

ASSEMBLY, No. 3129

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

SYNOPSIS

Provides exclusive jurisdiction to PERC for certain unfair labor practice claims.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/24/2020)

1 AN ACT concerning the jurisdiction of the New Jersey Public
2 Employment Relations Commission and supplementing
3 P.L.1941, c.100 (C.34:13A-1 et seq.).
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. The Legislature finds and declares that:

9 a. For many years, the prevailing understanding of the law,
10 consistent with the “New Jersey Employer-Employee Relations
11 Act,” P.L.1941, c.100 (C.34:13A-1 et seq.), the National Labor
12 Relations Act, 29 U.S.C. s.151 et seq., and judicial decisions, has
13 been that claims that public sector labor organizations breached the
14 duty of fair representation are subject to the six-month statute of
15 limitations in the “New Jersey Employer-Employee Relations Act;”

16 b. In a recent federal court decision, Farber v. City of Paterson
17 440 F.3d 131 (3d Cir. 2006), the court held that the six-year statute
18 of limitations for any tortious injury provided by N.J.S.2A:14-1
19 applies to duty of fair representation claims against public sector
20 labor organizations in New Jersey; and

21 c. That decision is at odds with the long established
22 understanding and practice of the law in New Jersey and constitutes
23 an incorrect application of the law in New Jersey, both now, and as
24 it has existed since its enactment.
25

26 2. For purposes of this act:

27 “Labor organization” means any association, organization,
28 agency, or person authorized or designated by a public employee,
29 group of public employees or a public employee association or
30 organization to act on its behalf or to represent it or them. The term
31 “labor organization” shall also apply to any organization which is
32 affiliated with a labor organization, irrespective of whether the
33 affiliate is a local, county, state, or national organization and
34 irrespective of whether the affiliate provides direct services to or
35 represents members of the bargaining unit represented by a labor
36 organization which is the majority representative of employees in a
37 bargaining unit. In determining whether an organization, agency, or
38 person is a labor organization as defined by this act, the method by
39 which the organization, agency, or person became authorized to act
40 on behalf of a public employee, group of public employees or
41 public employees’ organization or association shall not be a
42 determining factor, meaning that this act shall apply to all such
43 organizations, whether recognized voluntarily by a public employer,
44 through an election held by the New Jersey Public Employment

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 Relations Commission, or by the filing of cards by employees
2 requesting or authorizing such representation.

3 “Representative” means an individual representative or a labor
4 organization, whether or not the individual representative is
5 employed by the labor organization, and whether or not the labor
6 organization is limited in its membership to the employees of the
7 employer whose employees it represents.

8
9 3. a. This act shall apply to all claims for legal relief, equitable
10 relief, administrative relief, or any other remedy against any labor
11 organization, its members, employees, officers, or representatives
12 for any harm, damages, losses, or injuries which result from, arise
13 from, are caused by, or are related in any manner whatsoever to
14 representation or lack of representation provided to a member or
15 bargaining unit member of a labor organization, or which arise
16 from, relate to, or are asserted as a result of a labor organization’s
17 acts or omissions in collective bargaining, grievance processing,
18 arbitration, contract administration, or pursuit of, or refusal or
19 failure to pursue, any judicial or administrative action.

20 b. Except as provided in subsection c. of this section, the New
21 Jersey Public Employment Relations Commission shall have
22 exclusive jurisdiction of all claims specified in subsection a. of this
23 section and no court or other administrative agency shall have
24 jurisdiction over any such claim.

25 c. This act shall not be construed as preventing any appeal of a
26 determination, decision, ruling or order of the commission to a
27 court as provided by section 1 of P.L.1974, c.123 (C.34:13A-5.4) or
28 as preventing the commission from applying, pursuant to that
29 section, to a court for an order enforcing an order of the
30 commission.

31
32 4. This act shall provide the sole and exclusive remedy and
33 procedure for all claims specified in subsection a. of section 3 of
34 this act. All claims specified in subsection a. of section 3 of this
35 act, except as otherwise provided in subsection c. of section 3 of
36 this act, shall be:

37 a. Pursued only in the manner and in the forum prescribed by
38 this act, and shall not be filed in any other court, agency, or other
39 tribunal, and no court, agency, or other tribunal shall have
40 jurisdiction over, or the authority to hear, consider, or adjudicate
41 any such claims;

42 b. Cognizable only before the New Jersey Public Employment
43 Relations Commission, and shall be cognizable only as unfair labor
44 practices for breach of the duty of fair representation under
45 subsection b. of section 1 of P.L.1974, c.123 (C.34:13A-5.4); and

46 c. Subject to the rules, regulations, and procedures of the
47 commission governing unfair practices, as set forth in section 1 of
48 P.L.1974, c.123 (C.34:13A-5.4) and any implementing regulations.

1 5. No complaint shall be issued, and no other action shall be
2 taken, regarding any charge or claim of an unfair practice specified
3 in subsection a. of section 3 of this act, if the charge or claim
4 regarding the unfair practice is filed more than six months after the
5 unfair practice occurred, unless the person aggrieved by the unfair
6 practice was prevented from filing the charge or claim during the
7 six-month time period after the unfair practice occurred, in which
8 case the six month time limit shall be computed from the day that
9 the person was no longer prevented from filing.

10
11 6. This act shall apply to all charges of unfair practices based
12 on claims specified in subsection a. of section 3 of this act,
13 irrespective of the date or dates that the acts or omissions upon
14 which the charges or claims are based occurred, and irrespective of
15 whether those acts or omissions occurred before the effective date
16 of this act.

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18 7. This act shall take effect immediately.
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21 STATEMENT
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23 This bill provides exclusive jurisdiction to the New Jersey Public
24 Employment Relations Commission of all claims against any labor
25 organization, or its members or representatives, for any harm,
26 damages, losses, or injuries from representation or lack of
27 representation provided to a member or bargaining unit member of
28 a labor organization from the labor organization's acts or omissions
29 in collective bargaining, grievance processing, arbitration, contract
30 administration, or its pursuit of, or failure to pursue, any judicial or
31 administrative action. The bill states that no court or administrative
32 agency, other than the commission, shall have jurisdiction over any
33 such claim, except for appeals made to courts, of commission
34 determinations, decisions, rulings or orders.