

11:15-5 and 11:22-39

LEGISLATIVE HISTORY CHECKLIST

NJSA: 11:15-5 and 11:22-39 **Civil service removal hearings -- representation by attorney or union rep.)**

LAWS OF: 1983

CHAPTER: 397

Bill No: A1654

Sponsor(s): Kalik and Cowan

Date Introduced: June 17, 1982

Committee: **Assembly:** State Government, Civil Service, Elections, Pensions and Veterans Affairs

Senate: State Government, Federal & Interstate Relations and Veterans Affairs

Amended during passage: Yes **Amendments denoted by asterisks according to Governor's recommendations**

Date of Passage: **Assembly:** November 29, 1982 Re-enacted 4-11-83

Senate: January 24, 1983 Re-enacted ~~12-15-83~~

Date of Approval: December 22, 1983

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes

Senate Yes

Fiscal Note: No

Veto Message: Yes

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

(over)

Sponsors' statement:

This bill would amend R.S. 11:15-5 and R.S. 11:22-39 to permit attorneys or authorized union representatives to represent employees at removal hearings. Currently, only attorneys are permitted to represent the employees at these hearings.

A.1720 and S.2019 not enacted.

Administrative rule, referred to in veto message: 15NJR 1647, NJAC 4:1-5, adopted as R.1983, d.431.

Hearing on proposed S.2019:

974.90 New Jersey. Legislature. Senate. State Government, Federal and Interstate
C582 Relations and Veterans Affairs.
1983 Public hearing, held 1-28-83. Trenton, 1983.

12-22-83

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1654

STATE OF NEW JERSEY

INTRODUCED JUNE 17, 1982

By Assemblywoman KALIK and Assemblyman COWAN

AN ACT concerning representation at certain civil service hearings
and amending R. S. 11:15-5 and R. S. 11:22-39.

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

1 1. R. S. 11:15-5 is amended to read as follows:

2 11:15-5. The investigation, inquiry or hearing authorized by
3 **[section]** *R. S. 11:15-4* **[of this title]** shall be for the purpose of
4 fairly determining whether the employee involved, by reason of
5 his act as charged and his record of service, merits continuance
6 therein or should be removed therefrom or otherwise disciplined
7 for the good of the service. The commission shall, in such investi-
8 gation, inquiry or hearing, seek diligently all the information and
9 evidence bearing on the merits of the case. Such investigation,
10 inquiry or hearing shall be open to the public and the employee
11 sought to be removed shall have opportunity to be heard personally
12 or through **[counsel]** *an attorney-at-law or authorized representa-*
13 *tive of the labor organization of which the employee is a member*
14 *in his own defense.*

1 2. R. S. 11:22-39 is amended to read as follows:

2 11:22-39. If the application mentioned in **[section]** *R. S. 11:22-38*
3 **[of this title]** is made within the time prescribed, the commission
4 shall fix a time and place for a hearing of the case, of which time
5 and place written notice shall be served upon the appointing au-
6 thority and the officer, clerk or employee, at least 5 days prior to
7 the hearing. The respective parties may, at the hearing, be repre-
8 sented by **[counsel]** *an attorney-at-law or authorized representa-*

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly amendment adopted in accordance with Governor's recom-
mendations March 14, 1983.

9 *tive of the labor organization of which the employees is a member.*
10 The commission shall hear witnesses and receive all competent
11 evidence produced and may compel by subpoena the attendance of
12 witnesses and the production of evidence. The commission shall
13 determine the case upon the evidence presented. If the commission
14 shall, on such hearing, disapprove of the order of removal, dis-
15 charge, fine or reduction, such order so disapproved shall be of
16 no effect.

1 3. This act shall take effect ***[immediately]*** *upon the passage*
2 *of and enactment of P. L. _____, c. _____ (C. _____) (now pend-*
3 *ing before the Legislature as Senate Bill No. 2019 of 1982 and*
4 *Assembly Bill No. 1720 of 1982)*.*

ASSEMBLY STATE GOVERNMENT, CIVIL SERVICE,
ELECTIONS, PENSIONS AND VETERANS AFFAIRS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1654

STATE OF NEW JERSEY

DATED: NOVEMBER 15, 1982

This bill would permit attorneys or authorized union representatives to represent State and local government employees at removal hearings. Currently, only attorneys are permitted to represent the employees at these hearings.

SENATE STATE GOVERNMENT, FEDERAL AND
INTERSTATE RELATIONS AND VETERANS AFFAIRS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1654

STATE OF NEW JERSEY

DATED: JANUARY 11, 1983

This bill concerns employee representation at civil service removal or disciplinary hearings. It allows authorized union representatives, as well as attorneys, to represent employees at such hearings.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

March 14, 1983

ASSEMBLY BILL NO. 1654

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 1654 with my recommendations for reconsideration.

This bill amends various provisions of the Civil Service Act to permit attorneys or authorized union representatives to represent employees at Civil Service hearings. Currently by statute only attorneys are permitted to represent employees at these hearings. I agree with the purpose of this bill and, in fact, in the Civil Service bills that I have submitted to the legislature for review, Assembly Bill No. 1720 and Senate Bill No. 2019, there is an identical provision for allowing authorized union representatives at Civil Service hearings.

Authorized union representation, however, is only one aspect of the reform needed in the Civil Service hearing process. Assembly Bill No. 1720 and Senate Bill No. 2019 provide for a more complete and integrally related revision to the hearing process. For example, in those bills, before a suspension can occur there must be a departmental hearing which provides additional protection to public employees which is currently not provided. Currently, a public employee is suspended and at a point later in time a departmental hearing is held. In Senate Bill No. 2019 and Assembly Bill No. 1720 there is clarification of the Commission's power for a de novo review. There is also an added provision for employee protection against reprisals not in the current statute.

I am aware that there is presently being considered an administrative rule dealing with the subject matter in this bill. In the interim, prior to the aforementioned overall statutory revision, this rule should provide adequate and necessary relief to public employees.

I cannot allow a continued piece-meal approach to Civil Service revision, yet I do not want to deny the sponsor credit for this legislation, therefore, I recommend that this bill be effective upon passage and enactment of either Senate Bill No. 2019 or Assembly Bill No. 1720.

Accordingly, I herewith return Assembly Bill No. 1654 and recommend that it be amended as follows:

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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Page 2, Section 3, Line 1: Delete "immediately" insert "upon the passage of and enactment of P.L., c. (C.) (now pending before the Legislature as Senate Bill No. 2019 of 1982 and Assembly Bill No. 1720 of 1982)"

Respectfully,

/s/ Thomas H. Kean
GOVERNOR

[seal]

/s/ W. Cary Edwards

Chief Counsel