
Bill Title: "Workplace Democracy Enhancement Act."

Spectrum: Partisan Bill (Democrat 8-0)

Status: (*Passed*) 2018-05-18 - Approved P.L.2018, c.15. [[A3686 Detail](#)]

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C.34:13A-5.11 to
34:13A-5.15

P.L. 2018, CHAPTER 15, *approved May 18, 2018*
Assembly, No. 3686 (*First Reprint*)

AN ACT concerning public employment relations, supplementing P.L.1941, c.100 (C.34:13A-1 et seq.), and amending P.L.1967, c.310.

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

1. (New section) This act shall be known and may be cited as the "Workplace Democracy Enhancement Act."

2. (New section) The Legislature finds and declares that collective negotiations promote labor stability in the public sector and enhance the delivery and avoid the disruption of public services. The Legislature further declares that it is in the public interest to ensure that any employee organization that has been designated as the exclusive representatives of employees in a collective negotiations unit is able to effectively carry out its statutory duties by having access to and being able to communicate with the employees it represents.

3. (New section) a. Public employers shall provide to exclusive representative employee organizations access to members of the negotiations units.

b. Access includes, but is not limited to, the following:

(1) the right to meet with individual employees on the premises of the public employer during the work day to investigate and discuss grievances, workplace-related complaints, and other workplace issues;

(2) the right to conduct worksite meetings during lunch and other non-work breaks, and before and after the workday, on the employer's premises to discuss workplace issues, collective

negotiations, the administration of collective negotiations agreements, other matters related to the duties of an exclusive representative employee organization, and internal union matters involving the governance or business of the exclusive representative employee organization; and

(3) the right to meet with newly hired employees, without charge to the pay or leave time of the employees, for a minimum of 30 ¹and a maximum of 120¹ minutes, within 30 calendar days from the date of hire, during new employee orientations, or if the employer does not conduct new employee orientations, at individual or group meetings.

c. Within 10 calendar days from the date of hire of negotiations unit employees, public employers shall provide the following contact information to an exclusive representative employee organization in an Excel file format or other format agreed to by the exclusive representative employee organization: name, job title, worksite location, home address, work telephone numbers, and any home and personal cellular telephone numbers on file with the public employer, date of hire, and work email address and any personal email address on file with the public employer. Every 120 calendar days beginning on January 1 following the effective date of this act, public employers shall provide exclusive representative employee organizations, in an Excel file or similar format agreed to by the employee organization, the following information for all negotiations unit employees: name, job title, worksite location, home address, work, home and personal cellular telephone numbers, date of hire, and work email address and personal email address on file with the public employer.

d. The home addresses, phone numbers, email addresses, dates of birth, and negotiation units and groupings of employees, and the emails or other communications between employee organizations and their members, ¹prospective members, and non-members,¹ are not government records and are exempt from any disclosure requirements of P.L.1963, c.73 (C.47:1A-1 et seq.).

e. Exclusive representative employee organizations shall have the right to use the email systems of public employers to communicate with negotiations unit members regarding collective negotiations, the administration of collective negotiations agreements, the investigation of grievances, other workplace-related complaints and issues, and internal union matters involving the governance or business of the union.

f. Exclusive representative employee organizations shall have the right to use government buildings and other facilities that are owned or leased by government entities to conduct meetings with their unit members regarding collective negotiations, the administration of collective negotiations agreements, the investigation of grievances, other workplace-related complaints and issues, and internal union matters involving the governance or business of the union, provided such use does not interfere with governmental operations. Meetings conducted in government buildings pursuant to this section shall not be for the purpose of supporting or opposing any candidate for partisan political office, or for the purpose of distributing literature or information regarding partisan elections. An exclusive representative employee organization conducting a meeting in a government building or other government facility pursuant to this section may be charged for maintenance, security and other costs related to the use of the government building or facility that would not otherwise be incurred by the government entity.

g. Upon the request of an exclusive representative employee organization, a public employer shall negotiate in good faith over contractual provisions to memorialize the parties' agreement to implement the provisions of subsections a. through f. of this section. Negotiations shall commence within 10 calendar days from the date of a request by the employee organization, even if a collective negotiations agreement is in effect on the effective date of this

act. Agreements between a public employer and an exclusive representative employee organization implementing subsections a. through f. of this section shall be incorporated into the parties' collective negotiations agreement and shall be enforceable through the parties' grievance procedure, which shall include binding arbitration. The requirements set forth in subsections a. through f. of this section establish the minimum requirements for access to and communication with negotiations unit employees by an exclusive representative employee organization.

h. If the parties are unable to reach agreement within 30 calendar days from the commencement of negotiations regarding access to and communications with negotiations unit members, the exclusive employee organization or the public employer may file a petition with the Public Employment Relations Commission to resolve the negotiations dispute. Upon receipt of a petition, the commission shall appoint an arbitrator, who shall issue a binding award resolving the parties' negotiations disputes consistent with subsections a. through f. of this section. The commission shall establish a panel of arbitrators to resolve negotiations pursuant to this section and shall promulgate rules to implement this section.

i. For the purposes of this section, "exclusive representative employee organization" means an employee organization which has been designated as the exclusive representatives of employees in a collective negotiations unit.

4. (New section) a. A public employer shall not encourage negotiations unit members to resign or relinquish membership in an exclusive representative employee organization and shall not encourage negotiations unit members to revoke authorization of the deduction of fees to an exclusive representative employee organization.

b. A public employer shall not encourage or discourage an employee from joining, forming or assisting an employee organization.

c. A public employer that violates any provision of subsection a. or b. of this section shall be regarded as having engaged in an unfair practice in violation of subsection a. of section 1 of P.L.1974, c.123 (C.34:13A-5.4), and, upon a finding that the violation has occurred, the Public Employment Relations Commission, in addition to implementing any other remedies authorized by that section, shall order the public employer to make whole the exclusive representative employee organization for any losses suffered by the organization as a result of the public employer's unlawful conduct and any other remedial relief deemed appropriate.

5. (New section) a. All regular full-time and part-time employees of the public employer who perform negotiations unit work shall be included in the negotiations unit represented by the exclusive representative employee organization.

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

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

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

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

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

[Any such written authorization may be withdrawn by such person holding employment at any time by the filing of notice of such withdrawal with the above-mentioned disbursing officer. The filing of notice of withdrawal shall be effective to halt deductions as of the January 1 or July 1 next succeeding the date on which notice of withdrawal is filed.]

Employees who have authorized the payroll deduction of fees to employee organizations may revoke such authorization by providing written notice to their public employer during the 10 days following each anniversary date of their employment. Within five days of receipt of notice from an employee of revocation of authorization for the payroll deduction of fees, the public employer shall provide notice to the employee organization of an employee's revocation of such authorization. An employee's notice of revocation of authorization for the payroll deduction of employee organization fees shall be effective on the 30th day after the anniversary date of employment.

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

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

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

(cf: P.L.1981, c.345, s.1)

7. This act shall take effect immediately.

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