

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 5862**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

ADOPTED JANUARY 6, 2022

**Sponsored by:**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Co-Sponsored by:**

**Assemblywomen Reynolds-Jackson, Murphy, Assemblymen Giblin,  
Verrelli, Zwicker, Assemblywomen Chaparro, Sumter, Jasey, McKnight,  
Assemblymen McKeon, Stanley, Assemblywoman Lopez, Assemblymen  
Wimberly, Caputo and DeAngelo**

**SYNOPSIS**

“Responsible Collective Negotiations Act.”

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Appropriations Committee.



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

18  
19 3. (New section) Notwithstanding any provisions of the “New  
20 Jersey Employer-Employee Relations Act,” P.L.1941, c.100  
21 (C.34:13A-1 et seq.), or any other law to the contrary, as used in  
22 sections 1 through 9 of P.L. , c. (C. ) (pending before the  
23 Legislature as this bill):

24 a. The term “commission” means the New Jersey Public  
25 Employment Relations Commission.

26 b. The term “employer” means the State of New Jersey, or the  
27 several counties and municipalities thereof, or any other political  
28 subdivision of the State, or any special district, or any county college,  
29 or any authority, commission or board, or any branch or agency of the  
30 State, except that the term does not include any local or regional  
31 school district, or board or commission under the authority of the  
32 Commissioner of Education or the State Board of Education.

33 c. The term “employee” means an employee of an employer as  
34 defined by subparagraph b above, but does not include firefighting  
35 employees of public fire departments or employees engaged in  
36 performing police services for public police departments as those  
37 terms are defined by section 2 of P.L.1977, c.85 (C.34:13A-15), except  
38 that, for the purposes of sections 6 through 9 of  
39 P.L. , c. (C. ) (pending before the Legislature as this bill), the term  
40 “employee” also includes firefighting employees of public fire  
41 departments or employees engaged in performing police services for  
42 public police departments as those terms are defined by section 2 of  
43 P.L.1977, c.85 (C.34:13A-15).

44 d. The terms “employee organization” and “majority  
45 representative”, unless otherwise specified, mean the “exclusive

**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 majority representative” either certified by the commission or  
2 recognized by the public employer.

3

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

7 a. Permissive subjects for collective negotiation shall include all  
8 terms and conditions of employment that are not otherwise  
9 mandatorily negotiable and that intimately and directly affect  
10 employee work and welfare, unless otherwise preempted by State or  
11 federal statute, or unless a negotiated agreement would prevent  
12 government from carrying out its statutory mission.

13 b. Administrative regulations adopted after the effective date of  
14 P.L. c. (C. )(pending before the Legislature as this bill) that set  
15 terms and conditions of employment or that grant public employers  
16 authority over terms and conditions of employment do not preempt  
17 collective negotiations and do not supersede the provisions of any  
18 negotiated agreement, except that terms and conditions of employment  
19 set by statutes and regulations shall not be diminished by a negotiated  
20 agreement.

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

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

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

37 f. Notwithstanding the expiration of a collective negotiations  
38 agreement, an impasse in negotiations, an exhaustion of the  
39 commission’s impasse procedures, or the utilization or completion of  
40 the procedures required by P.L. , c. (C. )(pending before the  
41 Legislature as this bill) to resolve disputes involving collective  
42 negotiations, and notwithstanding any law or regulation to the  
43 contrary, no public employer, its representatives, or its agents shall  
44 unilaterally impose, modify, amend, delete, or alter any mandatorily  
45 negotiable terms and conditions of employment as set forth in the  
46 expired or expiring collective negotiations agreement, or unilaterally  
47 impose, modify, amend, delete, or alter any other mandatorily  
48 negotiable terms and conditions of employment that are not set forth in

1 a collective negotiations agreement, without the specific written  
2 agreement of the majority representative. Following contract  
3 expiration, and notwithstanding any law or regulation to the contrary,  
4 absent express language in a collective negotiations agreement  
5 providing that a specific term of the agreement will not continue after  
6 the expiration of the collective negotiations agreement, all terms and  
7 conditions of the agreement, including, but not limited to the payment  
8 of salary increments, shall remain in effect following the agreement's  
9 expiration until the parties reach agreement on a successor collective  
10 negotiations agreement.

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

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

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

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

25

26 5. (New section) The communications between a representative  
27 of a majority representative of employees and a unit member regarding  
28 the investigation and preparation for meetings and hearings of  
29 grievances and disciplinary disputes, shall be treated as confidential  
30 communications and shall not be subject to disclosure under the  
31 discovery rules of New Jersey administrative agencies, including, but  
32 not limited to the Office of Administrative Law and the commission,  
33 or pursuant to section 17 of P.L.2003, c.95 (C.2A:23B-17), and other  
34 applicable State laws authorizing arbitrators, presiding at labor  
35 arbitrations, to issue subpoenas. This section does not apply to the  
36 New Jersey Court Rules or to records that are required by statute, case  
37 law, or the New Jersey Court Rules to be made available to the public  
38 by entities provided for in Article VI of the New Jersey Constitution.

39

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

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

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

12  
13 8. (New section) Authorization cards or showings of interest  
14 submitted to the commission for purposes of conducting an election to  
15 select a majority representative or certifying an employee organization  
16 as the exclusive majority representative based on a majority of  
17 employees in the unit signing authorization cards or a petition, may  
18 bear the electronic signature of the employee, as the term electronic  
19 signature is defined in section 2 of P.L. 2001, c. 116 (C.12A:12-2),  
20 provided that the petitioner provides to the commission verification as  
21 to the authenticity of the electronic signature, such as an email from  
22 the employee signatory confirming the authenticity of their signature  
23 or such other verification deemed acceptable by the commission.  
24 Facsimile transmissions and email will be accepted in lieu of originals  
25 for authorization cards and showings of interest in certification cases;  
26 however, all original filings and submissions shall be retained by the  
27 petitioner and the originals shall be produced upon request of the  
28 commission.

29  
30 9. (New section) Complaints issued based on a violation of  
31 paragraph (3) of subsection (a) of section 1 of P.L.1974, c.123  
32 (C.34:13A-5.4) shall be scheduled for hearing within 120 calendar  
33 days from date of complaint issuance, unless the parties agree to  
34 extend the time for complaint issuance. Within 60 calendar days of  
35 the filing of an unfair practice charge alleging the violation the  
36 commission shall decide whether or not to issue a complaint. The  
37 commission shall promulgate rules to provide for discovery prior to  
38 the commencement of a hearing.

39  
40 10. Section 1 of P.L.1974, c.123 (C.34:13A-5.4) shall be amended  
41 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 c. The commission shall have exclusive power as hereinafter  
31 provided to prevent anyone from engaging in any unfair practice listed  
32 in subsections a. and b. above. Whenever it is charged that anyone has  
33 engaged or is engaging in any such unfair practice, the commission, or  
34 any designated agent thereof, shall have authority to issue and cause to  
35 be served upon such party a complaint stating the specific unfair  
36 practice charged and including a notice of hearing containing the date  
37 and place of hearing before the commission or any designated agent  
38 thereof; provided that no complaint shall issue based upon any unfair  
39 practice occurring more than 6 months prior to the filing of the charge  
40 unless the person aggrieved thereby was prevented from filing such  
41 charge in which event the 6-month period shall be computed from the  
42 day he was no longer so prevented.

43 In any such proceeding, the provisions of the "Administrative  
44 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall be  
45 applicable. Evidence shall be taken at the hearing and filed with the  
46 commission. If, upon all the evidence taken, the commission shall  
47 determine that any party charged has engaged or is engaging in any  
48 such unfair practice, the commission shall state its findings of fact and

1 conclusions of law and issue and cause to be served on such party an  
2 order requiring such party to cease and desist from such unfair  
3 practice, and to take such reasonable affirmative action as will  
4 effectuate the policies of this act. All cases in which a complaint and  
5 notice of hearing on a charge is actually issued by the commission,  
6 shall be prosecuted before the commission or its agent, or both, by the  
7 representative of the employee organization or party filing the charge  
8 or his authorized representative.

9 d. The commission shall at all times have the power and duty,  
10 upon the request of any public employer or majority representative, to  
11 make a determination as to whether a matter in dispute is within the  
12 scope of collective negotiations. The commission shall serve the  
13 parties with its findings of fact and conclusions of law. Any  
14 determination made by the commission pursuant to this subsection  
15 may be appealed to the Appellate Division of the Superior Court.

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

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

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

42 The provisions of this subsection shall no longer be applicable on  
43 and after the first day of the sixth year next following the  
44 determination by the Commissioner of Community Affairs that the  
45 municipality shall be deemed "a municipality in need of stabilization  
46 and recovery" pursuant to section 4 of P.L.2016, c.4 (C.52:27BBBB-  
47 4); however, actions taken pursuant to this subsection prior to the

1 effective date of P.L.2021, c.124 (C.52:27BBBB-4 et al.) shall be final  
2 and shall not be subject to reconsideration.  
3 (cf: P.L.2021, c.124, s.4)  
4

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

7 5. a. All regular full-time and part-time employees of the  
8 public employer who perform negotiations unit work shall be  
9 included in the negotiations unit represented by the exclusive  
10 representative employee organization.

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

22 c. Every 120 calendar days beginning on January 1 following  
23 the effective date of P.L. , c. (C. )(now pending before the  
24 legislature as this bill), public employers shall provide to an  
25 exclusive representative employee organization in an Excel file  
26 format or other format agreed to by the exclusive representative  
27 employee organization, the following information for all employees  
28 not represented by any exclusive representative employee  
29 organization: name, job title, worksite location, work email and  
30 work phone number. Within 30 days of a request by an exclusive  
31 representative employee organization, a public employer shall  
32 provide a job description for each non-represented employee,  
33 including the names and job titles of all employees supervised by  
34 the employer subject to the request.

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

42 **[d.] e.** The Public Employment Relations Commission shall  
43 promulgate rules to implement this section, including rules to  
44 resolve disputes over the inclusion of employees performing  
45 negotiations unit work in the appropriate negotiations unit. The  
46 rules promulgated by the commission shall provide for the  
47 resolution of disputes that arise under this section, within 60  
48 calendar days from the submission of the dispute to the commission



1 by either the exclusive representative employee organization or the  
2 public employer.  
3 (cf: P.L.2018, c.15, s.5)  
4

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

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

22 Employees who have authorized the payroll deduction of fees to  
23 employee organizations prior to the effective date of the “Workplace  
24 Democracy Enhancement Act”, P.L. 2018, c.15 (C.34:13A-5.11 et  
25 seq.), may revoke such authorization in accordance with the law in  
26 effect at the time of their initial authorization of payroll deduction of  
27 fees or with the terms of that authorization as those terms are set forth  
28 on the record bearing the employee’s signature, provided the terms  
29 were consistent with the law in effect at the time.

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

42 Within five days of receipt of notice from an employee of  
43 revocation of authorization for the payroll deduction of fees, the public  
44 employer shall provide notice to the employee organization of an  
45 employee’s revocation of such authorization.

46 Nothing herein shall preclude a public employer and a duly  
47 certified majority representative from entering into a collectively  
48 negotiated written agreement which provides that employees included

1 in the negotiating unit may only request deduction for the payment of  
2 dues to the duly certified majority representative. Such collectively  
3 negotiated agreement may include a provision that existing written  
4 authorizations for payment of dues to an employee organization other  
5 than the duly certified majority representative be terminated. Such  
6 collectively negotiated agreement may also include a provision  
7 specifying the effective date of a termination in deductions as of the  
8 July 1 next succeeding the date on which notice of withdrawal is filed  
9 by an employee with the public employer's disbursing officer.

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

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

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

21

22 13. (New section) The provisions of sections 4 and 5 of  
23 P.L. , c. (C. )(pending before the Legislature as this bill),  
24 and of subsection c. of section 5 of P.L.2018, c.15 (C.34:13A-5.15)  
25 shall not apply to:

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

34

35 14. This act shall take effect immediately; provided, however, that  
36 subsection a., and subsections c. through i., of section 4 of P.L. c.  
37 (C. )(pending before the Legislature as this bill) shall be applicable  
38 upon the expiration of any binding collective negotiations agreements  
39 or contracts of employment in force on the date of enactment.