

[First Reprint]

**ASSEMBLY, No. 5862**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

INTRODUCED JUNE 9, 2021

**Sponsored by:**

**Assemblyman JOHN ARMATO**

**District 2 (Atlantic)**

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**District 20 (Union)**

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**SYNOPSIS**

“Responsible Collective Negotiations Act.”

**CURRENT VERSION OF TEXT**

As reported by the Assembly Budget Committee on June 22, 2021, with amendments.



**(Sponsorship Updated As Of: 6/24/2021)**

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:

7  
8 1. (New section) This act shall be known and may be cited as  
9 the “Responsible Collective Negotiations Act.”

10  
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  
17 terms of employment of their employees; that the constitutional  
18 mandate that public employees have the right to organize and  
19 present grievances to their employers will be promoted by the  
20 establishment of an system of collective negotiations between  
21 public employers and the representatives of public employees that  
22 includes all matters that intimately and directly affect employee  
23 work and welfare, unless a negotiated agreement would prevent  
24 government from carrying out its statutory mission; and that when  
25 public employers and employee representatives agree upon subjects  
26 of collective negotiations, it is in the public interest that those  
27 agreements are enforceable by both public employee organizations  
28 and public employers and that the parties to a collective  
29 negotiations agreement respect and abide by their mutual promises  
30 and agreements.

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

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

39 b. The term “employer” means the State of New Jersey, or the  
40 several counties and municipalities thereof, or any other political  
41 subdivision of the State, or any special district, or any county college,  
42 or any authority, commission or board, or any branch or agency of the  
43 public service, except that the term does not include any local or  
44 regional school district, or board or commission under the authority of  
45 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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ABU committee amendments adopted June 22, 2021.

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)<sup>1</sup>,  
6 except that, for the purposes of sections 6 through 9 of P.L. , c. (C. )  
7 (pending before the Legislature as this bill), the term “employee” also  
8 includes firefighting employees of public fire departments or  
9 employees engaged in performing police services for public police  
10 departments as those terms are defined by section 2 of P.L.1977, c.85  
11 (C.34:13A-15)<sup>1</sup>.

12 d. <sup>1</sup>“Terms and conditions of employment” are all matters that  
13 intimately and directly affect the work and welfare of public  
14 employees. Examples of terms and conditions of employment include,  
15 but are not limited to: compensation; hours and schedules of work;  
16 fringe benefits; layoffs; subcontracting and privatization; criteria and  
17 procedures for promotions, performance evaluations and hiring;  
18 transfers of employees; assignments and reassignments of employees;  
19 transfer of negotiations unit work; and job security, discipline disputes  
20 and disciplinary review procedures.

21 e. “Disciplinary review procedures” are procedures to review all  
22 forms of discipline, including but not limited to, oral and written  
23 reprimands, written warnings, suspensions with and without pay, fines,  
24 terminations, non-renewals, non-reappointments, demotions,  
25 disciplinary transfers and all other adverse personnel actions based on  
26 employee performance or conduct.

27 f.<sup>1</sup> The terms “employee organization” and “majority  
28 representative”, unless otherwise specified, means the “exclusive  
29 majority representative” either certified by the commission or  
30 recognized by the public employer.

31  
32 <sup>1</sup>4. (New section) Notwithstanding any provisions of the “New  
33 Jersey Employer-Employee Relations Act,” P.L.1941, c.100  
34 (C.34:13A-1 et seq.), or any other law to the contrary:

35 a. Permissive subjects for collective negotiation involving the  
36 several counties and municipalities, and any authorities, boards,  
37 commissions or other instrumentalities of the several counties or  
38 municipalities, shall include all terms and conditions of employment  
39 that are not otherwise mandatorily negotiable and that intimately and  
40 directly affect employee work and welfare, unless those subjects are  
41 specifically exempted from collective negotiations by State statute,  
42 or unless a negotiated agreement would prevent government from  
43 carrying out its statutory mission. Mandatory subjects for collective  
44 negotiation involving public employers other than the several  
45 counties and municipalities, and any authorities, boards,  
46 commissions or other instrumentalities of the several counties and  
47 municipalities, shall include terms and conditions of employment

1 that intimately and directly affect the work and welfare of public  
2 employees and that are not specifically exempted from collective  
3 negotiations by State statute, unless a negotiated agreement would  
4 prevent government from carrying out its statutory mission.  
5 Statutes and administrative regulations that set terms and conditions  
6 of employment or that grant public employers authority over terms  
7 and conditions of employment do not preempt collective  
8 negotiations and do not supersede the provisions of any negotiated  
9 agreement, except that terms and conditions of employment set by  
10 statutes and regulations shall not be diminished by a negotiated  
11 agreement.

12 b. Parties may agree to submit disputes about whether a matter is  
13 within the scope of collective negotiations to the commission, pursuant  
14 to the authority vested in it by subsection d. of section 1 of P.L. 1974,  
15 c.123 (C.34:13A-5.4).

16 c. Grievance procedures shall provide for binding arbitration as  
17 the means for resolving disputes over the application, interpretation or  
18 violation of the terms of a collective negotiations agreement entered  
19 into by the parties. With respect to the discipline of employees without  
20 statutory protection under tenure or civil service laws, binding  
21 arbitration shall be the final dispute resolution mechanism of any  
22 dispute regarding whether there is just cause for a disciplinary dispute,  
23 including, but not limited to, reprimands, withholding of increments,  
24 termination or non-renewal of an employment contract, expiration or  
25 lapse of an employment contract or term, or lack of continuation of  
26 employment, irrespective of the reason for the employer's action or  
27 failure to act. In arbitration, the burden of proof shall be on the  
28 employer. Parties may negotiate alternative disciplinary review  
29 procedures that may provide for binding arbitration as the means for  
30 resolving disputes involving discipline of employees with statutory  
31 protection under tenure or civil service laws. For any collective  
32 negotiations agreement in effect on the effective date of  
33 P.L. , c. (C. )(pending before the Legislature as this bill), subsection  
34 c. of this section, shall become effective upon the expiration of that  
35 collective negotiations agreement.

36 d. Notwithstanding the expiration of a collective negotiations  
37 agreement, an impasse in negotiations, an exhaustion of the  
38 Commission's impasse procedures, or the utilization or completion  
39 of the procedures required by of P.L. , c. (C. )(pending  
40 before the Legislature as this bill) to resolve disputes involving  
41 collective negotiations, and notwithstanding any law or regulation  
42 to the contrary, no public employer, its representatives, or its agents  
43 shall unilaterally impose, modify, amend, delete or alter any terms  
44 and conditions of employment as set forth in the expired or expiring  
45 collective negotiations agreement, or unilaterally impose, modify,  
46 amend, delete, or alter any other negotiable terms and conditions of  
47 employment, without the specific written agreement of the majority  
48 representative. Following contract expiration, and notwithstanding

1 any law or regulation to the contrary, absent express language in a  
2 collective negotiations agreement providing that a specific term of  
3 the agreement will not continue after the expiration of the collective  
4 negotiations agreement, all terms and conditions of the agreement,  
5 including, but not limited to the payment of salary increments, shall  
6 remain in effect following the agreement's expiration until the  
7 parties reach agreement on a successor collective negotiations  
8 agreement.

9 e. Notwithstanding any provision of this section, the Legislature  
10 retains the right to exempt from collective negotiations subjects that  
11 would otherwise be mandatory subjects of negotiations.

12 f. Notwithstanding any provision of this section, the resolution of  
13 disputes concerning negotiations over terms and conditions of  
14 employment shall not be subject to compulsory interest arbitration as  
15 set forth in P.L. 1995, c. 425 (C.34:13A-14a et seq.).<sup>1</sup>

16  
17 <sup>1</sup>5. (New section) The communications between a majority  
18 representative of employees and its unit members regarding  
19 collective negotiations, the administration of collective negotiations  
20 agreements, the investigation of grievances, other workplace related  
21 complaints and issues, or any other matters that are within the scope  
22 of a majority representative's duty of fair representation, and  
23 internal union matters involving the governance or business of the  
24 union, shall be treated as confidential communications and shall not  
25 be subject to disclosure under the discovery rules of New Jersey  
26 administrative agencies, including, but not limited to the Office of  
27 Administrative Law and the Commission, or pursuant to section 17  
28 of P.L.2003, c.95 (C.2A:23B-17), and other applicable state laws  
29 authorizing arbitrators, presiding at labor arbitrations, to issue  
30 subpoenas.<sup>1</sup>

31  
32 <sup>1</sup>[4.] <sup>1</sup>6. (New section) Notwithstanding any provisions of the  
33 "New Jersey Employer-Employee Relations Act," P.L.1941, c.100  
34 (C.34:13A-1 et seq.), or any other law to the contrary, if an  
35 employee who does not pay dues to a majority representative  
36 requests that the majority representative represent the employee in  
37 arbitration proceedings to enforce the terms of the collective  
38 negotiations agreement between the majority representative and the  
39 public employer, including arbitration proceedings involving the  
40 resolution of disciplinary disputes, the majority representative may  
41 charge an employee for the cost of representing the employee in the  
42 arbitration proceedings, and may decline to represent an employee  
43 in the arbitration unless the employee agrees to pay for the cost of  
44 the representation.

45  
46 <sup>1</sup>[5.] <sup>1</sup>7. (New section) Only the parties to a collective  
47 negotiations agreement shall have the authority to invoke the

1 arbitration procedures of the agreement and the public employer  
2 and the employee organization shall be the only parties to the  
3 arbitration proceeding invoked pursuant to the collective  
4 negotiations agreement.

5  
6 **1[6.] 8.1** (New section) An authorization card or petition  
7 submitted to the Commission for purposes of conducting an election  
8 to select a majority representative or certifying an employee  
9 organization as the exclusive majority representative based on a  
10 majority of employees in the unit signing authorization cards or a  
11 petition, may bear the electronic signature of the employee, as the  
12 term electronic signature is defined in section 2 of P.L. 2001, c.  
13 116, (C. 12A:12-2).

14  
15 **1[7.** (New section) Notwithstanding any provisions of the “New  
16 Jersey Employer-Employee Relations Act,” P.L.1941, c.100  
17 (C.34:13A-1 et seq.), or any other law to the contrary:

18 a. Mandatory subjects for collective negotiation in public  
19 employment shall include terms and conditions of employment of  
20 public employees that are not specifically exempted from collective  
21 negotiations by State statute, unless a negotiated agreement would  
22 prevent government from carrying out its statutory mission.  
23 Statutes and administrative regulations that set terms and conditions  
24 of employment or that grant public employers authority over terms  
25 and conditions of employment do not preempt collective  
26 negotiations and do not supersede the provisions of any negotiated  
27 agreement, except that terms and conditions of employment set by  
28 statutes and regulations shall not be diminished by a negotiated  
29 agreement.

30 b. Grievance and disciplinary review procedures shall provide  
31 for binding arbitration as a means for resolving disputes involving  
32 mandatory subjects for collective negotiations.

33 c. Notwithstanding the expiration of a collective negotiations  
34 agreement, an impasse in negotiations, an exhaustion of the  
35 Commission’s impasse procedures, or the utilization or completion  
36 of the procedures required by of P.L. , c. (C. )(now  
37 pending before the legislature as this bill) to resolve disputes  
38 involving collective negotiations, and notwithstanding any law or  
39 regulation to the contrary, no public employer, its representatives,  
40 or its agents shall unilaterally impose, modify, amend, delete or  
41 alter any terms and conditions of employment as set forth in the  
42 expired or expiring collective negotiations agreement, or  
43 unilaterally impose, modify, amend, delete, or alter any other  
44 negotiable terms and conditions of employment, without the  
45 specific written agreement of the majority representative.  
46 Following contract expiration, and notwithstanding any law or  
47 regulation to the contrary, absent express language in a collective  
48 negotiations agreement providing that a specific term of the

1 agreement will not continue after the expiration of the collective  
2 negotiations agreement, all terms and conditions of the agreement,  
3 including, but not limited to the payment of salary increments, shall  
4 remain in effect following the agreement's expiration until the  
5 parties reach agreement on a successor collective negotiations  
6 agreement. **】<sup>1</sup>**

7  
8 <sup>1</sup>**【8.(New section) The communications between a majority**  
9 **representative of employees and its unit members regarding**  
10 **collective negotiations, the administration of collective negotiations**  
11 **agreements, the investigation of grievances, other workplace related**  
12 **complaints and issues, or any other matters that are within the scope**  
13 **of a majority representative's duty of fair representation, and**  
14 **internal union matters involving the governance or business of the**  
15 **union, shall be treated as confidential communications and shall not**  
16 **be subject to disclosure under the discovery rules of New Jersey**  
17 **administrative agencies, including, but not limited to the Office of**  
18 **Administrative Law and the Commission, or pursuant to section 17**  
19 **of P.L.2003, c.95 (C.2A:23B-17), and other applicable state laws**  
20 **authorizing arbitrators, presiding at labor arbitrations, to issue**  
21 **subpoenas. **】<sup>1</sup>****

22  
23 9. (New section) Complaints issued based on a violation of  
24 paragraph (3) of subsection (a) of section 1 of P.L.1974, c.123  
25 (C.34:13A-5.4) shall be scheduled for hearing within 60 to 90  
26 calendar days from date of complaint issuance, unless the parties  
27 agree to extend the time for complaint issuance. Within 60 calendar  
28 days of the filing of an unfair practice charge alleging the violation  
29 the commission shall decide whether or not to issue a complaint.  
30 The commission shall promulgate rules to provide for discovery  
31 prior to the commencement of a hearing.

32  
33 10. Section 5 of P.L.2018, c.15 (C.34:13A-5.15) is amended to  
34 read as follows:

35 5. a. All regular full-time and part-time employees of the  
36 public employer who perform negotiations unit work shall be  
37 included in the negotiations unit represented by the exclusive  
38 representative employee organization.

39 b. Negotiations unit work means work that is performed by any  
40 employees who are included in a negotiations unit represented by an  
41 exclusive representative employee organization without regard to  
42 job title, job classification or number of hours worked, except that  
43 employees who are confidential employees or managerial  
44 executives, as those terms are defined by section 1 of P.L.1941,  
45 c.100 (C.34:13A-3), or elected officials, members of boards and  
46 commissions, or casual employees, may be excluded from the  
47 negotiations unit. Casual employees are employees who work an

1 average of fewer than four hours per week over a period of 90  
2 calendar days.

3 c. Every 120 calendar days beginning on January 1 following  
4 the effective date of P.L. , c. (C. )(now pending before the  
5 legislature as this bill), public employers shall provide to an  
6 exclusive representative employee organization in an Excel file  
7 format or other format agreed to by the exclusive representative  
8 employee organization, the following information for all employees  
9 not represented by any exclusive representative employee  
10 organization: name, job title, worksite location, work email and  
11 work phone number. Within 30 days of a request by an exclusive  
12 representative employee organization, a public employer shall  
13 provide a job description for each non-represented employee,  
14 including the names and job titles of all employees supervised by  
15 the employer subject to the request.

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

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

32 (cf: P.L.2018, c.15, s.5)

33

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

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



1 such disbursing officer shall transmit the sum so deducted to the  
2 employee organization designated by the employee in such request.

3 Employees who have authorized the payroll deduction of fees to  
4 employee organizations prior to 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  
7 providing written notice to their public employer consistent with the  
8 terms of the authorization by the employee to have any deductions  
9 made from the employee’s compensation for the purpose of paying  
10 the employee's dues to a bona fide employee organization, as those  
11 terms are set forth on the writing signed by the employee  
12 authorizing the payroll deduction of dues, provided the writing was  
13 consistent with the law at the time the authorization was given. If  
14 the writing was not consistent with law, the revocation of  
15 authorization shall be effective on the dates provided by law at the  
16 time the authorization was given.

17 Employees who have authorized the payroll deduction of fees to  
18 employee organizations on or after the effective date of the  
19 “Workplace Democracy Enhancement Act”, P.L. 2018, c.15  
20 (C.34:13A-5.11 et seq.), may revoke such authorization by  
21 providing written notice to their public employer **【during the 10**  
22 **days following each anniversary date of their employment】**. Within  
23 five days of receipt of notice from an employee of revocation of  
24 authorization for the payroll deduction of fees, the public employer  
25 shall provide notice to the employee organization of an employee's  
26 revocation of such authorization. An employee's notice of  
27 revocation of authorization for the payroll deduction of employee  
28 organization fees shall be effective on the 30th day after the  
29 anniversary date of employment.

30 Within five days of receipt of notice from an employee of  
31 revocation of authorization for the payroll deduction of fees, the  
32 public employer shall provide notice to the employee organization  
33 of an employee’s revocation of such authorization.

34 Nothing herein shall preclude a public employer and a duly  
35 certified majority representative from entering into a collectively  
36 negotiated written agreement which provides that employees  
37 included in the negotiating unit may only request deduction for the  
38 payment of dues to the duly certified majority representative. Such  
39 collectively negotiated agreement may include a provision that  
40 existing written authorizations for payment of dues to an employee  
41 organization other than the duly certified majority representative be  
42 terminated. Such collectively negotiated agreement may also  
43 include a provision specifying the effective date of a termination in  
44 deductions as of the July 1 next succeeding the date on which notice  
45 of withdrawal is filed by an employee with the public employer's  
46 disbursing officer.

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

4       As used in this section, dues shall mean all moneys required to  
5 be paid by the employee as a condition of membership in an  
6 employee organization and any voluntary employee contribution to  
7 a committee or fund established by such organization, including but  
8 not limited to welfare funds, political action committees, charity  
9 funds, legal defense funds, educational funds, and funds for  
10 donations to schools, colleges, and universities.

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

12

13       12. This act shall take effect immediately.