

34:13A-5.5

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2002 **CHAPTER:** 46
NJSA: 34:13A-5.5 (Requires public employers to deduct representation fee)
BILL NO: A2372 (Substituted for S1564)

SPONSOR(S): Sires and Malone

DATE INTRODUCED: May 20, 2002

COMMITTEE: **ASSEMBLY:** Labor

SENATE: ----

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 20, 2002

SENATE: June 20, 2002

DATE OF APPROVAL: August 1, 2002

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (1st reprint enacted)
(Amendments during passage denoted by superscript numbers)

A2372

[SPONSORS STATEMENT](#): (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

S1564

[SPONSORS STATEMENT](#): (Begins on page 4 of original bill) [Yes](#)

Bill and Sponsors Statement identical to A2372

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

P.L. 2002, CHAPTER 46, *approved August 1, 2002*
Assembly, No. 2372 (*First Reprint*)

1 AN ACT requiring public employers to deduct a representation fee in
2 lieu of dues in certain circumstances and amending P.L.1979, c.477.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 2 of P.L.1979, c.477 (C.34:13A-5.5) is amended to read
8 as follows:

9 2. a. Notwithstanding any other provisions of law to the contrary,
10 the majority representative and the public employer of public
11 employees in an appropriate unit shall, where requested by the
12 majority representative, negotiate concerning the subject of requiring
13 the payment by all nonmember employees in the unit to the majority
14 representative of a representation fee in lieu of dues for services
15 rendered by the majority representative. Where agreement is reached
16 it shall be embodied in writing and signed by the authorized
17 representatives of the public employer and the majority representative.
18 If no agreement is reached, the majority representative may petition
19 the commission to conduct an investigation. If the commission
20 determines during the investigation that a majority of the employees
21 in the ¹[bargaining] negotiations¹ unit ¹[designated] are voluntary
22 dues paying members of¹ the majority representative and that the
23 majority representative maintains a demand and return system as
24 required by subsection c. of this section and section 3 of P.L.1979,
25 c.477 (C.34:13A-5.6), the commission shall order the public employer
26 to institute a payroll deduction of the representation fee in lieu of dues
27 from the wages or salaries of the employees in the ¹[bargaining]
28 negotiations¹ unit who are not members of the majority representative.

29 b. The representation fee in lieu of dues shall be in an amount
30 equivalent to the regular membership dues, initiation fees and
31 assessments charged by the majority representative to its own
32 members less the cost of benefits financed through the dues, fees and
33 assessments and available to or benefitting only its members, but in no
34 event shall such fee exceed 85% of the regular membership dues, fees
35 and assessments.

36 c. Any public employee who pays a representation fee in lieu of
37 dues shall have the right to demand and receive from the majority
38 representative, under proceedings established and maintained in
39 accordance with section 3 of [this act] P.L.1979, c.477 (C.34:13A-
40 5.6), a return of any part of that fee paid by him which represents the
41 employee's additional pro rata share of expenditures by the majority

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:

¹ Assembly ALA committee amendments adopted June 17, 2002.

1 representative that is either in aid of activities or causes of a partisan
2 political or ideological nature only incidentally related to the terms and
3 conditions of employment or applied toward the cost of any other
4 benefits available only to members of the majority representative. The
5 pro rata share subject to refund shall not reflect, however, the costs of
6 support of lobbying activities designed to foster policy goals in
7 collective negotiations and contract administration or to secure for the
8 employees represented advantages in wages, hours, and other
9 conditions of employment in addition to those secured through
10 collective negotiations with the public employer.

11 (cf: P.L.1979, c.477, s.2)

12

13 2. Section 3 of P.L.1979, c.477 (C.34:13A-5.6) is amended to read
14 as follows:

15 3. Where a negotiated agreement is reached, pursuant to section 2
16 of [this act] P.L.1979, c.477 (C.34:13A-5.5), or where the public
17 employer has been ordered by the commission to institute a payroll
18 deduction of the representation fee in lieu of dues, a majority
19 representative of public employees in an appropriate unit shall be
20 entitled to a representation fee in lieu of dues by payroll deduction
21 from the wages or salaries of the employees in such unit who are not
22 members of a majority representative; provided, however, that
23 membership in the majority representative is available to all employees
24 in the unit on an equal basis and that the representation fee in lieu of
25 dues shall be available only to a majority representative that has
26 established and maintained a demand and return system which
27 provides pro rata returns as described in [section 2(c)] subsection c.
28 of section 2 of P.L.1979, c.477 (C.34:13A-5.5). The demand and
29 return system shall include a provision by which persons who pay a
30 representation fee in lieu of dues may obtain review of the amount
31 returned through full and fair proceedings placing the burden of proof
32 on the majority representative. Such proceedings shall provide for an
33 appeal to a board consisting of three members to be appointed by the
34 Governor, by and with the advice and consent of the Senate, who shall
35 serve without compensation but shall be reimbursed for actual
36 expenses reasonably incurred in the performance of their official
37 duties. Of such members, one shall be representative of public
38 employers, one shall be representative of public employee
39 organizations and one, as chairman, who shall represent the interest of
40 the public as a strictly impartial member not having had more than a
41 casual association or relationship with any public employers, public
42 employer organizations or public employee organizations in the
43 10 years prior to appointment. Of the first appointees, one shall be
44 appointed for 1 year, one for a term of 2 years and the chairman, for
45 a term of 3 years. Their successors shall be appointed for terms of
46 2 years each and until their successors are appointed and qualified,
47 except that any person chosen to fill a vacancy shall be appointed only

1 for the unexpired term of the member whose office has become vacant.
2 Nothing herein shall be deemed to require any employee to become a
3 member of the majority representative.
4 (cf: P.L.1979, c.477, s.3)

5

6 3. This act shall take effect immediately.

7

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9

10

11 Requires public employers to deduct a representation fee in lieu of
12 dues in certain circumstances.

ASSEMBLY, No. 2372

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED MAY 20, 2002

Sponsored by:

Assemblyman ALBIO SIRES

District 33 (Hudson)

Assemblyman JOSEPH R. MALONE, III

District 30 (Burlington, Mercer, Monmouth and Ocean)

Co-Sponsored by:

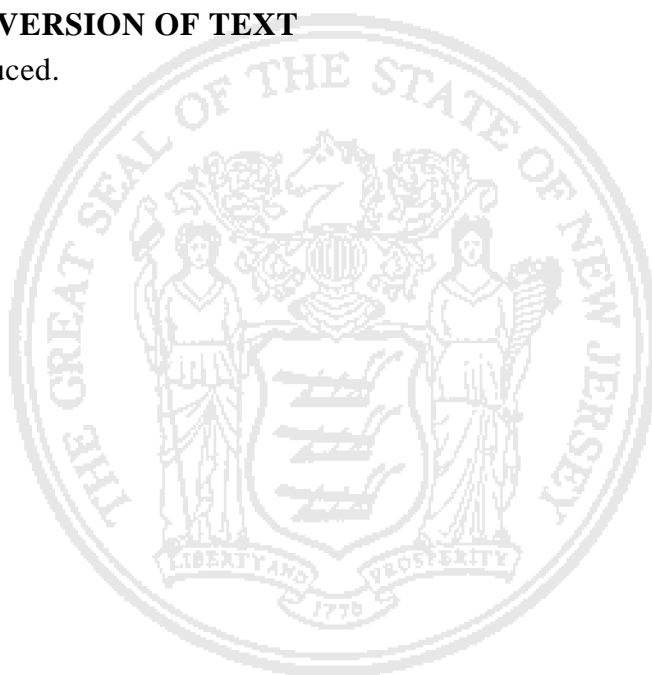
Assemblyman Asselta

SYNOPSIS

Requires public employers to deduct a representation fee in lieu of dues in certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/14/2002)

1 AN ACT requiring public employers to deduct a representation fee in
2 lieu of dues in certain circumstances and amending P.L.1979, c.477.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1979, c.477 (C.34:13A-5.5) is amended to read
8 as follows:

9 2. a. Notwithstanding any other provisions of law to the contrary,
10 the majority representative and the public employer of public
11 employees in an appropriate unit shall, where requested by the
12 majority representative, negotiate concerning the subject of requiring
13 the payment by all nonmember employees in the unit to the majority
14 representative of a representation fee in lieu of dues for services
15 rendered by the majority representative. Where agreement is reached
16 it shall be embodied in writing and signed by the authorized
17 representatives of the public employer and the majority representative.
18 If no agreement is reached, the majority representative may petition
19 the commission to conduct an investigation. If the commission
20 determines during the investigation that a majority of the employees
21 in the bargaining unit designated the majority representative and that
22 the majority representative maintains a demand and return system as
23 required by subsection c. of this section and section 3 of P.L.1979,
24 c.477 (C.34:13A-5.6), the commission shall order the public employer
25 to institute a payroll deduction of the representation fee in lieu of dues
26 from the wages or salaries of the employees in the bargaining unit who
27 are not members of the majority representative.

28 b. The representation fee in lieu of dues shall be in an amount
29 equivalent to the regular membership dues, initiation fees and
30 assessments charged by the majority representative to its own
31 members less the cost of benefits financed through the dues, fees and
32 assessments and available to or benefitting only its members, but in no
33 event shall such fee exceed 85% of the regular membership dues, fees
34 and assessments.

35 c. Any public employee who pays a representation fee in lieu of
36 dues shall have the right to demand and receive from the majority
37 representative, under proceedings established and maintained in
38 accordance with section 3 of **[this act]** P.L.1979, c.477 (C.34:13A-
39 5.6), a return of any part of that fee paid by him which represents the
40 employee's additional pro rata share of expenditures by the majority
41 representative that is either in aid of activities or causes of a partisan
42 political or ideological nature only incidentally related to the terms and
43 conditions of employment or applied toward the cost of any other
44 benefits available only to members of the majority representative. 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 pro rata share subject to refund shall not reflect, however, the costs of
2 support of lobbying activities designed to foster policy goals in
3 collective negotiations and contract administration or to secure for the
4 employees represented advantages in wages, hours, and other
5 conditions of employment in addition to those secured through
6 collective negotiations with the public employer.

7 (cf: P.L.1979, c.477, s.2)

8

9 2. Section 3 of P.L.1979, c.477 (C.34:13A-5.6) is amended to read
10 as follows:

11 3. Where a negotiated agreement is reached, pursuant to section 2
12 of [this act] P.L.1979, c.477 (C.34:13A-5.5), or where the public
13 employer has been ordered by the commission to institute a payroll
14 deduction of the representation fee in lieu of dues, a majority
15 representative of public employees in an appropriate unit shall be
16 entitled to a representation fee in lieu of dues by payroll deduction
17 from the wages or salaries of the employees in such unit who are not
18 members of a majority representative; provided, however, that
19 membership in the majority representative is available to all employees
20 in the unit on an equal basis and that the representation fee in lieu of
21 dues shall be available only to a majority representative that has
22 established and maintained a demand and return system which
23 provides pro rata returns as described in [section 2(c)] subsection c.
24 of section 2 of P.L.1979, c.477 (C.34:13A-5.5). The demand and
25 return system shall include a provision by which persons who pay a
26 representation fee in lieu of dues may obtain review of the amount
27 returned through full and fair proceedings placing the burden of proof
28 on the majority representative. Such proceedings shall provide for an
29 appeal to a board consisting of three members to be appointed by the
30 Governor, by and with the advice and consent of the Senate, who shall
31 serve without compensation but shall be reimbursed for actual
32 expenses reasonably incurred in the performance of their official
33 duties. Of such members, one shall be representative of public
34 employers, one shall be representative of public employee
35 organizations and one, as chairman, who shall represent the interest of
36 the public as a strictly impartial member not having had more than a
37 casual association or relationship with any public employers, public
38 employer organizations or public employee organizations in the
39 10 years prior to appointment. Of the first appointees, one shall be
40 appointed for 1 year, one for a term of 2 years and the chairman, for
41 a term of 3 years. Their successors shall be appointed for terms of
42 2 years each and until their successors are appointed and qualified,
43 except that any person chosen to fill a vacancy shall be appointed only
44 for the unexpired term of the member whose office has become vacant.
45 Nothing herein shall be deemed to require any employee to become a
46 member of the majority representative.

47 (cf: P.L.1979, c.477, s.3)

1 3. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill permits a majority representative for a public employee
7 bargaining unit to petition the New Jersey Public Employment
8 Relations Commission ("commission") to conduct an investigation
9 when no agreement can be reached between the majority
10 representative and the public employer regarding the payment by all
11 nonmember employees in the bargaining unit of a representation fee in
12 lieu of dues for services rendered by the majority representative. If
13 petitioned, the bill requires the commission to determine whether a
14 majority of the employees in the bargaining unit designated the
15 majority representative and whether the majority representative
16 maintains a demand and return system. If the commission determines
17 that the conditions have been met, the bill requires the commission to
18 order the public employer to institute a payroll deduction of the
19 representation fee in lieu of dues from the wages or salaries of the
20 nonmember employees in the bargaining unit.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2372

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 2002

The Assembly Labor Committee reports favorably, and with committee amendments, Assembly Bill No. 2372.

As amended by the committee, this bill permits a majority representative for a public employee negotiations unit to petition the New Jersey Public Employment Relations Commission to conduct an investigation when no agreement can be reached between the majority representative and the public employer regarding the payment by all nonmember employees in the negotiations unit of a representation fee in lieu of dues for services rendered by the majority representative. If petitioned, the bill requires the commission to determine whether a majority of the employees in the negotiations unit designated the majority representative and whether the majority representative maintains a demand and return system. If the commission determines that those conditions have been met, the bill requires the commission to order the public employer to institute a payroll deduction of the representation fee in lieu of dues from the wages or salaries of the nonmember employees in the negotiations unit.

COMMITTEE AMENDMENTS:

The committee amendments replace the term "bargaining unit" with "negotiations unit" and clarify that the majority representative shall represent a majority of the employees in the negotiations unit who are voluntary dues paying members.

SENATE, No. 1564

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED MAY 30, 2002

Sponsored by:

Senator JOHN O. BENNETT

District 12 (Mercer and Monmouth)

Senator RICHARD J. CODEY

District 27 (Essex)

SYNOPSIS

Requires public employers to deduct a representation fee in lieu of dues in certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



S1564 BENNETT, CODEY

2

1 AN ACT requiring public employers to deduct a representation fee in
2 lieu of dues in certain circumstances and amending P.L.1979, c.477.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 2 of P.L.1979, c.477 (C.34:13A-5.5) is amended to read
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13 the payment by all nonmember employees in the unit to the majority
14 representative of a representation fee in lieu of dues for services
15 rendered by the majority representative. Where agreement is reached
16 it shall be embodied in writing and signed by the authorized
17 representatives of the public employer and the majority representative.
18 If no agreement is reached, the majority representative may petition
19 the commission to conduct an investigation. If the commission
20 determines during the investigation that a majority of the employees
21 in the bargaining unit designated the majority representative and that
22 the majority representative maintains a demand and return system as
23 required by subsection c. of this section and section 3 of P.L.1979,
24 c.477 (C.34:13A-5.6), the commission shall order the public employer
25 to institute a payroll deduction of the representation fee in lieu of dues
26 from the wages or salaries of the employees in the bargaining unit who
27 are not members of the majority representative.

28 b. The representation fee in lieu of dues shall be in an amount
29 equivalent to the regular membership dues, initiation fees and
30 assessments charged by the majority representative to its own
31 members less the cost of benefits financed through the dues, fees and
32 assessments and available to or benefitting only its members, but in no
33 event shall such fee exceed 85% of the regular membership dues, fees
34 and assessments.

35 c. Any public employee who pays a representation fee in lieu of
36 dues shall have the right to demand and receive from the majority
37 representative, under proceedings established and maintained in
38 accordance with section 3 of **[this act]** P.L.1979, c.477 (C.34:13A-
39 5.6), a return of any part of that fee paid by him which represents the
40 employee's additional pro rata share of expenditures by the majority
41 representative that is either in aid of activities or causes of a partisan
42 political or ideological nature only incidentally related to the terms and
43 conditions of employment or applied toward the cost of any other

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 benefits available only to members of the majority representative. The
2 pro rata share subject to refund shall not reflect, however, the costs of
3 support of lobbying activities designed to foster policy goals in
4 collective negotiations and contract administration or to secure for the
5 employees represented advantages in wages, hours, and other
6 conditions of employment in addition to those secured through
7 collective negotiations with the public employer.

8 (cf: P.L.1979, c.477, s. 2)

9
10 2. Section 3 of P.L.1979, c.477 (C.34:13A-5.6) is amended to read
11 as follows:

12 3. Where a negotiated agreement is reached, pursuant to section 2
13 of [this act] P.L.1979, c.477 (C.34:13A-5.5) or where the public
14 employer has been ordered by the commission to institute a payroll
15 deduction of the representation fee in lieu of dues, a majority
16 representative of public employees in an appropriate unit shall be
17 entitled to a representation fee in lieu of dues by payroll deduction
18 from the wages or salaries of the employees in such unit who are not
19 members of a majority representative; provided, however, that
20 membership in the majority representative is available to all employees
21 in the unit on an equal basis and that the representation fee in lieu of
22 dues shall be available only to a majority representative that has
23 established and maintained a demand and return system which
24 provides pro rata returns as described in [section 2(c)] subsection c.
25 of section 2 of P.L.1979, c.477 (C.34:13A-5.5). The demand and
26 return system shall include a provision by which persons who pay a
27 representation fee in lieu of dues may obtain review of the amount
28 returned through full and fair proceedings placing the burden of proof
29 on the majority representative. Such proceedings shall provide for an
30 appeal to a board consisting of three members to be appointed by the
31 Governor, by and with the advice and consent of the Senate, who
32 shall serve without compensation but shall be reimbursed for actual
33 expenses reasonably incurred in the performance of their official
34 duties. Of such members, one shall be representative of public
35 employers, one shall be representative of public employee
36 organizations and one, as chairman, who shall represent the interest
37 of the public as a strictly impartial member not having had more than
38 a casual association or relationship with any public employers, public
39 employer organizations or public employee organizations in the 10
40 years prior to appointment. Of the first appointees, one shall be
41 appointed for 1 year, one for a term of 2 years and the chairman, for
42 a term of 3 years. Their successors shall be appointed for terms of 2
43 years each and until their successors are appointed and qualified,
44 except that any person chosen to fill a vacancy shall be appointed only
45 for the unexpired term of the member whose office has become
46 vacant. Nothing herein shall be deemed to require any employee to

1 become a member of the majority representative.
2 (cf: P.L.1979, c. 477, s. 3)

3

4 3. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill permits a majority representative for a public employee
10 bargaining unit to petition the New Jersey Public Employment
11 Relations Commission ("commission") to conduct an investigation
12 when no agreement can be reached between the majority
13 representative and the public employer regarding the payment by all
14 nonmember employees in the bargaining unit of a representation fee in
15 lieu of dues for services rendered by the majority representative. If
16 petitioned, the bill requires the commission to determine whether a
17 majority of the employees in the bargaining unit designated the
18 majority representative and whether the majority representative
19 maintains a demand and return system. If the commission determines
20 that the conditions have been met, the bill requires the commission to
21 order the public employer to institute a payroll deduction of the
22 representation fee in lieu of dues from the wages or salaries of the
23 nonmember employees in the bargaining unit.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 1564

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 30, 2002

The Senate Labor Committee reports favorably, and with committee amendments, Senate Bill No. 1564.

As introduced, this bill permits a majority representative for a public employee bargaining unit to petition the New Jersey Public Employment Relations Commission ("commission") to conduct an investigation when no agreement can be reached between the majority representative and the public employer regarding the payment by all nonmember employees in the bargaining unit of a representation fee in lieu of dues for services rendered by the majority representative. If the commission determines that certain conditions have been met, the commission orders the public employer to institute a payroll deduction of the representation fee in lieu of dues from the wages or salaries of the nonmember employees in the bargaining unit.

The amendments substitute the term "bargaining unit" for "negotiations unit" in the bill as introduced and clarify that the majority representative shall represent a majority of the employees in the negotiations unit who are voluntary dues paying members.