

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS:

HEARINGS:

NEWSPAPER ARTICLES: Yes

"Murphy signs bill that gives boost to public worker unions," The Times, 5-20-2018

"Murphy signs bill boosting public-sector labor unions," NJBIZ, 5-18-2018

RWH

P.L. 2018, CHAPTER 15, *approved May 18, 2018*
Assembly, No. 3686 (*First Reprint*)

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.

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 “Workplace Democracy Enhancement Act.”

10
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.

20
21 3. (New section) a. Public employers shall provide to exclusive
22 representative employee organizations access to members of the
23 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 of
26 the public employer during the work day to investigate and discuss
27 grievances, workplace-related complaints, and other workplace issues;

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

35 (3) the right to meet with newly hired employees, without charge
36 to the pay or leave time of the employees, for a minimum of 30 ¹and a
37 maximum of 120¹ minutes, within 30 calendar days from the date of
38 hire, during new employee orientations, or if the employer does not
39 conduct new employee orientations, at individual or group meetings.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ALA committee amendments adopted March 22, 2018.

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

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

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

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

47 g. Upon the request of an exclusive representative employee
48 organization, a public employer shall negotiate in good faith over

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

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

30
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.

3

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.

35

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)

46

47 7. This act shall take effect immediately.

1

2

3

“Workplace Democracy Enhancement Act.”

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.



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.

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 “Workplace Democracy Enhancement Act.”

10
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.

20
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.

30

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.

3

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.

35

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)

46

47 7. This act shall take effect immediately.

STATEMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

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.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3686

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 19, 2018

The Assembly Labor Committee reports favorably and with committee amendments Assembly Bill No. 3686.

As amended, 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 and a maximum of 120 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, prospective members, and non-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 for the purposes of supporting or opposing candidates for partisan political office or distributing literature regarding partisan elections.

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

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

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

COMMITTEE AMENDMENTS

The committee amended the bill to limit the time representative employee organizations have to meet with newly hired employees, to a maximum of 120 minutes.

The committee also amended the bill to include certain communications between employee organizations and prospective members and non-members as communications that are considered non-governmental records and exempt from OPRA requests under the bill.

SENATE, No. 2137

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MARCH 5, 2018

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

“Workplace Democracy Enhancement Act.”

CURRENT VERSION OF TEXT

As introduced.



S2137 SWEENEY

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.

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 “Workplace Democracy Enhancement Act.”

10

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.

20

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.

S2137 SWEENEY

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
48 implement the provisions of subsections a. through f. of this

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

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

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

29
30 4. (New section) a. A public employer shall not encourage
31 negotiations unit members to resign or relinquish membership in an
32 exclusive representative employee organization and shall not
33 encourage negotiations unit members to revoke authorization of the
34 deduction of fees to an exclusive representative employee
35 organization.

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

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

S2137 SWEENEY

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

5 b. Negotiations unit work means work that is performed by any
6 employees who are included in a negotiations unit represented by an
7 employee organization without regard to job title, job classification
8 or number of hours worked, except that employees who are
9 confidential employees, as that term is defined by subsection (g) of
10 section 1 of P.L.1941, c.100 (C.34:13A-3), or casual employees,
11 may be excluded from the negotiations unit. Casual employees are
12 employees who work an average of fewer than four hours per week
13 over a period of 90 days.

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

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

30
31 6. Section 1 of P.L.1967, c.310 (C.52:14-15.9e) is amended to
32 read as follows:

33 1. Whenever any person holding employment, whose
34 compensation is paid by this State or by any county, municipality,
35 board of education or authority in this State, or by any board, body,
36 agency or commission thereof shall indicate in writing, including by
37 electronic communications, and which writing or communication
38 may be evidenced by the electronic signature of the employee, to
39 the proper disbursing officer his desire to have any deductions made
40 from his compensation, for the purpose of paying the employee's
41 dues to a bona fide employee organization, designated by the
42 employee in such request, and of which said employee is a
43 member, such disbursing officer shall make such deduction from
44 the compensation of such person and such disbursing officer shall
45 transmit the sum so deducted to the employee organization
46 designated by the employee in such request.

47 【Any such written authorization may be withdrawn by such
48 person holding employment at any time by the filing of notice of

1 such withdrawal with the above-mentioned disbursing officer. The
2 filing of notice of withdrawal shall be effective to halt deductions as
3 of the January 1 or July 1 next succeeding the date on which notice
4 of withdrawal is filed.】

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

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

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

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

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

40

41 7. This act shall take effect immediately.

42

43

44

STATEMENT

45

46 This bill, titled the "Workplace Democracy Enhancement Act,"
47 is designed to ensure that employee organizations which are the
48 exclusive representatives of public employees in collective

1 negotiations are able to carry out their statutory duties by having
2 access to and being able to communicate with the employees they
3 represent.

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

8 1. the right to meet with individual employees on the premises
9 of the public employer, during the work day, to investigate and
10 discuss grievances, workplace-related complaints, and other
11 workplace issues;

12 2. the right to conduct worksite meetings during lunch and
13 other non-work breaks, and before and after the workday to discuss
14 workplace issues, collective negotiations, the administration of
15 collective negotiations agreements, other matters related to the
16 duties of the organization, and internal union matters involving the
17 governance or business of the organization; and

18 3. the right to meet with newly hired employees, without
19 charge to the pay or leave time of the employees, for a minimum of
20 30 minutes, within 30 calendar days from the date of hire of each
21 employee, during new employee orientations, or if the employer
22 does not conduct new employee orientations, at individual or group
23 meetings.

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

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

37 The bill grants employee organizations the right to use the public
38 employer email systems to communicate with their members, and
39 government buildings to meet with their members, regarding
40 negotiations and administration of collective negotiations
41 agreements, grievances and other workplace-related complaints and
42 issues, and internal organization matters. The meetings may not be
43 for the purposes of supporting or opposing candidates for partisan
44 political office or distributing literature regarding partisan elections.

45 A public employer is required to negotiate, upon employee
46 organization request, contractual provisions to memorialize the
47 parties' agreement to implement the provisions of the bill listed

S2137 SWEENEY

8

1 above. The bill sets forth procedures and time line regarding the
2 resolution of any disagreement in the negotiations.

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

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

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 2137

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 5, 2018

The Senate Labor Committee reports favorably, and with committee amendments, Senate Bill No. 2137.

This bill, as amended, 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 for the purposes of supporting or opposing candidates for partisan political office or distributing literature regarding partisan elections.

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

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

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

STATEMENT TO
[First Reprint]
SENATE, No. 2137

with Senate Floor Amendments
(Proposed by Senator SWEENEY)

ADOPTED: MARCH 26, 2018

These Senate amendments:

1. limit the time representative employee organizations have to meet with newly hired employees, to a maximum of 120 minutes; and
2. include communications between employee organizations and prospective members and non-members as communications that are considered non-governmental records and exempt from OPRA requests under the bill.

**GOVERNOR'S STATEMENT UPON SIGNING
ASSEMBLY BILL NO. 3686
(First Reprint)**

Today I am pleased to sign the "Workplace Democracy Enhancement Act", Assembly Bill No. 3686 (First Reprint), which recently received overwhelming support from both Houses of the State Legislature. I particularly commend Senate President Sweeney and Speaker Coughlin for their leadership and prime sponsorship of this important legislation.

As a strong advocate for organized labor, I recognize the myriad benefits of employee unionization, as well as the continued challenges unions face in maintaining and growing their membership. This bill promotes labor stability in the public sector by ensuring that employee organizations that 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.

I am concerned, however, that certain of the provisions of New Jersey law enacted today may be determined to conflict in some manner with the legal parameters anticipated to be set forth in the forthcoming ruling of the Supreme Court of the United States in Janus v. American Federation of State, County, and Municipal Employees, Council 31. In the event that appropriate clarifying amendments are necessary following the Supreme Court's decision, I will work closely with the sponsors to enact any required changes. I am also sensitive to the privacy concerns of our public employees and recognize the need to prevent the improper use of personal identifying information collected under the terms of this act. As a result, I am directing State agencies, when implementing this act, to develop sufficient procedures to protect sensitive personal employee information and to restrict its use solely to achieve the act's purposes.

Date: May 18, 2018

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor