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IS 8/23/07

P.L. 2005, CHAPTER 161, *approved July 19, 2005*  
Assembly, No. 1820 (*Second Reprint*)

1 **AN ACT** concerning recognition of representatives for certain  
2 employees and amending P.L.1968, c.303.

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

6  
7 1. Section 5 of P.L.1968, c.303 (C.34:13A-5.1) is amended to read  
8 as follows:

9 5. There is hereby established a Division of Public Employment  
10 Relations and a Division of Private Employment Dispute Settlement.

11 (a) The Division of Public Employment Relations shall be  
12 concerned exclusively with matters of public employment related to  
13 determining negotiating units, elections, certifications and settlement  
14 of public employee representative and public employer disputes and  
15 grievance procedures. For the purpose of complying with the  
16 provisions of Article V, Section IV, paragraph 1 of the New Jersey  
17 Constitution, the Division of Public Employment Relations is hereby  
18 allocated within the Department of Labor [and Industry] <sup>1</sup>and  
19 Workforce Development<sup>1</sup>, and located in the city of Trenton, but  
20 notwithstanding said allocation, the office shall be independent of any  
21 supervision or control by the department or by any board or officer  
22 thereof.

23 (b) The Division of Private Employment Dispute Settlement shall  
24 assist the New Jersey State Board of Mediation in the resolution of  
25 disputes in private employment. The New Jersey State Board of  
26 Mediation, its objectives and the powers and duties granted by this act  
27 and the act of which this act is amendatory and supplementary shall be  
28 concerned exclusively with matters of private employment and the  
29 office shall continue to be located in the city of Newark.

30 (c) In the case of a private employer not regulated by the National  
31 Labor Relations Board pursuant to the National Labor Relations Act  
32 (29 U.S.C. 151 et seq.), the New Jersey State Board of Mediation  
33 shall designate a representative for a unit of employees of the private  
34 employer for the purposes of collective bargaining when:

35 (1) In any case in which the board determines that only one  
36 employee organization is seeking to be the majority representative,  
37 that organization demonstrates that a majority of employees in the unit  
38 have shown their preference to have that organization be their  
39 representative by signing <sup>1</sup>authorization<sup>1</sup> cards indicating that

**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:**

<sup>1</sup> Assembly ALA committee amendments adopted June 13, 2005.

<sup>2</sup> Senate floor amendments adopted June 23, 2005.

1 preference; or

2 (2) The employees in the unit have selected a representative by an  
3 election that conforms with the procedures outlined in section 159 of  
4 the National Labor Relations Act (29 U.S.C. s.159).

5 <sup>1</sup>For the purposes of paragraph (1) of this subsection, an  
6 authorization card indicating preference shall not be valid unless it is  
7 printed in a language understood by the employee who signs it.<sup>1</sup>

8 Any employer who refuses to provide information requested by the  
9 New Jersey State Board of Mediation or otherwise acts to prevent the  
10 board from carrying out its responsibilities pursuant to this subsection  
11 (c) shall have violated this <sup>1</sup>[act] subsection<sup>1</sup> and shall be liable to a  
12 fine of not more than \$1,000, to be recovered <sup>1</sup>[in an action at law]  
13 under the "Penalty Enforcement Law of 1999," P.L.1999, c.274  
14 (C.2A:58-10 et seq.)<sup>1</sup> in the name of the board and to be used by the  
15 board for costs of implementing this <sup>1</sup>[act] subsection<sup>1</sup>. In addition,  
16 <sup>1</sup>[a labor] an employee<sup>1</sup> organization seeking to represent the  
17 employees of the employer may institute an action in a court of  
18 competent jurisdiction to obtain an injunction to restrain any  
19 continuation of the violation, to reimburse the <sup>1</sup>[representative]  
20 employee organization<sup>1</sup> or any effected employee for any damages  
21 caused by the violation plus reasonable costs and attorney's fees of the  
22 action.

23 <sup>1</sup>The provisions of this subsection (c) shall not apply to religious or  
24 parochial schools or their employees <sup>2</sup> or to any private nonprofit  
25 organization exempt from federal taxation under section 501 of the  
26 Internal Revenue Code of 1986 (26 U.S.C. 501)<sup>2</sup>.<sup>1</sup>

27 (d) In the case of a private employer regulated by the National  
28 Labor Relations Board pursuant to the National Labor Relations Act  
29 (29 U.S.C. 151 et seq.), the New Jersey State Board of Mediation  
30 shall, based on the mutual agreement of the private employer and an  
31 organization seeking to represent employees of the employer,  
32 designate a representative for a unit of employees of the private  
33 employer for the purposes of collective bargaining when:

34 (1) In any case in which the board determines that only one  
35 employee organization is seeking to be the majority representative,  
36 that organization demonstrates, in a manner mutually agreed upon by  
37 the representative and the employer, that a majority of employees in  
38 the unit have shown their preference to have that organization be their  
39 representative by signing <sup>1</sup>authorization<sup>1</sup> cards indicating that  
40 preference; or

41 (2) the employees in the unit have selected the representative by an  
42 election that conforms with the procedures outlined in section 159 of  
43 the National Labor Relations Act (29 U.S.C. s.159).

44 (e) For the purposes of subsections (c) and (d) of this section,  
45 "employee unit" means an appropriate group of employees for the  
46 purposes of collective bargaining as determined, if necessary, by the

1 New Jersey State Board of Mediation.

2 (cf: P.L.1973, c.326, s.2)

3

4 2. Section 7 of P.L.1968, c.303 (C.34:13A-5.3) is amended to read  
5 as follows:

6 7. Except as hereinafter provided, public employees shall have, and  
7 shall be protected in the exercise of, the right, freely and without fear  
8 of penalty or reprisal, to form, join and assist any employee  
9 organization or to refrain from any such activity; provided, however,  
10 that this right shall not extend to elected officials, members of boards  
11 and commissions, managerial executives, or confidential employees,  
12 except in a school district the term managerial executive shall mean the  
13 superintendent of schools or his equivalent, nor, except where  
14 established practice, prior agreement or special circumstances dictate  
15 the contrary, shall any supervisor having the power to hire, discharge,  
16 discipline, or to effectively recommend the same, have the right to be  
17 represented in collective negotiations by an employee organization that  
18 admits nonsupervisory personnel to membership, and the fact that any  
19 organization has such supervisory employees as members shall not  
20 deny the right of that organization to represent the appropriate unit in  
21 collective negotiations; and provided further, that, except where  
22 established practice, prior agreement, or special circumstances dictate  
23 the contrary, no policeman shall have the right to join an employee  
24 organization that admits employees other than policemen to  
25 membership. The negotiating unit shall be defined with due regard for  
26 the community of interest among the employees concerned, but the  
27 commission shall not intervene in matters of recognition and unit  
28 definition except in the event of a dispute.

29 Representatives designated or selected by public employees for the  
30 purposes of collective negotiation by the majority of the employees in  
31 a unit appropriate for such purposes, **[or]** by the majority of the  
32 employees voting in an election conducted by the commission as  
33 authorized by this act or, at the option of the representative in a case  
34 in which the commission finds that only one representative is seeking  
35 to be the majority representative, by a majority of the employees in the  
36 unit signing authorization cards indicating their preference for that  
37 representative, shall be the exclusive representatives for collective  
38 negotiation concerning the terms and conditions of employment of the  
39 employees in such unit. <sup>1</sup>An authorization card indicating preference  
40 shall not be valid unless it is printed in a language understood by the  
41 employee who signs it.<sup>1</sup>

42 Nothing herein shall be construed to prevent any official from  
43 meeting with an employee organization for the purpose of hearing the  
44 views and requests of its members in such unit so long as (a) the  
45 majority representative is informed of the meeting; (b) any changes or  
46 modifications in terms and conditions of employment are made only

1 through negotiation with the majority representative; and (c) a  
2 minority organization shall not present or process grievances. Nothing  
3 herein shall be construed to deny to any individual employee his rights  
4 under Civil Service laws or regulations. When no majority  
5 representative has been selected as the bargaining agent for the unit of  
6 which an individual employee is a part, he may present his own  
7 grievance either personally or through an appropriate representative  
8 or an organization of which he is a member and have such grievance  
9 adjusted.

10 A majority representative of public employees in an appropriate unit  
11 shall be entitled to act for and to negotiate agreements covering all  
12 employees in the unit and shall be responsible for representing the  
13 interest of all such employees without discrimination and without  
14 regard to employee organization membership. Proposed new rules or  
15 modifications of existing rules governing working conditions shall be  
16 negotiated with the majority representative before they are established.  
17 In addition, the majority representative and designated representatives  
18 of the public employer shall meet at reasonable times and negotiate in  
19 good faith with respect to grievances, disciplinary disputes, and other  
20 terms and conditions of employment. Nothing herein shall be  
21 construed as permitting negotiation of the standards or criteria for  
22 employee performance.

23 When an agreement is reached on the terms and conditions of  
24 employment, it shall be embodied in writing and signed by the  
25 authorized representatives of the public employer and the majority  
26 representative.

27 Public employers shall negotiate written policies setting forth  
28 grievance and disciplinary review procedures by means of which their  
29 employees or representatives of employees may appeal the  
30 interpretation, application or violation of policies, agreements, and  
31 administrative decisions, including disciplinary determinations,  
32 affecting them, provided that such grievance and disciplinary review  
33 procedures shall be included in any agreement entered into between  
34 the public employer and the representative organization. Such  
35 grievance and disciplinary review procedures may provide for binding  
36 arbitration as a means for resolving disputes. Except as otherwise  
37 provided herein, the procedures agreed to by the parties may not  
38 replace or be inconsistent with any alternate statutory appeal  
39 procedure nor may they provide for binding arbitration of disputes  
40 involving the discipline of employees with statutory protection under  
41 tenure or civil service laws, except that such procedures may provide  
42 for binding arbitration of disputes involving the minor discipline of any  
43 public employees protected under the provisions of section 7 of  
44 P.L.1968, c.303 (C.34:13A-5.3), other than public employees subject  
45 to discipline pursuant to R.S.53:1-10. Grievance and disciplinary  
46 review procedures established by agreement between the public  
47 employer and the representative organization shall be utilized for any

1 dispute covered by the terms of such agreement. For the purposes of  
2 this section, minor discipline shall mean a suspension or fine of less  
3 than five days unless the employee has been suspended or fined an  
4 aggregate of 15 or more days or received more than three suspensions  
5 or fines of five days or less in one calendar year.

6 Where the State of New Jersey and the majority representative have  
7 agreed to a disciplinary review procedure that provides for binding  
8 arbitration of disputes involving the major discipline of any public  
9 employee protected under the provisions of this section, other than  
10 public employees subject to discipline pursuant to R.S.53:1-10, the  
11 grievance and disciplinary review procedures established by agreement  
12 between the State of New Jersey and the majority representative shall  
13 be utilized for any dispute covered by the terms of such agreement.  
14 For the purposes of this section, major discipline shall mean a removal,  
15 disciplinary demotion, suspension or fine of more than five days, or  
16 less where the aggregate number of days suspended or fined in any one  
17 calendar year is 15 or more days or unless the employee received more  
18 than three suspensions or fines of five days or less in one calendar  
19 year.

20 (cf: P.L.2003, c.119, s.2)

21

22 3. This act shall take effect immediately.

23

24

25

26

27 Concerns "card check" method of union recognition.

# ASSEMBLY, No. 1820

## STATE OF NEW JERSEY 211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Assemblyman JOSEPH V. EGAN**

**District 17 (Middlesex and Somerset)**

**Assemblyman JEFF VAN DREW**

**District 1 (Cape May, Atlantic and Cumberland)**

**Co-Sponsored by:**

**Assemblyman Gordon**

**SYNOPSIS**

Concerns "card check" method of union recognition.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/4/2004)**



1 AN ACT concerning recognition of representatives for certain  
2 employees and amending P.L.1968, c.303.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
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7 1. Section 5 of P.L.1968, c.303 (C.34:13A-5.1) is amended to read  
8 as follows:

9 5. There is hereby established a Division of Public Employment  
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11 (a) The Division of Public Employment Relations shall be  
12 concerned exclusively with matters of public employment related to  
13 determining negotiating units, elections, certifications and settlement  
14 of public employee representative and public employer disputes and  
15 grievance procedures. For the purpose of complying with the  
16 provisions of Article V, Section IV, paragraph 1 of the New Jersey  
17 Constitution, the Division of Public Employment Relations is hereby  
18 allocated within the Department of Labor **[and Industry]**, and located  
19 in the city of Trenton, but notwithstanding said allocation, the office  
20 shall be independent of any supervision or control by the department  
21 or by any board or officer thereof.

22 (b) The Division of Private Employment Dispute Settlement shall  
23 assist the New Jersey State Board of Mediation in the resolution of  
24 disputes in private employment. The New Jersey State Board of  
25 Mediation, its objectives and the powers and duties granted by this act  
26 and the act of which this act is amendatory and supplementary shall be  
27 concerned exclusively with matters of private employment and the  
28 office shall continue to be located in the city of Newark.

29 (c) In the case of a private employer not regulated by the National  
30 Labor Relations Board pursuant to the National Labor Relations Act  
31 (29 U.S.C. 151 et seq.), the New Jersey State Board of Mediation  
32 shall designate a representative for a unit of employees of the private  
33 employer for the purposes of collective bargaining when:

34 (1) In any case in which the board determines that only one  
35 employee organization is seeking to be the majority representative,  
36 that organization demonstrates that a majority of employees in the unit  
37 have shown their preference to have that organization be their  
38 representative by signing cards indicating that preference; or

39 (2) The employees in the unit have selected a representative by an  
40 election that conforms with the procedures outlined in section 159 of  
41 the National Labor Relations Act (29 U.S.C. s.159).

42 Any employer who refuses to provide information requested by the  
43 New Jersey State Board of Mediation or otherwise acts to prevent 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 board from carrying out its responsibilities pursuant to this subsection  
2 (c) shall have violated this act and shall be liable to a fine of not more  
3 than \$1,000, to be recovered in an action at law in the name of the  
4 board and to be used by the board for costs of implementing this act.  
5 In addition, a labor organization seeking to represent the employees  
6 of the employer may institute an action in a court of competent  
7 jurisdiction to obtain an injunction to restrain any continuation of the  
8 violation, to reimburse the representative or any effected employee for  
9 any damages caused by the violation plus reasonable costs and  
10 attorney's fees of the action.

11 (d) In the case of a private employer regulated by the National  
12 Labor Relations Board pursuant to the National Labor Relations Act  
13 (29 U.S.C. 151 et seq.), the New Jersey State Board of Mediation  
14 shall, based on the mutual agreement of the private employer and an  
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22 the unit have shown their preference to have that organization be their  
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24 (2) the employees in the unit have selected the representative by an  
25 election that conforms with the procedures outlined in section 159 of  
26 the National Labor Relations Act (29 U.S.C. s.159).

27 (e) For the purposes of subsections (c) and (d) of this section,  
28 "employee unit" means an appropriate group of employees for the  
29 purposes of collective bargaining as determined, if necessary, by the  
30 New Jersey State Board of Mediation.

31 (cf: P.L.1973, c.326, s.2)

32

33 2. Section 7 of P.L.1968, c.303 (C.34:13A-5.3) is amended to read  
34 as follows:

35 7. Except as hereinafter provided, public employees shall have, and  
36 shall be protected in the exercise of, the right, freely and without fear  
37 of penalty or reprisal, to form, join and assist any employee  
38 organization or to refrain from any such activity; provided, however,  
39 that this right shall not extend to elected officials, members of boards  
40 and commissions, managerial executives, or confidential employees,  
41 except in a school district the term managerial executive shall mean the  
42 superintendent of schools or his equivalent, nor, except where  
43 established practice, prior agreement or special circumstances dictate  
44 the contrary, shall any supervisor having the power to hire, discharge,  
45 discipline, or to effectively recommend the same, have the right to be  
46 represented in collective negotiations by an employee organization that

1 admits nonsupervisory personnel to membership, and the fact that any  
2 organization has such supervisory employees as members shall not  
3 deny the right of that organization to represent the appropriate unit in  
4 collective negotiations; and provided further, that, except where  
5 established practice, prior agreement, or special circumstances dictate  
6 the contrary, no policeman shall have the right to join an employee  
7 organization that admits employees other than policemen to  
8 membership. The negotiating unit shall be defined with due regard for  
9 the community of interest among the employees concerned, but the  
10 commission shall not intervene in matters of recognition and unit  
11 definition except in the event of a dispute.

12 Representatives designated or selected by public employees for the  
13 purposes of collective negotiation by the majority of the employees in  
14 a unit appropriate for such purposes, [or] by the majority of the  
15 employees voting in an election conducted by the commission as  
16 authorized by this act or, at the option of the representative in a case  
17 in which the commission finds that only one representative is seeking  
18 to be the majority representative, by a majority of the employees in the  
19 unit signing authorization cards indicating their preference for that  
20 representative, shall be the exclusive representatives for collective  
21 negotiation concerning the terms and conditions of employment of the  
22 employees in such unit. Nothing herein shall be construed to prevent  
23 any official from meeting with an employee organization for the  
24 purpose of hearing the views and requests of its members in such unit  
25 so long as (a) the majority representative is informed of the meeting;  
26 (b) any changes or modifications in terms and conditions of  
27 employment are made only through negotiation with the majority  
28 representative; and (c) a minority organization shall not present or  
29 process grievances. Nothing herein shall be construed to deny to any  
30 individual employee his rights under Civil Service laws or regulations.  
31 When no majority representative has been selected as the bargaining  
32 agent for the unit of which an individual employee is a part, he may  
33 present his own grievance either personally or through an appropriate  
34 representative or an organization of which he is a member and have  
35 such grievance adjusted.

36 A majority representative of public employees in an appropriate unit  
37 shall be entitled to act for and to negotiate agreements covering all  
38 employees in the unit and shall be responsible for representing the  
39 interest of all such employees without discrimination and without  
40 regard to employee organization membership. Proposed new rules or  
41 modifications of existing rules governing working conditions shall be  
42 negotiated with the majority representative before they are established.  
43 In addition, the majority representative and designated representatives  
44 of the public employer shall meet at reasonable times and negotiate in  
45 good faith with respect to grievances, disciplinary disputes, and other  
46 terms and conditions of employment. Nothing herein shall be

1 construed as permitting negotiation of the standards or criteria for  
2 employee performance.

3 When an agreement is reached on the terms and conditions of  
4 employment, it shall be embodied in writing and signed by the  
5 authorized representatives of the public employer and the majority  
6 representative.

7 Public employers shall negotiate written policies setting forth  
8 grievance and disciplinary review procedures by means of which their  
9 employees or representatives of employees may appeal the  
10 interpretation, application or violation of policies, agreements, and  
11 administrative decisions, including disciplinary determinations,  
12 affecting them, provided that such grievance and disciplinary review  
13 procedures shall be included in any agreement entered into between  
14 the public employer and the representative organization. Such  
15 grievance and disciplinary review procedures may provide for binding  
16 arbitration as a means for resolving disputes. Except as otherwise  
17 provided herein, the procedures agreed to by the parties may not  
18 replace or be inconsistent with any alternate statutory appeal  
19 procedure nor may they provide for binding arbitration of disputes  
20 involving the discipline of employees with statutory protection under  
21 tenure or civil service laws, except that such procedures may provide  
22 for binding arbitration of disputes involving the minor discipline of any  
23 public employees protected under the provisions of section 7 of  
24 P.L.1968, c.303 (C.34:13A-5.3), other than public employees subject  
25 to discipline pursuant to R.S.53:1-10. Grievance and disciplinary  
26 review procedures established by agreement between the public  
27 employer and the representative organization shall be utilized for any  
28 dispute covered by the terms of such agreement. For the purposes of  
29 this section, minor discipline shall mean a suspension or fine of less  
30 than five days unless the employee has been suspended or fined an  
31 aggregate of 15 or more days or received more than three suspensions  
32 or fines of five days or less in one calendar year.

33 Where the State of New Jersey and the majority representative have  
34 agreed to a disciplinary review procedure that provides for binding  
35 arbitration of disputes involving the major discipline of any public  
36 employee protected under the provisions of this section, other than  
37 public employees subject to discipline pursuant to R.S.53:1-10, the  
38 grievance and disciplinary review procedures established by agreement  
39 between the State of New Jersey and the majority representative shall  
40 be utilized for any dispute covered by the terms of such agreement.  
41 For the purposes of this section, major discipline shall mean a removal,  
42 disciplinary demotion, suspension or fine of more than five days, or  
43 less where the aggregate number of days suspended or fined in any one  
44 calendar year is 15 or more days or unless the employee received more  
45 than three suspensions or fines of five days or less in one calendar  
46 year.  
47 (cf: P.L.2003, c.119, s.2)

1       3. This act shall take effect immediately.

2

3

4

STATEMENT

5

6       This bill authorizes the New Jersey State Board of Mediation to  
7 recognize representatives for employees of private employers who are  
8 not covered by the National Labor Relations Act. The bill allows  
9 these employees to legitimately choose representatives either by  
10 signing cards to demonstrate a majority preference to have a  
11 representative, known as the "card-check" method, or by holding a  
12 traditional election in conformity with the procedures outlined in the  
13 National Labor Relations Act. The bill does not apply to any employer  
14 or employee who is under the jurisdiction of the National Labor  
15 Relations Board, except in cases where both the employer and the  
16 union agree to seek a representation election or card check procedure  
17 through the State Board of Mediation. The bill authorizes the New  
18 Jersey State Board of Mediation to determine whether an employee  
19 unit is an appropriate unit for collective bargaining, if a determination  
20 is necessary.

21       The bill also requires that the Public Employment Relations  
22 Commission recognize a labor organization as the majority  
23 representative of public employees in a unit if a majority of the  
24 employees in the unit sign authorization cards indicating their  
25 preference for that organization and if the commission finds that there  
26 is only one labor organization seeking to be the majority  
27 representative.

# ASSEMBLY LABOR COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1820**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 13, 2005

The Assembly Labor Committee reports favorably, and with committee amendments, Assembly Bill No. 1820.

As amended by the committee, this bill authorizes the New Jersey State Board of Mediation to recognize representatives for the employees of any private employers who are not covered by the National Labor Relations Act, except for a religious or parochial school. The bill allows these employees to legitimately choose representatives either by signing cards to demonstrate a majority preference to have a representative, known as the "card-check" method, or by holding a traditional election in conformity with the procedures outlined in the National Labor Relations Act. The bill does not apply to any employer or employee who is under the jurisdiction of the National Labor Relations Board, except in cases where both the employer and the union agree to seek a representation election or card check procedure through the State Board of Mediation. The bill authorizes the New Jersey State Board of Mediation to determine whether an employee unit is an appropriate unit for collective bargaining, if a determination is necessary.

The bill also requires that the Public Employment Relations Commission recognize a labor organization as the majority representative of public employees in a unit if a majority of the employees in the unit sign authorization cards indicating their preference for that organization and if the commission finds that there is only one labor organization seeking to be the majority representative.

#### COMMITTEE AMENDMENTS

The committee amendments, which make the bill identical to the Senate Committee Substitute for Senate Bill No. 194 (1R), exclude religious or parochial schools from the bill's requirement to accept "card check" union authorization, or the results of a traditional election which conforms with the National Labor Relations Act.

STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 1820**

with Senate Floor Amendments  
(Proposed by Senator SMITH)

ADOPTED: JUNE 23, 2005

These amendments exempt private, federal tax-exempt, nonprofit organizations from the bill's requirement that an employer recognize a union as a collective bargaining representative based on the "card check" method of union authorization, or based on a traditional election in conformity with the procedures outlined in the National Labor Relations Act.

**SENATE, No. 194**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator STEPHEN M. SWEENEY**

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

**SYNOPSIS**

Authorizes the New Jersey State Board of Mediation to recognize representatives for certain employees by card-check and other methods.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 12/14/2004)**



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2 employees and amending P.L.1968, c.303.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
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16 provisions of Article V, Section IV, paragraph 1 of the New Jersey  
17 Constitution, the Division of Public Employment Relations is hereby  
18 allocated within the Department of Labor **[and Industry]**, and located  
19 in the city of Trenton, but notwithstanding said allocation, the office  
20 shall be independent of any supervision or control by the department  
21 or by any board or officer thereof.

22 (b) The Division of Private Employment Dispute Settlement shall  
23 assist the New Jersey State Board of Mediation in the resolution of  
24 disputes in private employment. The New Jersey State Board of  
25 Mediation, its objectives and the powers and duties granted by this act  
26 and the act of which this act is amendatory and supplementary shall be  
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28 office shall continue to be located in the city of Newark.

29 (c) The New Jersey State Board of Mediation shall designate a  
30 representative for a unit of employees of a private employer for the  
31 purposes of collective bargaining when:

32 (1) that representative demonstrates that a majority of employees  
33 in the unit have shown interest in representation by signing cards so  
34 indicating their interest; or

35 (2) the employees in the unit have selected a representative by an  
36 election that conforms with the procedures outlined in section 159 of  
37 the National Labor Relations Act (29 U.S.C. s.159).

38 For the purposes of this subsection (c), "employee unit" means an  
39 appropriate group of employees for the purposes of collective  
40 bargaining as determined, if necessary, by the New Jersey State Board  
41 of Mediation.

42 (cf: P.L.1973, c.326, s.2)

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1       2. This act shall take effect on the 90th day following enactment.

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STATEMENT

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6       This bill authorizes the New Jersey State Board of Mediation to  
7 recognize representatives for employees of private employers who are  
8 not covered by the National Labor Relations Act. The bill allows  
9 these employees to legitimately choose representatives either by  
10 signing cards to demonstrate a majority interest in having a  
11 representative, known as the "card-check" method, or by holding a  
12 traditional election in conformity with the procedures outlined in the  
13 National Labor Relations Act. The bill also authorizes the New Jersey  
14 State Board of Mediation to determine whether an employee unit is an  
15 appropriate unit for collective bargaining, if a determination is  
16 necessary.

# SENATE LABOR COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 194**

# **STATE OF NEW JERSEY**

DATED: DECEMBER 13, 2004

The Senate Labor Committee reports favorably the Senate Committee Substitute for Senate Bill No. 194.

This substitute authorizes the New Jersey State Board of Mediation to recognize representatives for employees of private employers who are not covered by the National Labor Relations Act. The substitute allows these employees to legitimately choose representatives either by signing cards to demonstrate a majority preference to have a representative, known as the "card-check" method, or by holding a traditional election in conformity with the procedures outlined in the National Labor Relations Act. The substitute does not apply to any employer or employee who is under the jurisdiction of the National Labor Relations Board, except in cases where both the employer and the union agree to seek a representation election or card check procedure through the State Board of Mediation. The substitute authorizes the New Jersey State Board of Mediation to determine whether an employee unit is an appropriate unit for collective bargaining, if a determination is necessary.

The substitute also requires that the Public Employment Relations Commission recognize a labor organization as the majority representative of public employees in a unit if a majority of the employees in the unit sign authorization cards indicating their preference for that organization and if the commission finds that there is only one labor organization seeking to be the majority representative.

Finally, the substitute requires an authorizing card to be printed in the language of the employee who signs it.

# STATEMENT TO

## SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 194**

with Senate Floor Amendments  
(Proposed By Senator SMITH)

ADOPTED: MAY 12, 2005

These amendments exempt religious or parochial schools from the bill's requirement that an employer recognize a union as a collective bargaining representative based on the "card check" method of union authorization, or based on a traditional election in conformity with the procedures outlined in the National Labor Relations Act.

In NLRB v. Catholic Bishop of Chicago, 440 U.S. 490 (1978), the Supreme Court found "no clear expression of an affirmative intention of Congress that teachers in church-operated schools should be covered by the Act." Accordingly, the Court concluded that there is no National Labor Relations Board jurisdiction in these instances.

STATEMENT TO  
[First Reprint]  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 194**

with Senate Floor Amendments  
(Proposed by Senator SMITH)

ADOPTED: JUNE 23, 2005

These amendments exempt private, federal tax-exempt, nonprofit organizations from the bill's requirement that an employer recognize a union as a collective bargaining representative based on the "card check" method of union authorization, or based on a traditional election in conformity with the procedures outlined in the National Labor Relations Act.