Workplace
39 Democracy Enhancement Act”, P.L. 2018, c.15 (C.34:13A-5.11 et
40 seq.), may revoke such authorization by providing written notice to
41 their public employer consistent with the terms of the authorization
42 by the employee to have any deductions made from the employee’s
43 compensation for the purpose of paying the employee's dues to a bona
44 fide employee organization, as those terms are set forth on the writing
45 signed by the employee authorizing the payroll deduction of dues,
46 provided the writing was consistent with the law at the time the
47 authorization was given. If the writing was not consistent with law,

1 the revocation of authorization shall be effective on the dates
2 provided by law at the time the authorization was given.

3 Employees who have authorized the payroll deduction of fees to
4 employee organizations on or after the effective date of the
5 “Workplace Democracy Enhancement Act”, P.L. 2018, c.15
6 (C.34:13A-5.11 et seq.), may revoke such authorization by providing
7 written notice to their public employer **[during the 10 days following**
8 **each anniversary date of their employment]**. Within five days of
9 receipt of notice from an employee of revocation of authorization for
10 the payroll deduction of fees, the public employer shall provide
11 notice to the employee organization of an employee's revocation of
12 such authorization. An employee's notice of revocation of
13 authorization for the payroll deduction of employee organization fees
14 shall be effective on the 30th day after the anniversary date of
15 employment.

16 Within five days of receipt of notice from an employee of
17 revocation of authorization for the payroll deduction of fees, the
18 public employer shall provide notice to the employee organization of
19 an employee's revocation of such authorization.

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

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

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

43 (cf: P.L.2018, c.15, s.6)

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45 12. This act shall take effect immediately.

STATEMENT

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The purpose of this bill is to promote the public interest by facilitating the prompt settlement of labor disputes and achieving cost effective and creative solutions for the efficient delivery of public services by entrusting elected government officials with broad authority to negotiate over the terms of employment of their employees, and by providing a system of collective negotiations between public employers and the representatives of public employees that includes all matters that intimately and directly affect employee work and welfare, unless a negotiated agreement would prevent government from carrying out its statutory mission. The bill defines "terms and conditions of employment" as all matters affecting the work and welfare of employees, including compensation, work hours and schedules, fringe benefits, layoffs, subcontracting and privatization, criteria and procedures for promotions, performance evaluations, hiring, employee transfers and assignments, transfers; job security, and disciplinary matters.

The bill provides that a public employee union may charge an employee, who does not pay dues to the union, for the cost of representing the employee in arbitration proceedings, including arbitration regarding disciplinary disputes, and that the union may decline to represent an employee who does not pay union dues in arbitration unless the employee agrees to pay for the cost of representation.

The bill provides that only the parties to a collective negotiations agreement may invoke the arbitration procedures of the agreement and be parties to the arbitration.

Electronic signatures of employees may be used for authorization cards and petitions to conduct union representation elections.

The bill provides that mandatory subjects for collective negotiation in public employment include terms and conditions of employment of public employees that are not specifically exempted from collective negotiations by State statute, unless a negotiated agreement would prevent a governmental agency from carrying out its statutory mission. Statutes and regulations that set terms and conditions of employment or grant public employers authority over terms and conditions of employment do not preempt collective negotiations and do not supersede the provisions of any negotiated agreement, except that terms and conditions of employment set by statutes and regulations shall not be diminished by a negotiated agreement. The bill provides for binding arbitration as a means for resolving disputes involving mandatory subjects for collective negotiations.

The bill prohibits public employers from unilaterally imposing or changing any terms and conditions of employment set forth in an expired or expiring collective negotiations agreement, or unilaterally imposing or changing any other negotiable terms and conditions of

1 employment, without the specific written agreement of the union.
2 Following contract expiration, and notwithstanding any law or
3 regulation to the contrary, absent express language in a collective
4 negotiations agreement providing that a specific term of the
5 agreement will not continue after the expiration, all terms and
6 conditions of the agreement, including the payment of salary
7 increments, are required by the bill to remain in effect following the
8 agreement's expiration until the parties agree on a successor
9 collective agreement.

10 The bill provides that communications between a public employee
11 union and its members regarding collective negotiations,
12 administration of collective negotiations agreements, investigation of
13 grievances, and any other matters within the scope of the union's duty
14 of fair representation, and regarding internal union matters, are
15 confidential communications and not subject to disclosure under the
16 discovery rules of New Jersey administrative agencies, including the
17 Office of Administrative Law and the Commission, or under state
18 laws authorizing arbitrators to issue subpoenas.

19 The bill requires that employee complaints regarding
20 discrimination against employees for exercising their rights under the
21 "New Jersey Employer-Employee Relations Act," P.L.1941, c.100
22 (C.34:13A-1 et seq.), be scheduled for hearing within 60 to 90
23 calendar days, unless the parties agree to extend the time. A decision
24 is required on whether to issue a complaint within 60 calendar days.

25 The bill requires that every 120 calendar days public employers
26 provide to the union the following information for each employee not
27 represented by the union: name, job title, worksite location, work
28 email and work phone number, and, within 30 days of a request by
29 the union, a job description for each non-represented employee,
30 including the names and job titles of all employees supervised by the
31 employer.

32 The bill provides that employees who authorized a payroll
33 deduction of union fees prior to the effective date of the "Workplace
34 Democracy Enhancement Act," P.L. 2018, c.15 (C.34:13A-5.11 et
35 seq.), may revoke the authorization by providing written notice to
36 their employer, consistent with the terms of the authorization as
37 consistent with the law when time the authorization was given.

38 A public employer is required to notify the union of an employee's
39 revocation of authorization for the payroll deduction of fees within
40 five days of receipt.