

SENATE, No. 3810

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 20, 2021

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator DAWN MARIE ADDIEGO

District 8 (Atlantic, Burlington and Camden)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senators Rice and Cryan

SYNOPSIS

“Responsible Collective Negotiations Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/10/2021)

S3810 SWEENEY, ADDIEGO

2

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.)(now pending before
36 the legislature 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
42 college, or any authority, commission or board, or any branch or
43 agency of the public service, except that the term does not include
44 any local or regional school district, or board or commission under

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 the authority of the Commissioner of Education or the State Board
2 of Education.

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

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

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

23 f. The terms "employee organization" and "majority
24 representative", unless otherwise specified, means the "exclusive
25 majority representative" either certified by the commission or
26 recognized by the public employer.

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

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

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

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

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

24 b. Grievance and disciplinary review procedures shall provide
25 for binding arbitration as a means for resolving disputes involving
26 mandatory subjects for collective negotiations.

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

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

15

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

25

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

28 5. a. All regular full-time and part-time employees of the
29 public employer who perform negotiations unit work shall be
30 included in the negotiations unit represented by the exclusive
31 representative employee organization.

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

43 c. Every 120 calendar days beginning on January 1 following
44 the effective date of P.L. , c. (C.)(now pending before the
45 legislature as this bill), public employers shall provide to an
46 exclusive representative employee organization in an Excel file
47 format or other format agreed to by the exclusive representative
48 employee organization, the following information for all employees
49 not represented by any exclusive representative employee

1 organization: name, job title, worksite location, work email and
2 work phone number. Within 30 days of a request by an exclusive
3 representative employee organization, a public employer shall
4 provide a job description for each non-represented employee,
5 including the names and job titles of all employees supervised by
6 the employer subject to the request.

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

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

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

24
25 11. Section 1 of P.L.1967, c.310 (C.52:14-15.9e) is amended to
26 read as follows:

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

42 Employees who have authorized the payroll deduction of fees to
43 employee organizations prior to the effective date of the
44 “Workplace Democracy Enhancement Act”, P.L. 2018, c.15
45 (C.34:13A-5.11 et seq.), may revoke such authorization by
46 providing written notice to their public employer consistent with the
47 terms of the authorization by the employee to have any deductions
48 made from the employee’s compensation for the purpose of paying
49 the employee's dues to a bona fide employee organization, as those

1 terms are set forth on the writing signed by the employee
2 authorizing the payroll deduction of dues, provided the writing was
3 consistent with the law at the time the authorization was given. If
4 the writing was not consistent with law, the revocation of
5 authorization shall be effective on the dates provided by law at the
6 time the authorization was given.

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

20 Within five days of receipt of notice from an employee of
21 revocation of authorization for the payroll deduction of fees, the
22 public employer shall provide notice to the employee organization
23 of an employee’s revocation of such authorization.

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

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

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

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

48

49 12. This act shall take effect immediately.

STATEMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

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 employment, without the specific written agreement

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

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

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

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

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

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