

34:13A-5.3

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 380

NJSA: 34:13A-5.3 (Concerns grievance arbitration clauses in public employment collective negotiation agreement)

BILL NO: A4162 (Substituted for S2618)

SPONSOR(S): Van Drew and others

DATE INTRODUCED: June 13, 2005

COMMITTEE: **ASSEMBLY:** Labor

SENATE: Labor

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 30, 2005

SENATE: January 9, 2006

DATE OF APPROVAL: January 12, 2006

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

A4162

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

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

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

S2618

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

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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HEARINGS: No

NEWSPAPER ARTICLES: No

IS 3/19/08

P.L. 2005, CHAPTER 380, *approved January 12, 2006*
Assembly, No. 4162

1 **AN ACT** concerning collective negotiation agreement provisions for
2 grievance arbitration 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 7 of P.L.1968, c.303 (C.34:13A-5.3) is amended to read
8 as follows:

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

32 Representatives designated or selected by public employees for the
33 purposes of collective negotiation by the majority of the employees in
34 a unit appropriate for such purposes or by the majority of the
35 employees voting in an election conducted by the commission as
36 authorized by this act shall be the exclusive representatives for
37 collective negotiation concerning the terms and conditions of
38 employment of the employees in such unit. Nothing herein shall be
39 construed to prevent any official from meeting with an employee
40 organization for the purpose of hearing the views and requests of its
41 members in such unit so long as (a) the majority representative is

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

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

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

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

1 review procedures established by agreement between the public
2 employer and the representative organization shall be utilized for any
3 dispute covered by the terms of such agreement. For the purposes of
4 this section, minor discipline shall mean a suspension or fine of less
5 than five days unless the employee has been suspended or fined an
6 aggregate of 15 or more days or received more than three suspensions
7 or fines of five days or less in one calendar year.

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

22 In interpreting the meaning and extent of a provision of a collective
23 negotiation agreement providing for grievance arbitration, a court or
24 agency shall be bound by a presumption in favor of arbitration.
25 Doubts as to the scope of an arbitration clause shall be resolved in
26 favor of requiring arbitration.

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

28

29 2. This act shall take effect immediately.

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STATEMENT

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34 This bill requires any court or agency, when interpreting the
35 meaning and extent of a provision of a public employment collective
36 negotiation agreement providing for grievance arbitration, to be bound
37 by a legal presumption in favor of arbitration. The bill requires that
38 any doubt as to the scope of an arbitration clause of the agreement be
39 resolved in favor of requiring arbitration.

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44 Concerns grievance arbitration clauses in public employment collective
45 negotiation agreement.

ASSEMBLY, No. 4162

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 13, 2005

Sponsored by:

Assemblyman JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman FREDERICK SCALERA

District 36 (Bergen, Essex and Passaic)

Assemblyman JOSEPH V. EGAN

District 17 (Middlesex and Somerset)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Co-Sponsored by:

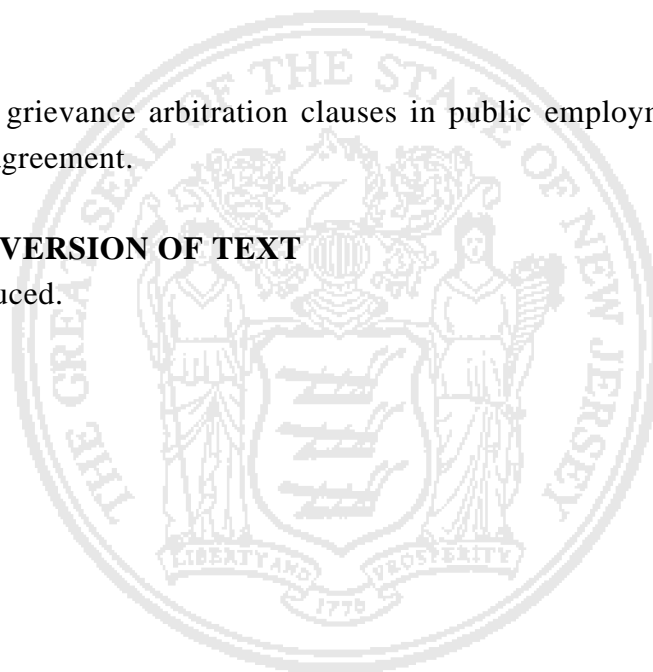
**Assemblyman Connors, Assemblywoman Greenstein, Assemblyman
Chivukula and Senator Sweeney**

SYNOPSIS

Concerns grievance arbitration clauses in public employment collective negotiation agreement.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/10/2006)

A4162 VAN DREW, SCALERA

2

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

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

32 Representatives designated or selected by public employees for the
33 purposes of collective negotiation by the majority of the employees in
34 a unit appropriate for such purposes or by the majority of the
35 employees voting in an election conducted by the commission as
36 authorized by this act shall be the exclusive representatives for
37 collective negotiation concerning the terms and conditions of
38 employment of the employees in such unit. Nothing herein shall be
39 construed to prevent any official from meeting with an employee
40 organization for the purpose of hearing the views and requests of its
41 members in such unit so long as (a) the majority representative is
42 informed of the meeting; (b) any changes or modifications in terms and
43 conditions of employment are made only through negotiation with 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 majority representative; and (c) a minority organization shall not
2 present or process grievances. Nothing herein shall be construed to
3 deny to any individual employee his rights under Civil Service laws or
4 regulations. When no majority representative has been selected as the
5 bargaining agent for the unit of which an individual employee is a part,
6 he may present his own grievance either personally or through an
7 appropriate representative or an organization of which he is a member
8 and have such grievance adjusted.

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

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

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

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

26

27 2. This act shall take effect immediately.

28

29

30

STATEMENT

31

32 This bill requires any court or agency, when interpreting the
33 meaning and extent of a provision of a public employment collective
34 negotiation agreement providing for grievance arbitration, to be bound
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36 any doubt as to the scope of an arbitration clause of the agreement be
37 resolved in favor of requiring arbitration.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4162

STATE OF NEW JERSEY

DATED: JUNE 13, 2005

The Assembly Labor Committee reports favorably Assembly Bill No. 4162.

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SENATE LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4162

STATE OF NEW JERSEY

DATED: DECEMBER 1, 2005

The Senate Labor Committee reports favorably Assembly Bill No. 4162

This bill requires any court or agency, when interpreting the meaning and extent of a provision of a public employment collective negotiation agreement providing for grievance arbitration, to be bound by a legal presumption in favor of arbitration. The bill requires that any doubt as to the scope of an arbitration clause of the agreement be resolved in favor of requiring arbitration.

SENATE, No. 2618

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JUNE 16, 2005

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Concerns grievance arbitration clauses in public employment collective negotiation agreement.

CURRENT VERSION OF TEXT

As introduced.



S2618 SWEENEY

2

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26

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STATEMENT

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SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 2618

STATE OF NEW JERSEY

DATED: DECEMBER 1, 2005

The Senate Labor Committee reports favorably Senate Bill No. 2618.

This bill requires any court or agency, when interpreting the meaning and extent of a provision of a public employment collective negotiation agreement providing for grievance arbitration, to be bound by a legal presumption in favor of arbitration. The bill requires that any doubt as to the scope of an arbitration clause of the agreement be resolved in favor of requiring arbitration.