

# SENATE, No. 2229

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MARCH 7, 2022

**Sponsored by:**

**Senator MICHAEL J. DOHERTY**

**District 23 (Hunterdon, Somerset and Warren)**

**Senator EDWARD DURR**

**District 3 (Cumberland, Gloucester and Salem)**

**SYNOPSIS**

Establishes the “New Jersey Right to Work Act”; prohibits payroll deduction of union dues from wages or salaries of public employees.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/19/2022)**

1 AN ACT concerning labor organization membership and dues,  
2 revising various parts of the statutory law and supplementing  
3 Title 34 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. Sections 1 through 9 of this act shall be known and may be  
9 cited as the “New Jersey Right to Work Act.”

10  
11 2. The Legislature finds and declares that:

12 a. The right to work is inherent in the right to live. Article I of  
13 the New Jersey State Constitution states that individuals are born  
14 with certain unalienable rights, including the right to life and  
15 liberty, and acquiring, possessing, and protecting property, and of  
16 pursuing and obtaining safety and happiness;

17 b. Public and private sector labor organizations enter into many  
18 governmental, business and industrial enterprises in the State,  
19 thereby affecting the social and economic conditions of its  
20 citizenry. In order to foster a climate that encourages economic  
21 growth and individual liberty, workers in this State should possess  
22 the freedom to associate, the ability to self-organize and the right to  
23 refrain from such activities as they so choose. The economic liberty  
24 of New Jersey’s citizens should not be infringed by an employer  
25 who requires employees either to become members of a labor  
26 organization or financially support a labor organization as non-  
27 members; and

28 c. Therefore, it is necessary and appropriate, in light of these  
29 findings, and with the intention of transforming them into action, to  
30 enact legislation setting forth a comprehensive approach to the  
31 protection of the intrinsic freedom of choice in an individual’s  
32 pursuit of employment. The workers of this State must be protected  
33 in their right to join or assist a labor union, financially or otherwise,  
34 or to refrain from such activities, without threats or the fear of  
35 penalties or reprisals concerning their actions.

36  
37 3. For the purposes of this act:

38 “Employer” means an employer and any person acting, directly  
39 or indirectly, on behalf of or in the interest of an employer with the  
40 employer’s knowledge or ratification, but a labor organization, or  
41 any officer or agent thereof, shall be considered an employer only  
42 with respect to individuals employed by such organization. This  
43 term shall include “public employers” including the State of New  
44 Jersey, and any political subdivision of the State, school district,  
45 special district, and any authority, commission, board, branch or  
46 agency of the State, political subdivision or district.

47 “Labor organization” means an agency, employee representation  
48 committee, group, association, plan, or organization of any kind in

**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 which employees participate and which exists for the purpose, in  
2 whole or in part, of dealing with employers concerning grievances,  
3 labor disputes, wages, rates of pay, hours, or other terms or  
4 conditions of employment.

5

6 4. No person in the employ of any employer shall be required  
7 as a condition of employment or continuation of employment to:

8 a. Become or remain a member of a labor organization;

9 b. Resign or refrain from voluntary membership in, voluntary  
10 affiliation with, or voluntary financial support of a labor  
11 organization;

12 c. Pay any dues, fees, assessments, or other charges of any kind  
13 or amount to a labor organization;

14 d. Pay any charity or other third party any amount in lieu of  
15 paying dues, fees, assessments, or other charges to a labor  
16 organization; or

17 e. Be recommended, approved, referred, or cleared by or  
18 through a labor organization.

19

20 5. Any contract entered into on or after the effective date of  
21 this act between any labor organization and employer which  
22 violates section 4 of this act shall be null and void. The provisions  
23 of section 4 of this act shall not apply to any existing contract, but  
24 shall apply to any renewal or extensions of any existing contract on  
25 or after the effective date of this act.

26

27 6. Every employer shall post and keep continuously displayed  
28 the following notice, printed in at least 10-point bold-faced type, at  
29 a place or places in the place of business, establishment, or  
30 premises where it may be readily seen by all employees, and it shall  
31 be the further duty of every employer to furnish a copy of that  
32 notice to each employee at the time the employee is hired:

33

34

#### EMPLOYEE FREEDOM OF CHOICE

35

36 Under the "New Jersey Right to Work Act," P.L. , c. (C. )  
37 (pending before the Legislature as this bill), employees are  
38 protected in the exercise of their free choice to join or refrain from  
39 joining labor unions, and it is unlawful for an employer and a labor  
40 union to enter into a contract or agreement requiring employees to  
41 pay dues, fees, or charges of any kind to a labor organization as a  
42 condition of obtaining or keeping a job. Under the "New Jersey  
43 Right to Work Act," an employer may not discharge or otherwise  
44 discriminate against an employee because of joining or refusing to  
45 join a labor organization, or to pay dues or other charges to a labor  
46 organization.

47

48 7. a. It shall be unlawful for any person, labor organization or  
49 labor organization's officer, agent or member, or employer or

1 employer's agent, representative or designee, to threaten,  
2 intimidate, coerce, or use force against an individual exercising his  
3 rights provided under this act.

4 b. Any person, labor organization or officer, agent or member  
5 thereof, or employer or employer's agent, representative or  
6 designee who violates subsection a. of this section shall be subject  
7 to a civil penalty in an amount not to exceed \$1,000 for the first  
8 violation and an amount not to exceed \$5,000 for each subsequent  
9 violation, collectible by the Commissioner of Labor and Workforce  
10 Development in a summary proceeding pursuant to the "Penalty  
11 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).  
12

13 8. Upon a violation of any provision of this act, an aggrieved  
14 person may institute a civil action in a court of competent  
15 jurisdiction, within one year from the date of the alleged violation,  
16 for relief as follows:

17 a. With respect to a prospective employee, the court may:

18 (1) order injunctive relief as it deems appropriate;

19 (2) award compensatory and consequential damages incurred by  
20 the prospective employee as a result of the violation; or

21 (3) award reasonable attorneys' fees and court costs.

22 b. With respect to an employee or former employee, the court  
23 may:

24 (1) order injunctive relief as it deems appropriate, including  
25 reinstatement of the employee to the same position held before the  
26 violation or the position the employee would have held but for the  
27 violation, as well as the reinstatement of full fringe benefits and  
28 seniority rights;

29 (2) award compensatory and consequential damages incurred by  
30 the employee or former employee as a result of the violation,  
31 including compensation for lost wages, benefits and other  
32 remuneration; or

33 (3) award reasonable attorneys' fees and court costs.  
34

35 9. The provisions of this act shall not apply to:

36 a. Employers and employees covered by the federal "Railway  
37 Labor Act," (45 U.S.C. s.151 et seq.);

38 b. Federal employers and employees; or

39 c. Employers and employees on exclusive federal enclaves.  
40

41 10. Section 4 of P.L.1965, c.173 (C.34:11-4.4) is amended to  
42 read as follows:

43 4. No employer may withhold or divert any portion of an  
44 employee's wages unless:

45 a. The employer is required or **【empowered】** has express  
46 authorization to do so by New Jersey or United States law; or

47 b. The amounts withheld or diverted are for:

48 (1) Contributions authorized either in writing by employees, or  
49 under a collective bargaining agreement, to employee welfare,

1 insurance, hospitalization, medical or surgical or both, pension,  
2 retirement, and profit-sharing plans, and to plans establishing  
3 individual retirement annuities on a group or individual basis, as  
4 defined by section 408 (b) of the federal Internal Revenue Code of  
5 1986 (26 U.S.C.s.408(b)), or individual retirement accounts at any  
6 State or federally chartered bank, savings bank, or savings and loan  
7 association, as defined by section 408 (a) of the federal Internal  
8 Revenue Code of 1986 (26 U.S.C.s.408(a)), for the employee, his  
9 spouse or both.

10 (2) Contributions authorized either in writing by employees, or  
11 under a collective bargaining agreement, for payment into  
12 company-operated thrift plans; or security option or security  
13 purchase plans to buy securities of the employing corporation, an  
14 affiliated corporation, or other corporations at market price or less,  
15 provided such securities are listed on a stock exchange or are  
16 marketable over the counter.

17 (3) Payments authorized by employees for payment into  
18 employee personal savings accounts, such as payments to a credit  
19 union, savings fund society, savings and loan or building and loan  
20 association; and payments to banks for Christmas, vacation, or other  
21 savings funds; provided all such deductions are approved by the  
22 employer.

23 (4) Payments for company products purchased in accordance  
24 with a periodic payment schedule contained in the original purchase  
25 agreement; payments for employer loans to employees, in  
26 accordance with a periodic payment schedule contained in the  
27 original loan agreement; payments for safety equipment; payments  
28 for the purchase of United States Government bonds; payments to  
29 correct payroll errors; and payments of costs and related fees for the  
30 replacement of employee identification, which is used to allow  
31 employees access to sterile or secured areas of airports, in  
32 accordance with a fee schedule described in any airline media plan  
33 approved by the federal Transportation Security Administration;  
34 provided all such deductions are approved by the employer.

35 (5) Contributions authorized by employees for organized and  
36 generally recognized charities; provided the deductions for such  
37 contributions are approved by the employer.

38 (6) Payments authorized by employees or their collective  
39 bargaining agents for the rental of work clothing or uniforms or for  
40 the laundering or dry cleaning of work clothing or uniforms;  
41 provided the deductions for such payments are approved by the  
42 employer.

43 (7) Labor organization dues and initiation fees, and such other  
44 labor organization charges permitted by law, except that after  
45 December 31, 2022, no public employer, as defined in section 3 of  
46 P.L. , c. (C. ) (pending before the Legislature as this bill),  
47 may withhold or divert any portion of any public employee's wages  
48 for labor organization dues and initiation fees, or any other labor  
49 organization charges.

1 (8) Contributions authorized in writing by employees, pursuant  
2 to a collective bargaining agreement, to a political committee,  
3 continuing political committee, or both, as defined in section 3 of  
4 P.L.1973, c.83 (C.19:44A-3), established by the employees' labor  
5 union for the purpose of making contributions to aid or promote the  
6 nomination, election or defeat of any candidate for a public office  
7 of the State or of a county, municipality or school district or the  
8 passage or defeat of any public question, subject to the conditions  
9 specified in section 2 of P.L.1991, c.190 (C.34:11-4.4a); except  
10 that, with respect to those public employees excluded in paragraph  
11 (7) of this subsection b., no contribution shall be withheld or  
12 diverted from that employee's wages for the purposes set out in this  
13 paragraph (8).

14 (9) Contributions authorized in writing by employees to any  
15 political committee or continuing political committee, other than a  
16 committee provided for in paragraph (8) of this subsection, for the  
17 purpose of making contributions to aid or promote the nomination,  
18 election or defeat of any candidate for a public office of the State or  
19 of a county, municipality or school district or the passage or defeat  
20 of any public question, subject to the conditions specified in section  
21 2 of P.L.1991, c.190 (C.34:11-4.4a); in making a payroll deduction  
22 pursuant to this paragraph the administrative expenses incurred by  
23 the employer shall be borne by such committee, at the option of the  
24 employer; except that, with respect to those public employees  
25 excluded in paragraph (7) of this subsection b., no contribution shall  
26 be withheld or diverted from that employee's wages for the  
27 purposes set out in this paragraph (9).

28 (10) Payments authorized by employees for employer-  
29 sponsored programs for the purchase of insurance or annuities on a  
30 group or individual basis, if otherwise permitted by law.

31 (11) Such other contributions, deductions and payments as the  
32 Commissioner of Labor and Workforce Development may authorize  
33 by regulation as proper and in conformity with the intent and  
34 purpose of this act, if such deductions are approved by the  
35 employer.

36 (cf: P.L.2009, c.226, s.1)

37

38 11. Sections 2 through 6 of P.L.1979, c.477 (C.34:13A-5.5  
39 through C.34:13A-5.9) are repealed.

40

41 12. This act shall take effect January 1, 2023.

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43

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#### STATEMENT

45

46 This bill establishes New Jersey as a "Right to Work" state by  
47 protecting all employees in the exercise of joining or refusing to  
48 join a labor organization. The bill prohibits employers and labor  
49 organizations from requiring employees to become or remain

1 members of a labor organization, and to pay dues, fees or other  
2 charges to the labor organization, as a condition of employment or  
3 continued employment. Under this bill, any contract entered into on  
4 or after January 1, 2023, between any labor organization and  
5 employer that requires, as a condition of employment or continued  
6 employment, that an employee affiliate with, or pay dues, fees or  
7 other charges to, a labor organization shall be null and void.

8 The bill defines the term “employer” to include both private  
9 sector and public sector employers for purposes of the protections  
10 afforded under this bill. The bill also defines “labor organization”  
11 as an agency, employee representation committee, group,  
12 association, plan, or organization of any kind in which employees  
13 participate and which exists for the purpose, in whole or in part, of  
14 dealing with employers concerning grievances, labor disputes,  
15 wages, rates of pay, hours, or other terms or conditions of  
16 employment.

17 The bill requires all employers to post and keep continuously  
18 displayed a notice, printed in at least 10-point bold-faced type, at a  
19 place or places in the place of business, establishment, or premises  
20 where it may be readily seen by all employees, and to furnish a  
21 copy of that notice to all employees upon hiring, that informs the  
22 employees of their rights under the provisions of this bill.

23 The bill prohibits any person, labor organization or labor  
24 organization’s officer, agent or member thereof, or employer or  
25 employer’s agent, representative or designee from using threats,  
26 intimidation, coercion, or the use of force against an individual  
27 exercising his rights provided under the bill. The bill provides for  
28 the imposition of civil penalties, for those who use threats,  
29 intimidation, coercion, or force, in an amount not to exceed \$1,000  
30 for the first violation and an amount not to exceed \$5,000 for each  
31 subsequent violation, collectible by the Commissioner of Labor and  
32 Workforce Development. Also, upon a violation of any provision  
33 of the bill, an aggrieved person may institute a civil action in a  
34 court of competent jurisdiction, within one year from the date of the  
35 alleged violation.

36 The bill also specifies that the provisions of the bill do not apply  
37 to the following:

- 38 (1) employers and employees covered by the federal “Railway  
39 Labor Act,” (45 U.S.C. s.151 et seq.);
- 40 (2) federal employers and employees; or
- 41 (3) employers and employees on exclusive federal enclaves.

42 The bill amends section 4 of P.L.1965, c.173 (C.34:11-4.4) and  
43 repeals sections 2 through 6 of P.L.1979, c.477 (C.34:13A-5.5  
44 through C.34:13A-5.9) to:

- 45 (1) prohibit a public employer of public employees in a  
46 collective negotiating unit from withholding or diverting union dues  
47 by payroll deduction from the wages or salaries of the public  
48 employees;

1 (2) prohibit a public employer of public employees in a  
2 negotiating unit from withholding or diverting a representation fee  
3 in lieu of dues by payroll deduction from the wages or salaries of  
4 nonmember public employees in the unit; and

5 (3) prohibit a public employer of public employees from  
6 withholding or diverting contributions to a political action  
7 committee from the wages or salaries of the public employees.

8 Currently, State law permits all employers to withhold or divert  
9 portions of an employee's wages for purposes of paying labor  
10 organization dues, initiation fees, and other labor organization  
11 charges permitted by law. The law also provides that all employers  
12 may withhold or divert contributions to political action committees  
13 from the wages or salaries of employees.

14 Furthermore, the majority representative and the public employer  
15 of public employees in a collective negotiating unit may negotiate  
16 an agreement that entitles the majority representative to receive  
17 payment, by payroll deduction from the wages or salaries of the  
18 nonmember employees, of a representation fee in lieu of dues for  
19 services rendered by the majority representative. The representation  
20 fee in lieu of dues in no event may exceed 85% of the regular  
21 membership dues, fees, and assessments charged by the majority  
22 representative.

23 By amending section 4 of P.L.1965, c.173 (C.34:11-4.4) and  
24 repealing sections 2 through 6 of P.L.1979, c.477 (C.34:13A-5.5  
25 through C.34:13A-5.9), this bill will prohibit a public employer of  
26 public employees from withholding or diverting a portion of the  
27 wages or salaries of employees for purposes of paying union dues,  
28 initiation fees, and other labor organization charges permitted by  
29 law, for contributions to political action committees, or for a  
30 representation fee in lieu of dues.