

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 5862**

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 22, 2021

The Assembly Budget Committee reports favorably Assembly Bill No. 5862, with committee amendments.

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 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.

As amended by the committee, the bill provides for government employers other than counties and municipalities 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, and, that for counties and municipalities, those subjects are permissive, rather than mandatory, subjects of collective negotiation. 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 a negotiated agreement is not permitted to diminish terms and conditions of employment set by statutes and regulations. 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 of the union. Following contract expiration, and notwithstanding any law or regulation to the contrary, absent express language in a collective negotiations agreement providing that a specific term of the agreement will not continue after the expiration, all terms and conditions of the agreement, including the payment of salary increments, are required by the bill to remain in effect following the agreement's expiration until the parties agree on a successor collective agreement.

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

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

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

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

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

COMMITTEE AMENDMENTS:

The committee amendments:

1. Add a permissive category of collective negotiations for municipalities and counties, with permissive subjects including subjects that are not currently mandatory subjects, except if exempted from negotiations by legislation or if a negotiated agreement would prevent government from carrying out its statutory mission.

2. Retain the bill's expanded mandatory category for all government employers other than counties and municipalities, but add the specification that a subject of negotiation is not mandatory unless it is intimately and directly affects the work and welfare of public employees.

3. Clarify that the Public Employment Relations Commission retains jurisdiction over scope of negotiations disputes.

4. Require that grievance procedures provide that all disputes over the application, interpretation or violation of the terms of a collective negotiations agreement are subject to binding arbitration.

5. Indicate that all disciplinary matters for which there is not an alternate statutory appeal procedure are subject to binding arbitration, and that where there is an alternate statutory appeal procedure, such as civil service or tenure procedures, the parties may negotiate to have discipline submitted to arbitration.

6. State that collective negotiations agreements that are in effect are not impacted until the expiration of those agreements.

7. State that the Legislature retains the authority to exempt from collective negotiations subjects that would otherwise be mandatory.

8. State that nothing in the bill allows negotiations disputes to be submitted to compulsory interest arbitration.

9. Provide that certain fire and police service employees, who had been exempt from all provisions of the bill as introduced, are covered by the provisions of the bill regarding unions being permitted to charge employees representation costs, unions having authority to invoke arbitration procedures, electronic signatures for cards and petitions in union representation elections, and time limits for the scheduling of hearings on discrimination claims.

FISCAL IMPACT:

Fiscal information is not available at this time.