

ASSEMBLY, No. 2459

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 7, 1996

By Assemblymen GEIST and O'TOOLE

1 AN ACT concerning public employee labor organizations and
2 supplementing P.L.1941, c.100 (C.34:13A-1 et seq.).

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

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7 1. a. No individual who has been convicted of a crime indicated in
8 subsection b. of this section shall serve or be permitted to serve:

9 (1) As a consultant or adviser to any labor organization
10 representing public employees;

11 (2) As an officer, director, trustee, member of any governing body,
12 business agent, manager, organizer, employee, or representative in any
13 capacity of any labor organization representing public employees;

14 (3) As a labor relations consultant or adviser to any public
15 employer, or as an officer, director, agent or employee of any group
16 or association of public employers, or in a position in which the
17 individual has collective bargaining authority or responsibility in the
18 area of labor-management relations for a public employer;

19 (4) In a position which permits the individual to a share of the
20 proceeds of providing goods or services to any labor organization
21 representing public employees; or as an officer, executive or
22 administrative employee of any entity the activities of which are in
23 whole or substantial part devoted to providing the goods or services
24 to any labor organization representing public employees; or

25 (5) In any capacity involving decision-making authority over, or
26 custody or control of the moneys, funds, assets, or property of a labor
27 organization representing public employees,

28 during the period of 13 years following the conviction or the end of
29 imprisonment resulting from the conviction, whichever is later, unless
30 the sentencing court, upon the motion of the convicted individual, sets
31 a shorter period of time, but not less than three years, following the
32 conviction or end of imprisonment, or unless the commission
33 determines that individual's service in any of the capacities referred to
34 in paragraphs (1) through (5) of this subsection is not contrary to the
35 purposes of this act. Prior to making the determination, the
36 commission shall hold a hearing and shall notify the State, county and
37 Federal prosecuting officials in the jurisdiction or jurisdictions in

1 which the individual was convicted. A period of parole shall not be
2 considered as part of a period of imprisonment. No person shall
3 knowingly hire, retain, employ, place or permit the individual to serve
4 in any capacity referred to in paragraphs (1) through (5) of this
5 subsection during the period of time provided by this section, but no
6 provision of this act shall be construed as preventing an individual who
7 is a public employee from being a member of a labor organization
8 representing public employees, provided that the individual shall
9 comply with the requirements of this section to refrain from serving in
10 any capacity which the individual is prohibited from serving pursuant
11 to paragraphs (1) through (5) of this subsection.

12 For the purposes of this section the individual shall be deemed to
13 have been convicted and under the disability of conviction from the
14 date of judgment of the trial court regardless of whether that judgment
15 remains under appeal. If the individual is barred from office or other
16 position with a labor organization representing public employees
17 pursuant to the provisions of this section as the result of a conviction
18 and has filed an appeal of the conviction, any salary which would
19 otherwise be due to the individual because of the office or position
20 shall be placed in escrow by the employer or organization responsible
21 for the payment of the salary. Payment of the salary into the escrow
22 account shall continue for the duration of the appeal or for the period
23 of time during which the salary would be otherwise due, whichever
24 period is shorter. Upon the final reversal of the individual's
25 conviction, the amounts in escrow shall be paid to the individual, and
26 the individual shall no longer be barred from any office or position
27 under the provisions of this section. Upon the final sustaining of the
28 conviction on appeal, the amount in escrow shall be returned to the
29 employer or organization responsible for the payment of the salary.

30 b. The crimes for which an individual may be prohibited from
31 serving in the capacities indicated in paragraphs (1) through (5) of
32 subsection a. of this section are:

33 (1) Any violation of the provisions of N.J.S.2C:5-1, 2C:11-3,
34 2C:12-1b, 2C:14-2, 2C:15-1, 2C:17-1, 2C:18-2, 2C:20-3 through
35 2C:20-5 or chapters 35 or 36 of Title 2C of the New Jersey Statutes
36 or any violation of the equivalent provisions of the laws of any other
37 jurisdiction;

38 (2) Any violation of subchapter III or IV of the "Labor-
39 Management Reporting and Disclosure Act of 1959," Pub.L. 86-257
40 (29 U.S.C. §431 et seq.);

41 (3) Any violation of the provisions of chapters 21 and 27 though
42 30 of the New Jersey Statutes or violation of the equivalent provisions
43 of the laws of any other jurisdiction that constitutes a felony and
44 involves the abuse or misuse of the individual's position or
45 employment with a labor organization, including a labor organization
46 representing public employees, or with an employee benefit plan,

1 including a plan for the benefit of public employees, to seek or obtain
2 an illegal gain at the expense of the members of the organization, or
3 the beneficiaries of the plan;

4 (4) Conspiracy to commit any of the crimes enumerated in
5 subparagraphs (1) through (3) of this subparagraph; or

6 (5) A crime in which any of the crimes enumerated in
7 subparagraphs (1) through (3) of this subparagraph is an element.

8 c. Any individual who willfully violates this section shall be fined
9 not more than \$10,000 or imprisoned for not more than five years, or
10 both.

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12 2. This act shall take effect immediately.

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STATEMENT

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17 This bill restricts individuals convicted of certain crimes from
18 holding office or serving in other positions of influence in public
19 employee labor organizations. It is designed to mirror the federal law
20 governing private-sector labor organization, section 504 of the
21 "Labor-Management Reporting and Disclosure Act of 1959" (29
22 U.S.C. §504.

23 Specifically, the bill prohibits any individual who has been convicted
24 of robbery, theft, extortion, embezzlement, burglary, arson, violation
25 of narcotics laws, murder, sexual assault, aggravated and simple
26 assault, certain violations of the federal "Labor-Management
27 Reporting and Disclosure Act of 1959," any felony involving abuse or
28 misuse of the individual's position or employment with a public or
29 private sector labor organization or employee benefit plan to seek or
30 obtain an illegal gain at the expense of the members of an organization
31 or the beneficiaries of the plan, conspiracy to commit any of these
32 crimes, or a crime in which any of the foregoing crimes is an element,
33 from serving:

34 1. As a consultant or adviser to any public employee labor
35 organization;

36 2. As an officer, director, trustee, member of any governing body,
37 business agent, manager, organizer, employee, or representative of a
38 public employee labor organization;

39 3. As a labor relations consultant or adviser to any public
40 employer, or as an officer, director, agent or employee of any public
41 employer organization, or in a position with collective bargaining
42 authority or responsibility in the area of labor-management relations
43 for a public employer;

44 4. In a position which permits the individual to share in the
45 proceeds of providing goods or services to any public employee labor
46 organization, or as an officer, executive or administrative employee of

1 any entity with a significant involvement in providing the goods or
2 services to a public employee labor organization; or

3 5. In any capacity involving decision making authority over, or
4 custody or control of the moneys, funds, assets, or property of a public
5 employee labor organization.

6 The bill requires that the prohibition stay in effect for 13 years
7 following the individual's conviction or imprisonment, whichever is
8 later, unless the sentencing court sets a shorter period of time,
9 following the conviction or imprisonment, or unless the Public
10 Employment Relation Commission determines that the prohibition is
11 unnecessary. The bill provides that the prohibition applies from the
12 time of conviction even if an appeal is filed, but that any salary to
13 which the individual is entitled during the appeal period will be held in
14 escrow until the appeal is resolved.

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19 Bars certain persons from positions of influence in public employee
20 labor organizations.