

SENATE, No. 486

STATE OF NEW JERSEY

INTRODUCED JANUARY 22, 1996

By Senators EWING and LYNCH

1 AN ACT concerning the obligation of public employers to pay salary  
2 increments in certain cases and amending N.J.S.18A:29-4.1 and  
3 P.L.1968, c.303.

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

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8 1. N.J.S.18A:29-4.1 is amended to read as follows:

9 18A:29-4.1. A board of education of any district may adopt a one,  
10 two or three year salary policy, including salary schedules for all  
11 full-time teaching staff members which shall not be less than those  
12 required by law. Such policy and schedules shall be binding upon the  
13 adopting board and upon all future boards in the same district for a  
14 period of one, two or three years from the effective date of such policy  
15 but shall not prohibit the payment of salaries higher than those  
16 required by such policy or schedules nor the subsequent adoption of  
17 policies or schedules providing for higher salaries, increments or  
18 adjustments. Nothing herein shall be construed as requiring a board  
19 of education to pay increments on the salary guide of an agreement  
20 beyond its expiration date. Every school budget adopted, certified or  
21 approved by the board, the voters of the district, the board of school  
22 estimate, the governing body of the municipality or municipalities, or  
23 the commissioner, as the case may be, shall contain such amounts as  
24 may be necessary to fully implement such policy and schedules for that  
25 budget year.

26 (cf: P.L.1987, c.123, s.1)

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28 2. Section 7 of P.L.1968, c.303 (C.34:13A-5.3) is amended to read  
29 as follows:

30 7. Except as hereinafter provided, public employees shall have, and  
31 shall be protected in the exercise of, the right, freely and without fear  
32 of penalty or reprisal, to form, join and assist any employee  
33 organization or to refrain from any such activity; provided, however,  
34 that this right shall not extend to elected officials, members of boards

**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 and commissions, managerial executives, or confidential employees,  
2 except in a school district the term managerial executive shall mean  
3 the superintendent of schools or his equivalent, nor, except where  
4 established practice, prior agreement or special circumstances, dictate  
5 the contrary, shall any supervisor having the power to hire, discharge,  
6 discipline, or to effectively recommend the same, have the right to be  
7 represented in collective negotiations by an employee organization that  
8 admits nonsupervisory personnel to membership, and the fact that any  
9 organization has such supervisory employees as members shall not  
10 deny the right of that organization to represent the appropriate unit in  
11 collective negotiations; and provided further, that, except where  
12 established practice, prior agreement, or special circumstances dictate  
13 the contrary, no policeman shall have the right to join an employee  
14 organization that admits employees other than policemen to  
15 membership. The negotiating unit shall be defined with due regard for  
16 the community of interest among the employees concerned, but the  
17 commission shall not intervene in matters of recognition and unit  
18 definition except in the event of a dispute.

19 Representatives designated or selected by public employees for the  
20 purposes of collective negotiation by the majority of the employees in  
21 a unit appropriate for such purposes or by the majority of the  
22 employees voting in an election conducted by the commission as  
23 authorized by this act shall be the exclusive representatives for  
24 collective negotiation concerning the terms and conditions of  
25 employment of the employees in such unit. Nothing herein shall be  
26 construed to prevent any official from meeting with an employee  
27 organization for the purpose of hearing the views and requests of its  
28 members in such unit so long as (a) the majority representative is  
29 informed of the meeting; (b) any changes or modifications in terms  
30 and conditions of employment are made only through negotiation with  
31 the majority representative; and (c) a minority organization shall not  
32 present or process grievances. Nothing herein shall be construed to  
33 deny to any individual employee his rights under Civil Service laws or  
34 regulations. When no majority representative has been selected as the  
35 bargaining agent for the unit of which an individual employee is a part,  
36 he may present his own grievance either personally or through an  
37 appropriate representative or an organization of which he is a member  
38 and have such grievance adjusted.

39 A majority representative of public employees in an appropriate unit  
40 shall be entitled to act for and to negotiate agreements covering all  
41 employees in the unit and shall be responsible for representing the  
42 interest of all such employees without discrimination and without  
43 regard to employee organization membership. Proposed new rules or  
44 modifications of existing rules governing working conditions shall be  
45 negotiated with the majority representative before they are  
46 established. In addition, the majority representative and designated

1 representatives of the public employer shall meet at reasonable times  
2 and negotiate in good faith with respect to grievances, disciplinary  
3 disputes, and other terms and conditions of employment. Nothing  
4 herein shall be construed as permitting negotiation of the standards or  
5 criteria for employee performance. Nothing herein shall be construed  
6 as requiring a public employer to pay increments on the salary guide  
7 of an agreement beyond its expiration date.

8 When an agreement is reached on the terms and conditions of  
9 employment, it shall be embodied in writing and signed by the  
10 authorized representatives of the public employer and the majority  
11 representative.

12 Public employers shall negotiate written policies setting forth  
13 grievance and disciplinary review procedures by means of which their  
14 employees or representatives of employees may appeal the  
15 interpretation, application or violation of policies, agreements, and  
16 administrative decisions, including disciplinary determinations,  
17 affecting them, provided that such grievance and disciplinary review  
18 procedures shall be included in any agreement entered into between  
19 the public employer and the representative organization. Such  
20 grievance and disciplinary review procedures may provide for binding  
21 arbitration as a means for resolving disputes. The procedures agreed  
22 to by the parties may not replace or be inconsistent with any alternate  
23 statutory appeal procedure nor may they provide for binding  
24 arbitration of disputes involving the discipline of employees with  
25 statutory protection under tenure or civil service laws. Grievance and  
26 disciplinary review procedures established by agreement between the  
27 public employer and the representative organization shall be utilized  
28 for any dispute covered by the terms of such agreement.

29 (cf: P.L.1982, c.103, s.1)

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31 3. This act shall take effect immediately.

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#### STATEMENT

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36 This bill would establish that a public employer is under no  
37 obligation to pay an increment on a salary guide of an agreement  
38 beyond its expiration date. This change would reverse the New Jersey  
39 Supreme Court's decision in Galloway Twp. Bd. of Ed. v. Galloway  
40 Tp. Ed. Assn. 78 N.J.25 (1978), which has been relied upon by PERC  
41 and the courts to rule that the failure to pay salary increments under  
42 an expired collective bargaining agreement is an unfair labor practice.  
43 For the purposes of clarity and uniformity, the bill would also amend  
44 Title 18A to reflect the change in Title 34.

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3 Exempts public employers from paying salary increments under an  
4 expired labor agreement.