

[First Reprint]
SENATE, No. 3810

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MAY 20, 2021

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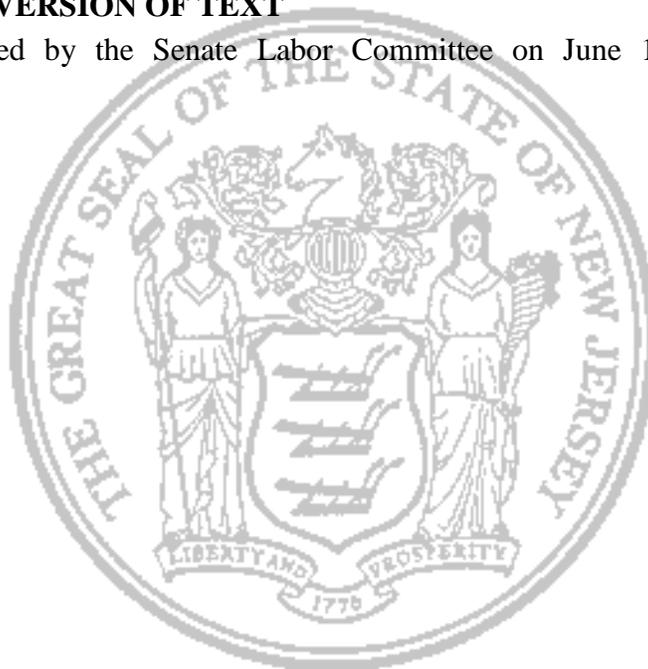
Senators Rice, Pou and Turner

SYNOPSIS

“Responsible Collective Negotiations Act.”

CURRENT VERSION OF TEXT

As reported by the Senate Labor Committee on June 10, 2021, with amendments.



(Sponsorship Updated As Of: 6/21/2021)

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.)(¹**now** ¹ pending
36 before the ¹**legislature** Legislature¹ 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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SLA committee amendments adopted June 10, 2021.

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

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

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

29 f. The terms “employee organization” and “majority
30 representative”, unless otherwise specified, means the “exclusive
31 majority representative” either certified by the commission or
32 recognized by the public employer.

33

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

37 a. Mandatory subjects for collective negotiation in public
38 employment shall include terms and conditions of employment of
39 public employees that are not specifically exempted from collective
40 negotiations by State statute, unless a negotiated agreement would
41 prevent government from carrying out its statutory mission.
42 Statutes and administrative regulations that set terms and conditions
43 of employment or that grant public employers authority over terms
44 and conditions of employment do not preempt collective
45 negotiations and do not supersede the provisions of any negotiated
46 agreement, except that terms and conditions of employment set by
47 statutes and regulations shall not be diminished by a negotiated
48 agreement.

1 b. Grievance and disciplinary review procedures shall provide
2 for binding arbitration as a means for resolving disputes involving
3 mandatory subjects for collective negotiations.

4 c. Notwithstanding the expiration of a collective negotiations
5 agreement, an impasse in negotiations, an exhaustion of the
6 Commission's impasse procedures, or the utilization or completion
7 of the procedures required by of P.L. , c. (C.)(pending
8 before the Legislature as this bill) to resolve disputes involving
9 collective negotiations, and notwithstanding any law or regulation
10 to the contrary, no public employer, its representatives, or its agents
11 shall unilaterally impose, modify, amend, delete or alter any terms
12 and conditions of employment as set forth in the expired or expiring
13 collective negotiations agreement, or unilaterally impose, modify,
14 amend, delete, or alter any other negotiable terms and conditions of
15 employment, without the specific written agreement of the majority
16 representative. Following contract expiration, and notwithstanding
17 any law or regulation to the contrary, absent express language in a
18 collective negotiations agreement providing that a specific term of
19 the agreement will not continue after the expiration of the collective
20 negotiations agreement, all terms and conditions of the agreement,
21 including, but not limited to the payment of salary increments, shall
22 remain in effect following the agreement's expiration until the
23 parties reach agreement on a successor collective negotiations
24 agreement.¹

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

40
41 ¹[4.] 6.¹ (New section) Notwithstanding any provisions of the
42 "New Jersey Employer-Employee Relations Act," P.L.1941, c.100
43 (C.34:13A-1 et seq.), or any other law to the contrary, if an
44 employee who does not pay dues to a majority representative
45 requests that the majority representative represent the employee in
46 arbitration proceedings to enforce the terms of the collective
47 negotiations agreement between the majority representative and the
48 public employer, including arbitration proceedings involving the

1 resolution of disciplinary disputes, the majority representative may
2 charge an employee for the cost of representing the employee in the
3 arbitration proceedings, and may decline to represent an employee
4 in the arbitration unless the employee agrees to pay for the cost of
5 the representation.

6
7 ¹**[5.] 7.**¹ (New section) Only the parties to a collective
8 negotiations agreement shall have the authority to invoke the
9 arbitration procedures of the agreement and the public employer
10 and the employee organization shall be the only parties to the
11 arbitration proceeding invoked pursuant to the collective
12 negotiations agreement.

13
14 ¹**[6.] 8.**¹ (New section) An authorization card or petition
15 submitted to the Commission for purposes of conducting an election
16 to select a majority representative or certifying an employee
17 organization as the exclusive majority representative based on a
18 majority of employees in the unit signing authorization cards or a
19 petition, may bear the electronic signature of the employee, as the
20 term electronic signature is defined in section 2 of P.L. 2001, c.
21 116, (C. 12A:12-2).

22
23 ¹**[7.]** (New section) Notwithstanding any provisions of the
24 “New Jersey Employer-Employee Relations Act,” P.L.1941, c.100
25 (C.34:13A-1 et seq.), or any other law to the contrary:

26 a. Mandatory subjects for collective negotiation in public
27 employment shall include terms and conditions of employment of
28 public employees that are not specifically exempted from collective
29 negotiations by State statute, unless a negotiated agreement would
30 prevent government from carrying out its statutory mission.
31 Statutes and administrative regulations that set terms and conditions
32 of employment or that grant public employers authority over terms
33 and conditions of employment do not preempt collective
34 negotiations and do not supersede the provisions of any negotiated
35 agreement, except that terms and conditions of employment set by
36 statutes and regulations shall not be diminished by a negotiated
37 agreement.

38 b. Grievance and disciplinary review procedures shall provide
39 for binding arbitration as a means for resolving disputes involving
40 mandatory subjects for collective negotiations.

41 c. Notwithstanding the expiration of a collective negotiations
42 agreement, an impasse in negotiations, an exhaustion of the
43 Commission’s impasse procedures, or the utilization or completion
44 of the procedures required by of P.L. , c. (C.)(now
45 pending before the legislature as this bill) to resolve disputes
46 involving collective negotiations, and notwithstanding any law or
47 regulation to the contrary, no public employer, its representatives,
48 or its agents shall unilaterally impose, modify, amend, delete or

1 alter any terms and conditions of employment as set forth in the
2 expired or expiring collective negotiations agreement, or
3 unilaterally impose, modify, amend, delete, or alter any other
4 negotiable terms and conditions of employment, without the
5 specific written agreement of the majority representative.
6 Following contract expiration, and notwithstanding any law or
7 regulation to the contrary, absent express language in a collective
8 negotiations agreement providing that a specific term of the
9 agreement will not continue after the expiration of the collective
10 negotiations agreement, all terms and conditions of the agreement,
11 including, but not limited to the payment of salary increments, shall
12 remain in effect following the agreement's expiration until the
13 parties reach agreement on a successor collective negotiations
14 agreement.】¹

15

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

30

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

40

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

43 5. a. All regular full-time and part-time employees of the
44 public employer who perform negotiations unit work shall be
45 included in the negotiations unit represented by the exclusive
46 representative employee organization.

47 b. Negotiations unit work means work that is performed by any
48 employees who are included in a negotiations unit represented by an

1 exclusive representative employee organization without regard to
2 job title, job classification or number of hours worked, except that
3 employees who are confidential employees or managerial
4 executives, as those terms are defined by section 1 of P.L.1941,
5 c.100 (C.34:13A-3), or elected officials, members of boards and
6 commissions, or casual employees, may be excluded from the
7 negotiations unit. Casual employees are employees who work an
8 average of fewer than four hours per week over a period of 90
9 calendar days.

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

23 d. Employees who are performing negotiations unit work and
24 who are not included in a negotiations unit because they did not
25 meet the threshold of hours or percent of time worked as set forth in
26 a certification of representative, recognition clause or other
27 provision in a collective negotiations agreement, shall be included
28 in the negotiations unit by operation of this act, within 90 calendar
29 days from the effective date of this act.

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

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

40

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

43 1. Whenever any person holding employment, whose
44 compensation is paid by this State or by any county, municipality,
45 board of education or authority in this State, or by any board, body,
46 agency or commission thereof shall indicate in writing, including by
47 electronic communications, and which writing or communication
48 may be evidenced by the electronic signature of the employee, as

1 the term electronic signature is defined in section 2 of P.L.2001,
2 c.116 (C.12A:12-2), to the proper disbursing officer his desire to
3 have any deductions made from his compensation, for the purpose
4 of paying the employee's dues to a bona fide employee
5 organization, designated by the employee in such request, and of
6 which said employee is a member, such disbursing officer shall
7 make such deduction from the compensation of such person and
8 such disbursing officer shall transmit the sum so deducted to the
9 employee organization designated by the employee in such request.

10 Employees who have authorized the payroll deduction of fees to
11 employee organizations prior to the effective date of the
12 “Workplace Democracy Enhancement Act”, P.L. 2018, c.15
13 (C.34:13A-5.11 et seq.), may revoke such authorization by
14 providing written notice to their public employer consistent with the
15 terms of the authorization by the employee to have any deductions
16 made from the employee’s compensation for the purpose of paying
17 the employee's dues to a bona fide employee organization, as those
18 terms are set forth on the writing signed by the employee
19 authorizing the payroll deduction of dues, provided the writing was
20 consistent with the law at the time the authorization was given. If
21 the writing was not consistent with law, the revocation of
22 authorization shall be effective on the dates provided by law at the
23 time the authorization was given.

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

37 Within five days of receipt of notice from an employee of
38 revocation of authorization for the payroll deduction of fees, the
39 public employer shall provide notice to the employee organization
40 of an employee’s revocation of such authorization.

41 Nothing herein shall preclude a public employer and a duly
42 certified majority representative from entering into a collectively
43 negotiated written agreement which provides that employees
44 included in the negotiating unit may only request deduction for the
45 payment of dues to the duly certified majority representative. Such
46 collectively negotiated agreement may include a provision that
47 existing written authorizations for payment of dues to an employee
48 organization other than the duly certified majority representative be

1 terminated. Such collectively negotiated agreement may also
2 include a provision specifying the effective date of a termination in
3 deductions as of the July 1 next succeeding the date on which notice
4 of withdrawal is filed by an employee with the public employer's
5 disbursing officer.

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

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

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

17

18 12. This act shall take effect immediately.