

ASSEMBLY, No. 3686

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MARCH 13, 2018

Sponsored by:
Assemblyman CRAIG J. COUGHLIN
District 19 (Middlesex)

SYNOPSIS

“Workplace Democracy Enhancement Act.”

CURRENT VERSION OF TEXT

As introduced.



A3686 COUGHLIN

2

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

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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. (New section) This act shall be known and may be cited as
9 the “Workplace Democracy Enhancement Act.”

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

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

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

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

29 (2) the right to conduct worksite meetings during lunch and
30 other non-work breaks, and before and after the workday, on the
31 employer’s premises to discuss workplace issues, collective
32 negotiations, the administration of collective negotiations
33 agreements, other matters related to the duties of an exclusive
34 representative employee organization, and internal union matters
35 involving the governance or business of the exclusive representative
36 employee organization; and

37 (3) the right to meet with newly hired employees, without
38 charge to the pay or leave time of the employees, for a minimum of
39 30 minutes, within 30 calendar days from the date of hire, during
40 new employee orientations, or if the employer does not conduct
41 new employee orientations, at individual or group meetings.

42 c. Within 10 calendar days from the date of hire of negotiations
43 unit employees, public employers shall provide the following
44 contact information to an exclusive representative employee
45 organization in an Excel file format or other format agreed to by the

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 exclusive representative employee organization: name, job title,
2 worksite location, home address, work telephone numbers, and any
3 home and personal cellular telephone numbers on file with the
4 public employer, date of hire, and work email address and any
5 personal email address on file with the public employer. Every 120
6 calendar days beginning on January 1 following the effective date
7 of this act, public employers shall provide exclusive representative
8 employee organizations, in an Excel file or similar format agreed to
9 by the employee organization, the following information for all
10 negotiations unit employees: name, job title, worksite location,
11 home address, work, home and personal cellular telephone numbers,
12 date of hire, and work email address and personal email address on
13 file with the public employer.

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

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

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

45 g. Upon the request of an exclusive representative employee
46 organization, a public employer shall negotiate in good faith over
47 contractual provisions to memorialize the parties' agreement to

1 implement the provisions of subsections a. through f. of this
2 section. Negotiations shall commence within 10 calendar days from
3 the date of a request by the employee organization, even if a
4 collective negotiations agreement is in effect on the effective date
5 of this act. Agreements between a public employer and an
6 exclusive representative employee organization implementing
7 subsections a. through f. of this section shall be incorporated into
8 the parties' collective negotiations agreement and shall be
9 enforceable through the parties' grievance procedure, which shall
10 include binding arbitration. The requirements set forth in
11 subsections a. through f. of this section establish the minimum
12 requirements for access to and communication with negotiations
13 unit employees by an exclusive representative employee
14 organization.

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

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

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

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

40 c. A public employer that violates any provision of subsection
41 a. or b. of this section shall be regarded as having engaged in an
42 unfair practice in violation of subsection a. of section 1 of P.L.1974,
43 c.123 (C.34:13A-5.4), and, upon a finding that the violation has
44 occurred, the Public Employment Relations Commission, in
45 addition to implementing any other remedies authorized by that
46 section, shall order the public employer to make whole the
47 exclusive representative employee organization for any losses

1 suffered by the organization as a result of the public employer's
2 unlawful conduct and any other remedial relief deemed appropriate.

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

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

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

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

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

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

1 which said employee is a member, such disbursing officer shall
2 make such deduction from the compensation of such person and
3 such disbursing officer shall transmit the sum so deducted to the
4 employee organization designated by the employee in such request.

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

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

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

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

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

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

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47 7. This act shall take effect immediately.

STATEMENT

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This bill, titled the “Workplace Democracy Enhancement Act,” is designed to ensure that employee organizations which are the exclusive representatives of public employees in collective negotiations are able to carry out their statutory duties by having access to and being able to communicate with the employees they represent.

The bill requires public employers to provide exclusive representative employee organizations with access to members of the negotiations units. The rights of the organization to access required by the bill include:

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 to discuss workplace issues, collective negotiations, the administration of collective negotiations agreements, other matters related to the duties of the organization, and internal union matters involving the governance or business of the 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 minutes, within 30 calendar days from the date of hire of each employee, during new employee orientations, or if the employer does not conduct new employee orientations, at individual or group meetings.

A public employer is required, within 10 calendar days of hiring, to provide the organization the following information about a new employee: name, job title, worksite location, home address, work telephone number, date of hire, work email address, and any personal email address and home and personal cellular telephone numbers on file with the public employer. Public employers are required to provide updates to the employee organizations of that information every 120 calendar days.

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

The bill grants employee organizations the right to use the public employer email systems to communicate with their members, and government buildings to meet with their members, regarding negotiations and administration of collective negotiations agreements, grievances and other workplace-related complaints and issues, and internal organization matters. The meetings may not be

1 for the purposes of supporting or opposing candidates for partisan
2 political office or distributing literature regarding partisan elections.

3 A public employer is required to negotiate, upon employee
4 organization request, contractual provisions to memorialize the
5 parties' agreement to implement the provisions of the bill listed
6 above. The bill sets forth procedures and time line regarding the
7 resolution of any disagreement in the negotiations.

8 The bill prohibits a public employer from encouraging
9 employees to resign, relinquish membership in an employee
10 organization, or revoke authorization of the deduction of fees to an
11 employee organization, or encouraging or discouraging employees
12 from joining, forming or assisting an employee organization.
13 Violations are regarded as an unfair practice, and, upon a finding
14 that the violation has occurred, the Public Employment Relations
15 Commission, is directed to order the public employer to make
16 whole the employee organization for any losses suffered by the
17 organization as a result of the unfair practice.

18 The bill modifies the procedures for an employee to withdraw
19 authorization for payroll deduction of fees to employee
20 organizations. The bill provides that an employee may do so by
21 providing written notice to their public employer during the 10 days
22 following each anniversary date of the employee's employment, and
23 the public employer is then required to inform the employee
24 organization of the withdrawal. A withdrawal would take effect on
25 the 30th day after the anniversary date.