

CHAPTER 411

AN ACT concerning public employment relations, amending P.L.1967, c.310 and P.L.2018, c.15, and supplementing Title 34 of the Revised Statutes.

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

C.34:13A-56 Short title.

1. This act shall be known and may be cited as the “Responsible Collective Negotiations Act.”

C.34:13A-57 Findings, declarations.

2. The Legislature finds and declares that the public interest is best served in the prompt settlement of labor disputes and in achieving cost effective and creative solutions to ensure the efficient delivery of public services and that policy is best achieved by entrusting democratically elected government officials with broad authority to negotiate over the terms of employment of their employees.

C.34:13A-58 Definitions.

3. Notwithstanding any provisions of the “New Jersey Employer-Employee Relations Act,” P.L.1941, c.100 (C.34:13A-1 et seq.), or any other law to the contrary, as used in sections 1 through 9 of P.L.2021, c.411 (C.34:13A-56 through C.34:13A-64):

- a. The term “commission” means the New Jersey Public Employment Relations Commission.
- b. The term “employer” means the State of New Jersey, or the several counties and municipalities thereof, or any other political subdivision of the State, or any special district, or any county college, or any authority, commission or board, or any branch or agency of the State, except that the term does not include any local or regional school district, or board or commission under the authority of the Commissioner of Education or the State Board of Education.
- c. The term “employee” means an employee of an employer as defined by subparagraph b above, but does not include firefighting employees of public fire departments or employees engaged in performing police services for public police departments as those terms are defined by section 2 of P.L.1977, c.85 (C.34:13A-15), except that, for the purposes of sections 6 through 9 of P.L.2021, c.411 (C.34:13A-61 through C.34:13A-64), the term “employee” also includes firefighting employees of public fire departments or employees engaged in performing police services for public police departments as those terms are defined by section 2 of P.L.1977, c.85 (C.34:13A-15).
- d. The terms “employee organization” and “majority representative”, unless otherwise specified, mean the “exclusive majority representative” either certified by the commission or recognized by the public employer.

C.34:13A-59 Collective negotiations, resolution of disputes, employment terms, conditions.

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

- a. Permissive subjects for collective negotiation shall include all terms and conditions of employment that are not otherwise mandatorily negotiable and that intimately and directly affect employee work and welfare, unless otherwise preempted by State or federal statute, or unless a negotiated agreement would prevent government from carrying out its statutory mission.
- b. Administrative regulations adopted after the effective date of P.L.2021, c.411 (C.34:13A-56 et al.) that set terms and conditions of employment or that 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 terms and conditions of employment set by statutes and regulations shall not be diminished by a negotiated agreement.

c. Parties may submit disputes about whether a matter is within the scope of collective negotiations to the commission, pursuant to the authority vested in it by subsection d. of section 1 of P.L.1974, c.123 (C.34:13A-5.4).

d. Grievance procedures shall provide for binding arbitration as the means for resolving disputes over the application, interpretation or violation of the terms of a collective negotiations agreement entered into by the parties.

e. Where an employer and a majority representative agree to disciplinary review procedures that provide for binding arbitration of disputes involving employees who are covered by alternate statutory review procedures, other than public employees subject to discipline pursuant to R.S.53:1-10, the disciplinary review procedures established by agreement between an employer and a majority representative shall be utilized for any dispute covered by the terms of such agreement.

f. Notwithstanding the expiration of a collective negotiations agreement, an impasse in negotiations, an exhaustion of the commission's impasse procedures, or the utilization or completion of the procedures required by P.L.2021, c.411 (C.34:13A-56 et al.) to resolve disputes involving collective negotiations, and notwithstanding any law or regulation to the contrary, no public employer, its representatives, or its agents shall unilaterally impose, modify, amend, delete, or alter any mandatorily negotiable terms and conditions of employment as set forth in the expired or expiring collective negotiations agreement, or unilaterally impose, modify, amend, delete, or alter any other mandatorily negotiable terms and conditions of employment that are not set forth in a collective negotiations agreement, without the specific written agreement of the majority representative. 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 of the collective negotiations agreement, all terms and conditions of the agreement, including, but not limited to, the payment of salary increments, shall remain in effect following the agreement's expiration until the parties reach agreement on a successor collective negotiations agreement.

g. Notwithstanding any provision of this section, the Legislature retains the right to exempt from collective negotiations subjects that would otherwise be mandatory subjects of negotiations.

h. Notwithstanding any provision of this section, the resolution of disputes concerning negotiations over terms and conditions of employment shall not be subject to compulsory interest arbitration as set forth in P.L.1995, c. 425 (C.34:13A-14a et seq.).

i. The parties to collective negotiations may not insist on negotiating over permissive subjects of negotiations. A party's decision to not negotiate or to cease negotiating over a permissive subject of negotiations is not a violation of subsection a. or b. of section 1 of P.L.1974, c.123 (C.34:13A-5.4).

j. The commission shall promulgate regulations to enforce the provisions of this section.

C.34:13A-60 Communications related to grievances, confidential disciplinary disputes.

5. The communications between a representative of a majority representative of employees and a unit member regarding the investigation and preparation for meetings and hearings of grievances and disciplinary disputes, shall be treated as confidential communications and shall not be subject to disclosure under the discovery rules of New Jersey administrative agencies, including, but not limited to, the Office of Administrative Law and the commission, or pursuant to section 17 of P.L.2003, c.95 (C.2A:23B-17), and other applicable State laws authorizing

arbitrators, presiding at labor arbitrations, to issue subpoenas. This section does not apply to the New Jersey Court Rules or to records that are required by statute, case law, or the New Jersey Court Rules to be made available to the public by entities provided for in Article VI of the New Jersey Constitution.

C.34:13A-61 Cost of representation in case of employee who does not pay dues to majority representative.

6. Notwithstanding any provisions of the “New Jersey Employer-Employee Relations Act,” P.L.1941, c.100 (C.34:13A-1 et seq.), or any other law to the contrary, if an employee who does not pay dues to a majority representative requests that the majority representative represent the employee in arbitration proceedings to enforce the terms of the collective negotiations agreement between the majority representative and the public employer, including arbitration proceedings involving the resolution of disciplinary disputes, the majority representative may charge an employee for the cost of representing the employee in the arbitration proceedings, and may decline to represent an employee in the arbitration unless the employee agrees to pay for the cost of the representation.

C.34:13A-62 Collective negotiations agreement parties, authority, arbitration.

7. Only the parties to a collective negotiations agreement shall have the authority to invoke the arbitration procedures of the agreement and the public employer and the employee organization shall be the only parties to the arbitration proceeding invoked pursuant to the collective negotiations agreement.

C.34:13A-63 Majority representative election, certification; electronic signature.

8. Authorization cards or showings of interest submitted to the commission for purposes of conducting an election to select a majority representative or certifying an employee organization as the exclusive majority representative based on a majority of employees in the unit signing authorization cards or a petition, may bear 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), provided that the petitioner provides to the commission verification as to the authenticity of the electronic signature, such as an email from the employee signatory confirming the authenticity of their signature or such other verification deemed acceptable by the commission. Facsimile transmissions and email will be accepted in lieu of originals for authorization cards and showings of interest in certification cases; however, all original filings and submissions shall be retained by the petitioner and the originals shall be produced upon request of the commission.

C.34:13A-64 Violation, unfair practice charge; scheduling of hearings.

9. Complaints issued based on a violation of paragraph (3) of subsection (a) of section 1 of P.L.1974, c.123 (C.34:13A-5.4) shall be scheduled for hearing within 120 calendar days from date of complaint issuance, unless the parties agree to extend the time for complaint issuance. Within 60 calendar days of the filing of an unfair practice charge alleging the violation, the commission shall decide whether or not to issue a complaint. The commission shall promulgate rules to provide for discovery prior to the commencement of a hearing.

10. Section 1 of P.L.1974, c.123 (C.34:13A-5.4) shall be amended as follows:

C.34:13A-5.4 Prohibitions relative to public employees, employee organizations, their representatives, agents.

1. a. Public employers, their representatives or agents are prohibited from:

(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act.

(2) Dominating or interfering with the formation, existence or administration of any employee organization.

(3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act.

(4) Discharging or otherwise discriminating against any employee because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this act.

(5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative.

(6) Refusing to reduce a negotiated agreement to writing and to sign such agreement.

(7) Violating any of the rules and regulations established by the commission.

b. Employee organizations, their representatives or agents are prohibited from:

(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act.

(2) Interfering with, restraining or coercing a public employer in the selection of his representative for the purposes of negotiations or the adjustment of grievances.

(3) Refusing to negotiate in good faith with a public employer, if they are the majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit.

(4) Refusing to reduce a negotiated agreement to writing and to sign such agreement.

(5) Violating any of the rules and regulations established by the commission.

c. The commission shall have exclusive power as hereinafter provided to prevent anyone from engaging in any unfair practice listed in subsections a. and b. above. Whenever it is charged that anyone has engaged or is engaging in any such unfair practice, the commission, or any designated agent thereof, shall have authority to issue and cause to be served upon such party a complaint stating the specific unfair practice charged and including a notice of hearing containing the date and place of hearing before the commission or any designated agent thereof; provided that no complaint shall issue based upon any unfair practice occurring more than six months prior to the filing of the charge unless the person aggrieved thereby was prevented from filing such charge in which event the six-month period shall be computed from the day he was no longer so prevented.

In any such proceeding, the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall be applicable. Evidence shall be taken at the hearing and filed with the commission. If, upon all the evidence taken, the commission shall determine that any party charged has engaged or is engaging in any such unfair practice, the commission shall state its findings of fact and conclusions of law and issue and cause to be served on such party an order requiring such party to cease and desist from such unfair practice, and to take such reasonable affirmative action as will effectuate the policies of this act. All cases in which a complaint and notice of hearing on a charge is actually issued by the commission, shall be prosecuted before the commission or its agent, or both, by the representative of the employee organization or party filing the charge or his authorized representative.

d. The commission shall at all times have the power and duty, upon the request of any public employer or majority representative, to make a determination as to whether a matter in dispute is within the scope of collective negotiations. The commission shall serve the parties with its findings

of fact and conclusions of law. Any determination made by the commission pursuant to this subsection may be appealed to the Appellate Division of the Superior Court.

e. The commission shall adopt such rules as may be required to regulate the conduct of representation elections, and to regulate the time of commencement of negotiations and of institution of impasse procedures so that there will be full opportunity for negotiations and the resolution of impasses prior to required budget submission dates.

f. The commission or any interested party shall have the power to apply to the Superior Court, Law Division, for an appropriate order enforcing any order of the commission issued under subsection c. or d. hereof, and its findings of fact, if based upon substantial evidence on the record as a whole, shall not, in such action, be set aside or modified; any order for remedial or affirmative action, if reasonably designed to effectuate the purposes of this act, shall be affirmed and enforced in such proceeding.

g. The Director of the Division of Local Government Services in the Department of Community Affairs may notify the commission that a municipality deemed a "municipality in need of stabilization and recovery" pursuant to section 4 of P.L.2016, c.4 (C.52:27BBBB-4) shall not be subject to the commission's authority to prevent an unfair practice pursuant to subsection a. of this section. Upon such notice, neither the commission, nor any designee, shall have the authority to issue or cause to be served upon such municipality in need of stabilization and recovery any complaint alleging an unfair practice under subsection a. of this section or to hold any hearings with respect thereto. Nothing in this subsection shall be construed to limit the scope of any general or specific powers of the Local Finance Board or the Director set forth in P.L.2016, c.4 (C.52:27BBBB-1 et al.).

The provisions of this subsection shall no longer be applicable on and after the first day of the sixth year next following the determination by the Commissioner of Community Affairs that the municipality shall be deemed "a municipality in need of stabilization and recovery" pursuant to section 4 of P.L.2016, c.4 (C.52:27BBBB-4); however, actions taken pursuant to this subsection prior to the effective date of P.L.2021, c.124 (C.52:27BBBB-4 et al.) shall be final and shall not be subject to reconsideration.

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

C.34:13A-5.15 Inclusion in negotiations unit.

5. 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. Every 120 calendar days beginning on January 1 following the effective date of P.L.2021, c.411 (C.34:13A-56 et al.), public employers shall provide to an exclusive representative employee organization in an Excel file format or other format agreed to by the exclusive representative employee organization, the following information for all employees not represented by any exclusive representative employee organization: name, job title,

worksite location, work email and work phone number. Within 30 days of a request by an exclusive representative employee organization, a public employer shall provide a job description for each non-represented employee, including the names and job titles of all employees supervised by the employer subject to the request.

d. 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.

e. 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.

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

C.52:14-15.9e Deduction from compensation to pay dues to certain employee organizations.

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.

Employees who have authorized the payroll deduction of fees to employee organizations 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 such authorization in accordance with the law in effect at the time of their initial authorization of payroll deduction of fees or with the terms of that authorization as those terms are set forth on the record bearing the employee's signature, provided the terms were consistent with the law in effect at the time.

Employees who have authorized the payroll deduction of fees to employee organizations on or after the effective date of the "Workplace Democracy Enhancement Act", P.L. 2018, c.15 (C.34:13A-5.11 et seq.), may revoke such authorization by providing written notice to their public employer. 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.

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.

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.

C.34:13A-60.1 Excluded entities.

13. The provisions of sections 4 and 5 of P.L.2021, c.411 (C.34:13A-59 and C.34:13A-60), and of subsection c. of section 5 of P.L.2018, c.15 (C.34:13A-5.15) shall not apply to:

- a. the several counties and municipalities;
- b. authorities, commissions, boards or other instrumentalities of the several counties and municipalities;
- c. State colleges and universities, including Kean University, Montclair State University, and Rowan University;
- d. county colleges;
- e. Rutgers, the State University of New Jersey; or
- f. the New Jersey Institute of Technology.

14. This act shall take effect immediately; provided, however, that subsection a., and subsections c. through i., of section 4 of P.L.2021, c.411 (C.34:13A-59) shall be applicable upon the expiration of any binding collective negotiations agreements or contracts of employment in force on the date of enactment.

Approved January 18, 2022.