

44: 7-6.1 et seq

LEGISLATIVE HISTORY CHECKLIST

NJSA: 44:7-6.1 et seq

(County Welfare agencies-collective negotiations)

LAWS OF: 1984

CHAPTER: 14

Bill No: A887

Sponsor(s): Watson

Date Introduced: January 23, 1984

Committee: Assembly: -----

Senate: County and Municipal Government

Amended during passage: Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly: January 30, 1984

Senate: February 23, 1984

Date of Approval: March 8, 1984

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

Federal Regulations relied on prior to CWA decision: 45 CFR 205.100 (a) (2)--attached.

DO NOT REMOVE FROM LIBRARY COPY

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 887

STATE OF NEW JERSEY

INTRODUCED JANUARY 23, 1984

By Assemblymen WATSON and KARCHER

AN ACT concerning collectively negotiated agreements in county welfare agencies and supplementing chapter 7 of Title 44 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Notwithstanding the provisions of R. S. 44:7-6 or P. L. 1950,
2 c. 166 (C. 30:4B-1 et seq.) ***[to the contrary]***, a county welfare
3 agency has complete authority to establish wages and terms and
4 conditions of employment for its employees through collective ne-
5 gotiation with an authorized employee organization. The agree-
6 ment between the county welfare agency and authorized employee
7 organization is binding on both parties and is not subject to ap-
8 proval by the Commissioner of Human Services or his designee,
9 except as provided in sections 2 and 3 of this act.

1 2. a. If the Commissioner of Human Services determines that
2 (1) a provision in an agreement between a county welfare agency
3 and an authorized employee organization is not in compliance with
4 federal law, and (2) continued receipt of federal funds is thereby
5 endangered, then the commissioner shall so advise the county
6 welfare agency and authorized employee organization in writing
7 and specify the federal law with which the agreement is not in
8 compliance and the reason why it is not in compliance.

9 b. If the commissioner is notified by the federal government
10 that the State's administration of a federal assistance program
11 does not appear to be in compliance with federal law because of
12 a provision in a negotiated agreement between a county welfare

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 enclosed in asterisks or stars has been adopted as follows:

*—Assembly amendment adopted January 30, 1984.

13 agency and an authorized employee organization, the commissioner
14 shall so notify the county welfare agency and authorized employee
15 organization in writing.

16 c. When the commissioner notifies a county welfare agency and
17 authorized employee organization pursuant to this section, the
18 commissioner shall provide the county welfare agency and autho-
19 rized employee organization with (1) an opportunity to meet with
20 him to determine if the commissioner's finding is correct and (2)
21 an opportunity to conform voluntarily to any change found by the
22 commissioner to be necessary in order to be in compliance with
23 federal law.

24 d. If the commissioner subsequently makes a final determination
25 that the county welfare agency's and authorized employee organi-
26 zation's negotiated agreement is not in compliance with federal
27 law, he shall exercise the authority provided to him in R. S. 44:7-6
28 over wages and terms and conditions of employment in that county
29 welfare agency only to the extent necessary to ensure that the
30 agreement is in compliance with federal law.

1 3. If the federal government initiates an action or notifies the
2 Commissioner of Human Services of any action it may take that
3 affects any wages or term and condition of employment in a county
4 welfare agency, the commissioner shall consult with the county
5 welfare agency and authorized employee organization which poten-
6 tially may be affected with regard to the position on the federal
7 action that the commissioner takes.

1 4. Nothing in this act shall be construed to prohibit the Com-
2 missioner of Human Services from establishing minimum com-
3 pensation schedules for each class of positions in a county welfare
4 agency.

1 5. This act shall take effect immediately.

13 agency and an authorized employee organization, the commissioner
 14 shall so notify the county welfare agency and authorized employee
 15 organization in writing.

16 c. When the commissioner notifies a county welfare agency and
 17 authorized employee organization pursuant to this section, the
 18 commissioner shall provide the county welfare agency and autho-
 19 rized employee organization with (1) an opportunity to meet with
 20 him to determine if the commissioner's finding is correct and (2)
 21 an opportunity to conform voluntarily to any change found by the
 22 commissioner to be necessary in order to be in compliance with
 23 federal law.

24 d. If the commissioner subsequently makes a final determination
 25 that the county welfare agency's and authorized employee organi-
 26 zation's negotiated agreement is not in compliance with federal
 27 law, he shall exercise the authority provided to him in R. S. 44:7-6
 28 over wages and terms and conditions of employment in that county
 29 welfare agency only to the extent necessary to ensure that the
 30 agreement is in compliance with federal law.

1 3. If the federal government initiates an action or notifies the
 2 Commissioner of Human Services of any action it may take that
 3 affects any wages or term and condition of employment in a county
 4 welfare agency, the commissioner shall consult with the county
 5 welfare agency and authorized employee organization which poten-
 6 tially may be affected with regard to the position on the federal
 7 action that the commissioner takes.

1 4. Nothing in this act shall be construed to prohibit the Com-
 2 missioner of Human Services from establishing minimum com-
 3 pensation schedules for each class of positions in a county welfare
 4 agency.

1 5. This act shall take effect immediately.

STATEMENT

This bill provides that county welfare agencies shall have complete authority over wages and other terms and conditions of employment agreed upon in collective negotiation between the welfare agency and an authorized employee organization. The agreement reached between the two parties shall not be subject to approval by the Commissioner of Human Services unless the agreement does not comply with federal law.

In the past, federal regulations required the State through the Division of Public Welfare to keep close control over the terms and conditions of employment in the county welfare agencies. As

A J J . . .

a result, the State division promulgated regulations, commonly known as Ruling 11 (N. J. A. C. 10:109-1.1 et seq.) which set maximum salaries, vacation schedules, holidays and many other terms and conditions of employment that usually are governed by collective negotiation at the local level. The division has also used Ruling 11 to assert general authority over virtually all labor relations matters in the county welfare agencies and consequently, the division's approval has been required before any collective bargaining agreement can be finalized or any arbitration award implemented. The legality of this broad claim of authority by the division was sustained in court in 1974 in *Communications Workers of America, et al., v. Union County Welfare Board, et al.*, 126 N. J. Super 517 (App. Div. 1974), which held that federal regulations require the division to exercise this broad authority over county welfare agencies.

Subsequent to that decision, however, federal law and regulations were changed significantly with the result that strict centralized (State) control of labor relations is no longer required and greater local control of the terms and conditions of employment may be maintained. All of the federal regulations that were principally relied upon by the court in the Union County Welfare Board case either have been deleted or substantially revised. Under present law, it is clear that the county welfare agencies only shall comply with the requirements of the "Intergovernmental Personnel Act of 1970" Pub. L. 91-648 (42 U. S. C. § 4701 et seq.) and the implementing regulations of the federal Office of Personnel Management (5 CFR § 900.601 et seq.) Unlike the old regulations, the new regulations encourage diversity in local approaches to labor relations.

Under these new regulations the full range of collective bargaining rights that are available to other local government employees may be extended to county welfare agency employees without any violation of federal law. The statutes and regulations governing public employment in New Jersey, particularly the civil service laws, and the "New Jersey Employer-Employee Relations Act," P. L. 1941, c. 100 (C. 34:13A-1 et seq.) meet all of the requirements of the federal law without the interposition of additional personnel regulations established by the Division of Public Welfare.

Nevertheless, the Division of Public Welfare continues to closely regulate all aspects of labor relations in county welfare agencies and enforce the provisions of Ruling 11. Since this extensive regulation is no longer necessary and goes far beyond the basic require-

ments of federal law, the Division of Public Welfare's involvement in county welfare agency labor relations has become an anachronism. Accordingly, this bill obviates the need for the State's regulation of labor relations through Ruling 11 and clarifies that the full authority for establishing wages and terms and conditions of employment through collective negotiation rests with the county welfare agency.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 887

STATE OF NEW JERSEY

DATED: FEBRUARY 6, 1984

Assembly Bill No. 887 provides that county welfare agencies shall have complete authority over wages and other terms and conditions of employment agreed upon in collective negotiation between the welfare agency and an authorized employee organization. The agreement reached between the two parties shall not be subject to approval by the Commissioner of Human Services unless the agreement does not comply with federal law. However, the bill would not place county welfare boards and their employees outside of existing wage law which affects public employees generally, or of Civil Service law and regulations.

In the past, federal regulations required the State through the Division of Public Welfare to keep close control over the terms and conditions of employment in the county welfare agencies. As a result, the State division promulgated regulations, commonly known as Ruling 11 (N. J. A. C. 10:109-1.1 et seq.), which set maximum salaries, vacation schedules, holidays and many other terms and conditions of employment that usually are governed by collective negotiation at the local level. The division has also used Ruling 11 to assert general authority over virtually all labor relations matters in the county welfare agencies and, consequently, the division's approval has been required before any collective bargaining agreement can be finalized or any arbitration award implemented. The legality of this broad claim of authority by the division was sustained in court in 1974 in *Communications Workers of America, et al. v. Union County Welfare Board, et. al.*, 126 N. J. Super 517 (App. Div. 1974), which held that federal regulations require the division to exercise this broad authority over county welfare agencies.

Subsequent to that decision, however, federal law and regulations were changed significantly with the result that strict centralized (State) control of labor relations is no longer required and greater local control of the terms and conditions of employment may be maintained. All of the federal regulations that were principally relied upon by the court in the Union County Welfare Board case either have been deleted or substantially revised. Under present law, it is clear that the county

welfare agencies must comply only with the requirements of the "Intergovernmental Personnel Act of 1970," Pub. L. 91-648 (42 U. S. C. § 4701 et seq.), and the implementing regulations of the federal Office of Personnel Management (5 CFR § 900.601 et seq.). Unlike the old regulations, the new regulations encourage diversity in local approaches to labor relations.

Under these new regulations, the full range of collective bargaining rights that are available to other local government employees may be extended to county welfare agency employees without any violation of federal law. The statutes and regulations governing public employment in New Jersey, particularly the civil service laws and the "New Jersey Employer-Employee Relations Act," P. L. 1941, c. 100 (C. 34:13A-1 et seq.), meet all of the requirements of the federal law without the interposition of additional personnel regulations established by the Division of Public Welfare.

Nevertheless, the Division of Public Welfare continues to closely regulate all aspects of labor relations in county welfare agencies and enforce the provisions of Ruling 11. Since this extensive regulation is no longer necessary and goes far beyond the basic requirements of federal law, the Division of Public Welfare's involvement in county welfare agency labor relations has become an anachronism. Accordingly, this bill obviates the need for the State's regulation of labor relations through Ruling 11 and makes it clear that the full authority for establishing wages and terms and conditions of employment through collective negotiation rests with the county welfare agency.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: PAUL WOLCOTT

THURSDAY, MARCH 8, 1984

Governor Thomas H. Kean today signed legislation which gives county welfare agencies complete authority over wages and other terms and conditions of employment agreed on in collective negotiation between the agency and an authorized employee organization.

The bill, A-887, is sponsored by Assemblyman John S. Watson, D-Mercer. It provides that agreements between the county agency and the bargaining unit would not be subject to approval by the Commissioner of the Department of Human Services unless it does not comply with Federal law.

The bill has the effect of removing the supervision and control now exercised by the Department of Public Welfare over employee work agreements.

However, should the Commissioner determine that the agreement does not comply with Federal law and endangers the receipt of Federal funds, he is empowered to so notify the county.

The Governor also signed the following bills:

A-1220, sponsored by Assemblyman John A. Girgenti, D-Passaic, which provides a temporary budget cap exemption for the total amount a municipality must pay into the Police and Firemen's Retirement System. The exemption is only for the year 1984.

- more -