

34:13A-3

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2009 **CHAPTER:** 314

NJSA: 34:13A-3 (Permits certain managers and deputy attorneys general of the State to negotiate collectively under the "New Jersey Employer-Employee Relations Act")

BILL NO: S3071 (Substituted for A4261)

SPONSOR(S) Sarlo and Others

DATE INTRODUCED: December 3, 2009

COMMITTEE: **ASSEMBLY:** --

SENATE: Labor

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** January 11, 2010

SENATE: January 11, 2010

DATE OF APPROVAL: January 18, 2010

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First reprint enacted)

S3071

SPONSOR'S STATEMENT: (Begins on page 4 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: No

A4261

SPONSOR'S STATEMENT: (Begins on page 4 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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NEWSPAPER ARTICLES: No

LAW/RWH

[First Reprint]

SENATE, No. 3071

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED DECEMBER 3, 2009

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen, Essex and Passaic)

Senator BILL BARONI

District 14 (Mercer and Middlesex)

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblyman JOSEPH CRYAN

District 20 (Union)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senator Turner and Assemblywoman Quijano

SYNOPSIS

Permits certain managers and deputy attorneys general of the State to negotiate collectively under the “New Jersey Employer-Employee Relations Act;” changes definition of managerial executives and removes confidential status of deputy attorneys general and certain State investigators.

CURRENT VERSION OF TEXT

As amended by the Senate on January 7, 2010.

(Sponsorship Updated As Of: 1/12/2010)

1 An act concerning collective labor negotiations and amending
2 ¹[P.L.1941, c.100, P.L.2005, c.148, and P.L.1944, c.20] various
3 parts of the statutory law¹.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. Section 3 of P.L.1941, c.100 (C.34:13A-3) is amended to
9 read as follows:

10 3. When used in this act:

11 (a) The term "board" shall mean New Jersey State Board of
12 Mediation.

13 (b) The term "commission" shall mean New Jersey Public
14 Employment Relations Commission.

15 (c) The term "employer" includes an employer and any person
16 acting, directly or indirectly, on behalf of or in the interest of an
17 employer with the employer's knowledge or ratification, but a labor
18 organization, or any officer or agent thereof, shall be considered an
19 employer only with respect to individuals employed by such
20 organization. This term shall include "public employers" and shall
21 mean the State of New Jersey, or the several counties and
22 municipalities thereof, or any other political subdivision of the
23 State, or a school district, or any special district, or any authority,
24 commission, or board, or any branch or agency of the public
25 service.

26 (d) The term "employee" shall include any employee, and shall
27 not be limited to the employees of a particular employer unless this
28 act explicitly states otherwise, and shall include any individual
29 whose work has ceased as a consequence of or in connection with
30 any current labor dispute or because of any unfair labor practice and
31 who has not obtained any other regular and substantially equivalent
32 employment. This term, however, shall not include any individual
33 taking the place of any employee whose work has ceased as
34 aforesaid, nor shall it include any individual employed by his
35 parent or spouse, or in the domestic service of any person in the
36 home of the employer, or employed by any company owning or
37 operating a railroad or railway express subject to the provisions of
38 the Railway Labor Act (45 U.S.C. s.151 et seq.). This term shall
39 include any public employee, i.e., any person holding a position, by
40 appointment or contract, or employment in the service of a public
41 employer, except elected officials, members of boards and
42 commissions, managerial executives and confidential employees.

43 (e) The term "representative" is not limited to individuals but
44 shall include labor organizations, and individual representatives
45 need not themselves be employed by, and the labor organization

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:

¹Senate floor amendments adopted January 7, 2010.

1 serving as a representative need not be limited in membership to the
2 employees of, the employer whose employees are represented. This
3 term shall include any organization, agency or person authorized or
4 designated by a public employer, public employee, group of public
5 employees, or public employee association to act on its behalf and
6 represent it or them.

7 (f) "Managerial executives" of a public employer, in the case of
8 the State of New Jersey, means persons who formulate management
9 policies and practices, **[and]** but shall not mean persons who are
10 charged with the responsibility of directing the effectuation of such
11 management policies and practices, except that, in the case of the
12 Executive Branch of the State of New Jersey, "managerial
13 executive" shall include only personnel at or above the level of
14 assistant commissioner.

15 In the case of any public employer other than the State of New
16 Jersey, "managerial executives" of a public employer means persons
17 who formulate management policies and practices, and persons who
18 are charged with the responsibility of directing the effectuation of
19 such management policies and practices, except that in any school
20 district this term shall include only the superintendent or other chief
21 administrator, and the assistant superintendent of the district.

22 (g) "Confidential employees" of a public employer means
23 employees whose functional responsibilities or knowledge in
24 connection with the issues involved in the collective negotiations
25 process would make their membership in any appropriate
26 negotiating unit incompatible with their official duties.

27 "Confidential employees" of the State of New Jersey means
28 employees who have direct involvement in representing the State in
29 the collective negotiations process making their membership in any
30 appropriate negotiating unit incompatible with their official duties.

31 (cf: P.L.1974 c.123, s.2)

32

33 2. Section 1 of P.L.2005, c.142 (C.34:13A-5.10) is amended to
34 read as follows:

35 1. a. The Legislature finds and declares that, for more than
36 three decades, there have been broad-based collective negotiations
37 units for the employees in the Executive Branch of State
38 government. This existing unit structure has contributed to the
39 stability of labor relations between the public employees and the
40 Executive Branch and has served to avoid disruption of services to
41 the public. To foster continued harmonious labor relations between
42 State employees and the Executive Branch, the existing structure
43 for collective negotiations units must be codified.

44 In addition, the Legislature finds and declares that the structure
45 should be expanded to permit collective negotiations for managers
46 and deputy attorneys general who are not covered by the ten units
47 for civilian employees of the Executive Branch.

1 b. (1) There shall be only **[ten]** twelve collective negotiations
2 units for civilian employees of the Executive Branch of State
3 government. The units shall be as follows: administrative and
4 clerical; professional; primary level supervisory; high level
5 supervisory; operations, maintenance and services; crafts;
6 inspection and security; health care and rehabilitation services;
7 State colleges and universities; **[and]** State colleges and
8 universities adjuncts deputy attorneys general; and State
9 government managers.

10 (2) An existing or newly established title that is not assigned
11 managerial, executive or confidential duties, as defined in
12 subsections (f) and (g) of section 3 of P.L.1941, c.100 (C.34:13A-
13 3), may be placed in one of the **[ten]** twelve collective negotiations
14 units for civilian employees by the Governor's Office of Employee
15 Relations. Such placements may be challenged through a unit
16 clarification procedure pursuant to the rules of the New Jersey
17 Public Employment Relations Commission.

18 (cf: P.L.2005, c.142, s.1)

19

20 3. Section 7 of P.L.1944, c.20 (C.52:17A-7) is amended to read
21 as follows:

22 7. **[Deputy Attorneys-General and]** Assistant Attorneys-
23 General in the Department of Law and Public Safety shall hold their
24 offices at the pleasure of the Attorney-General and shall receive
25 such salaries as the Attorney-General shall from time to time
26 designate. They shall be deemed confidential employees for
27 purposes of the "New Jersey Employer-Employee Relations Act,"
28 P.L.1941, c.100 (C.34:13A-1 et seq.).

29 (cf: P. L.1994, c.161, s.1)

30

31 ⁴4. Section 4 of P.L.1970, c.74 (C.52:17B-100) is amended to
32 read as follows:

33 4. a. The Attorney General shall organize the work of the
34 division in such bureaus and other organizational units as he may
35 determine to be necessary for efficient and effective operation and
36 shall assign to the division such employees in the Department of
37 Law and Public Safety as may be necessary to assist the director in
38 the performance of his duties.

39 b. All employees of the division, except for secretarial and
40 clerical personnel, shall be in the unclassified service of the civil
41 service of the State. All unclassified employees of the division and
42 except for State investigators appointed pursuant to section 1 of
43 P.L.1977, c.275 (C.52:17B-100.1), shall be deemed confidential
44 employees for the purposes of the "New Jersey Employer-Employee
45 Relations Act", P.L.1941, c.100 (C.34:13A-1 et seq.).¹

46 (cf: P.L.1981, c.187, s.1)

S3071 [1R] SARLO, BARONI

5

1 **'[4.] 5.'** This act shall take effect immediately.

SENATE, No. 3071

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED DECEMBER 3, 2009

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen, Essex and Passaic)

Senator BILL BARONI

District 14 (Mercer and Middlesex)

SYNOPSIS

Permits certain managers and deputy attorneys general of the State to negotiate collectively under the “New Jersey Employer-Employee Relations Act”; changes definition of managerial executive and removes confidential status of deputy attorneys general.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning collective labor negotiations and amending
2 P.L.1941, c.100, P.L.2005, c.142 and P.L.1944, c.20.

3

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

6

7 1. Section 3 of P.L.1941, c.100 (C.34:13A-3) is amended to
8 read as follows:

9 3. When used in this act:

10 (a) The term "board" shall mean New Jersey State Board of
11 Mediation.

12 (b) The term "commission" shall mean New Jersey Public
13 Employment Relations Commission.

14 (c) The term "employer" includes an employer and any person
15 acting, directly or indirectly, on behalf of or in the interest of an
16 employer with the employer's knowledge or ratification, but a labor
17 organization, or any officer or agent thereof, shall be considered an
18 employer only with respect to individuals employed by such
19 organization. This term shall include "public employers" and shall
20 mean the State of New Jersey, or the several counties and
21 municipalities thereof, or any other political subdivision of the
22 State, or a school district, or any special district, or any authority,
23 commission, or board, or any branch or agency of the public
24 service.

25 (d) The term "employee" shall include any employee, and shall
26 not be limited to the employees of a particular employer unless this
27 act explicitly states otherwise, and shall include any individual
28 whose work has ceased as a consequence of or in connection with
29 any current labor dispute or because of any unfair labor practice and
30 who has not obtained any other regular and substantially equivalent
31 employment. This term, however, shall not include any individual
32 taking the place of any employee whose work has ceased as
33 aforesaid, nor shall it include any individual employed by his
34 parent or spouse, or in the domestic service of any person in the
35 home of the employer, or employed by any company owning or
36 operating a railroad or railway express subject to the provisions of
37 the Railway Labor Act (45 U.S.C. s.151 et seq.). This term shall
38 include any public employee, i.e., any person holding a position, by
39 appointment or contract, or employment in the service of a public
40 employer, except elected officials, members of boards and
41 commissions, managerial executives and confidential employees.

42 (e) The term "representative" is not limited to individuals but
43 shall include labor organizations, and individual representatives
44 need not themselves be employed by, and the labor organization
45 serving as a representative need not be limited in membership to 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 employees of, the employer whose employees are represented. This
2 term shall include any organization, agency or person authorized or
3 designated by a public employer, public employee, group of public
4 employees, or public employee association to act on its behalf and
5 represent it or them.

6 (f) "Managerial executives" of a public employer, in the case of
7 the State of New Jersey, means persons who formulate management
8 policies and practices, **[and]** but shall not mean persons who are
9 charged with the responsibility of directing the effectuation of such
10 management policies and practices, except that, in the case of the
11 Executive Branch of the State of New Jersey, "managerial
12 executive" shall include only personnel at or above the level of
13 assistant commissioner.

14 In the case of any public employer other than the State of New
15 Jersey, "managerial executives" of a public employer means persons
16 who formulate management policies and practices, and persons who
17 are charged with the responsibility of directing the effectuation of
18 such management policies and practices, except that in any school
19 district this term shall include only the superintendent or other chief
20 administrator, and the assistant superintendent of the district.

21 (g) "Confidential employees" of a public employer means
22 employees whose functional responsibilities or knowledge in
23 connection with the issues involved in the collective negotiations
24 process would make their membership in any appropriate
25 negotiating unit incompatible with their official duties.

26 "Confidential employees" of the State of New Jersey means
27 employees who have direct involvement in representing the State in
28 the collective negotiations process making their membership in any
29 appropriate negotiating unit incompatible with their official duties.

30 (cf: P.L.1974 c.123, s.2)

31

32 2. Section 1 of P.L.2005, c.142 (C.34:13A-5.10) is amended to
33 read as follows:

34 1. a. The Legislature finds and declares that, for more than
35 three decades, there have been broad-based collective negotiations
36 units for the employees in the Executive Branch of State
37 government. This existing unit structure has contributed to the
38 stability of labor relations between the public employees and the
39 Executive Branch and has served to avoid disruption of services to
40 the public. To foster continued harmonious labor relations between
41 State employees and the Executive Branch, the existing structure
42 for collective negotiations units must be codified.

43 In addition, the Legislature finds and declares that the structure
44 should be expanded to permit collective negotiations for managers
45 and deputy attorneys general who are not covered by the ten units
46 for civilian employees of the Executive Branch.

47 b. (1) There shall be only **[ten]** twelve collective negotiations
48 units for civilian employees of the Executive Branch of State

1 government. The units shall be as follows: administrative and
2 clerical; professional; primary level supervisory; high level
3 supervisory; operations, maintenance and services; crafts;
4 inspection and security; health care and rehabilitation services;
5 State colleges and universities; **[and]** State colleges and
6 universities adjuncts ;deputy attorneys general; and State
7 government managers.

8 (2) An existing or newly established title that is not assigned
9 managerial, executive or confidential duties, as defined in
10 subsections (f) and (g) of section 3 of P.L.1941, c.100 (C.34:13A-
11 3), may be placed in one of the **[ten]** twelve collective negotiations
12 units for civilian employees by the Governor's Office of Employee
13 Relations. Such placements may be challenged through a unit
14 clarification procedure pursuant to the rules of the New Jersey
15 Public Employment Relations Commission.

16 (cf: P.L.2005, c.142, s.1)

17

18 3. Section 7 of P.L.1944, c.20 (C.52:17A-7) is amended to read
19 as follows:

20 7. **[Deputy Attorneys-General and]** Assistant Attorneys-
21 General in the Department of Law and Public Safety shall hold their
22 offices at the pleasure of the Attorney-General and shall receive
23 such salaries as the Attorney-General shall from time to time
24 designate. They shall be deemed confidential employees for
25 purposes of the "New Jersey Employer-Employee Relations Act,"
26 P.L.1941, c.100 (C.34:13A-1 et seq.).

27 (cf: P. L.1994, c.161, s.1)

28

29 4. This act shall take effect immediately.

30

31

32

STATEMENT

33

34 This bill revises the definition of "managerial executives" in the
35 "New Jersey Employer-Employee Relations Act," P.L.1941, c.100
36 (C.34:13A-1 et seq.), to allow certain managers employed by the
37 State to negotiate collectively under that act, by creating a
38 distinction between managers who formulate management policies
39 and practices and those who effectuate the policies and practices.

40 The bill also revises the definition of "confidential employee"
41 for employees of the State of New Jersey. Only employees who
42 have direct involvement in representing the State in the collective
43 negotiations process will qualify as confidential employees, making
44 their membership in any appropriate negotiating unit incompatible
45 with their official duties.

46 Under the act's current definition, for the purposes of
47 determining which public managers are subject to the provisions of
48 the act, "managerial executives" are persons who formulate

1 management policies and practices, and persons who are charged
2 with the responsibility of directing the effectuation of those
3 management policies and practices. This bill changes that
4 definition so that in the case of the State as a public employer,
5 "managerial executives" means persons who formulate management
6 policies and practices, but does not include persons who are charged
7 with the responsibility of directing the effectuation of those policies
8 and practices. The bill also specifies that, in the case of the
9 Executive Branch of the State Government, "managerial executive"
10 includes only personnel at or above the level of assistant
11 commissioner.

12 Also under the act's current definition, "confidential employees"
13 of a public employer means employees whose functional
14 responsibilities or knowledge in connection with the issues involved
15 in the collective negotiations process would make their membership
16 in any appropriate negotiating unit incompatible with their official
17 duties. This bill changes the definition so that "confidential
18 employees" of the State only includes employees who have direct
19 involvement in representing the State in collective negotiations.

20 By this change in definition, any manager employed by the
21 Executive Branch of State Government at a level below the level of
22 assistant commissioner, and any manager employed by the State
23 who is not involved with formulating management policies and
24 practices, may join employee organizations and through these
25 organizations collectively negotiate salaries and benefits with
26 public employers.

27 The bill does not change the existing definition of "managerial
28 executives" or "confidential employees" for persons employed by
29 public employers other than the State.

30 This bill also changes the number of collective negotiations units
31 for civilian employees of the Executive Branch of State government
32 from ten to twelve in order to add State government managers and
33 deputy attorneys general to allow persons holding such positions to
34 be covered under the act. For this purpose, the bill also amends
35 current law to remove the confidential employee status of deputy
36 attorneys general in the Department of Law and Public Safety.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 3071

STATE OF NEW JERSEY

DATED: DECEMBER 10, 2009

The Senate Labor Committee reports favorably Senate Bill No. 3071.

This bill revises the definition of "managerial executives" in the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), to allow certain managers employed by the State to negotiate collectively under that act, by creating a distinction between managers who formulate management policies and practices and those who effectuate the policies and practices.

The bill also revises the definition of "confidential employee" for employees of the State of New Jersey. Only employees who have direct involvement in representing the State in the collective negotiations process will qualify as confidential employees, making their membership in any appropriate negotiating unit incompatible with their official duties.

Under the act's current definition, for the purposes of determining which public managers are subject to the provisions of the act, "managerial executives" are persons who formulate management policies and practices, and persons who are charged with the responsibility of directing the effectuation of those management policies and practices. This bill changes that definition so that in the case of the State as a public employer, "managerial executives" means persons who formulate management policies and practices, but does not include persons who are charged with the responsibility of directing the effectuation of those policies and practices. The bill also specifies that, in the case of the Executive Branch of the State Government, "managerial executive" includes only personnel at or above the level of assistant commissioner.

Also under the act's current definition, "confidential employees" of a public employer means employees whose functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make their membership in any appropriate negotiating unit incompatible with their official duties. This bill changes the definition so that "confidential employees" of the State only includes employees who have direct involvement in representing the State in collective negotiations.

By this change in definition, any manager employed by the Executive Branch of State Government at a level below the level of

assistant commissioner, and any manager employed by the State who is not involved with formulating management policies and practices, may join employee organizations and through these organizations collectively negotiate salaries and benefits with public employers.

The bill does not change the existing definition of "managerial executives" or "confidential employees" for persons employed by public employers other than the State.

This bill also changes the number of collective negotiations units for civilian employees of the Executive Branch of State government from ten to twelve in order to add State government managers and deputy attorneys general to allow persons holding such positions to be covered under the act. For this purpose, the bill also amends current law to remove the confidential employee status of deputy attorneys general in the Department of Law and Public Safety.

STATEMENT TO
SENATE, No. 3071

with Senate Floor Amendments
(Proposed by Senator SARLO)

ADOPTED: JANUARY 7, 2010

These amendments provide that State investigators in the Division of Criminal Justice would not be considered "confidential employees."

Currently, all investigative officers in the Division of Criminal Justice in the Department of Law and Public Safety are considered to be unclassified employees. Unclassified employees of the division are deemed confidential employees for the purposes of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), which defines a "confidential employee" as an employee whose functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make their membership in any appropriate negotiating unit incompatible with their official duties.

ASSEMBLY, No. 4261

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED NOVEMBER 30, 2009

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblyman JOSEPH CRYAN

District 20 (Union)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Co-Sponsored by:

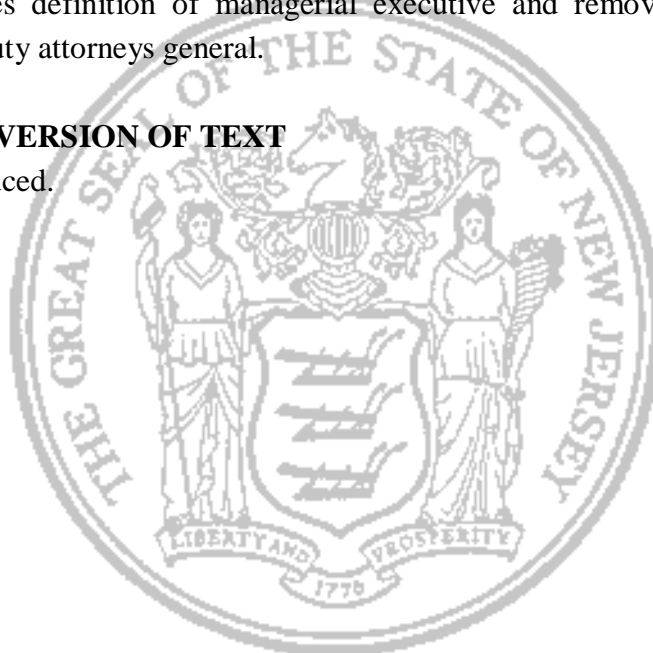
Assemblywoman Quijano

SYNOPSIS

Permits certain managers and deputy attorneys general of the State to negotiate collectively under the “New Jersey Employer-Employee Relations Act”; changes definition of managerial executive and removes confidential status of deputy attorneys general.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/8/2010)

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40 foster continued harmonious labor relations between State
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42 collective negotiations units must be codified.

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45 and deputy attorneys general who are not covered by the ten units
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3 supervisory; operations, maintenance and services; crafts;
4 inspection and security; health care and rehabilitation services;
5 State colleges and universities; **[and]** State colleges and
6 universities adjuncts ;deputy attorneys general; and State
7 government managers.

8 (2) An existing or newly established title that is not assigned
9 managerial, executive or confidential duties, as defined in
10 subsections (f) and (g) of section 3 of P.L.1941, c.100 (C.34:13A-
11 3), may be placed in one of the **[ten]** twelve collective negotiations
12 units for civilian employees by the Governor's Office of Employee
13 Relations. Such placements may be challenged through a unit
14 clarification procedure pursuant to the rules of the New Jersey
15 Public Employment Relations Commission.

16 (cf: P.L.2005, c.142, s.1)

17

18 3. Section 7 of P.L.1944, c.20 (C.52:17A-7) is amended to read
19 as follows:

20 7. **[Deputy Attorneys-General and]** Assistant Attorneys-
21 General in the Department of Law and Public Safety shall hold their
22 offices at the pleasure of the Attorney-General and shall receive
23 such salaries as the Attorney-General shall from time to time
24 designate. They shall be deemed confidential employees for
25 purposes of the "New Jersey Employer-Employee Relations Act,"
26 P.L.1941, c.100 (C.34:13A-1 et seq.).

27 (cf: P. L.1994, c.161, s.1)

28

29 4. This act shall take effect immediately.

30

31

32

STATEMENT

33

34 This bill revises the definition of "managerial executives" in the
35 "New Jersey Employer-Employee Relations Act," P.L.1941, c.100
36 (C.34:13A-1 et seq.), to allow certain managers employed by the
37 State to negotiate collectively under that act, by creating a
38 distinction between managers who formulate management policies
39 and practices and those who effectuate the policies and practices.

40 The bill also revises the definition of "confidential employee"
41 for employees of the State of New Jersey. Only employees who
42 have direct involvement in representing the State in the collective
43 negotiations process will qualify as confidential employees, making
44 their membership in any appropriate negotiating unit incompatible
45 with their official duties.

46 Under the act's current definition, for the purposes of
47 determining which public managers are subject to the provisions of
48 the act, "managerial executives" are persons who formulate

1 management policies and practices, and persons who are charged
2 with the responsibility of directing the effectuation of those
3 management policies and practices. This bill changes that
4 definition so that in the case of the State as a public employer,
5 "managerial executives" means persons who formulate management
6 policies and practices, but does not include persons who are charged
7 with the responsibility of directing the effectuation of those policies
8 and practices. The bill also specifies that, in the case of the
9 Executive Branch of the State Government, "managerial executive"
10 includes only personnel at or above the level of assistant
11 commissioner.

12 Also under the act's current definition, "confidential employees"
13 of a public employer means employees whose functional
14 responsibilities or knowledge in connection with the issues involved
15 in the collective negotiations process would make their membership
16 in any appropriate negotiating unit incompatible with their official
17 duties. This bill changes the definition so that "confidential
18 employees" of the State only includes employees who have direct
19 involvement in representing the State in collective negotiations.

20 By this change in definition, any manager employed by the
21 Executive Branch of State Government at a level below the level of
22 assistant commissioner, and any manager employed by the State
23 who is not involved with formulating management policies and
24 practices, may join employee organizations and through these
25 organizations collectively negotiate salaries and benefits with
26 public employers.

27 The bill does not change the existing definition of "managerial
28 executives" or "confidential employees" for persons employed by
29 public employers other than the State.

30 This bill also changes the number of collective negotiations units
31 for civilian employees of the Executive Branch of State government
32 from ten to twelve in order to add State government managers and
33 deputy attorneys general to allow persons holding such positions to
34 be covered under the act. For this purpose, the bill also amends
35 current law to remove the confidential employee status of deputy
36 attorneys general in the Department of Law and Public Safety.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4261

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Assembly Labor Committee reports favorably Assembly Bill No. 4261.

This bill revises the definition of "managerial executives" in the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), to allow certain managers employed by the State to negotiate collectively under that act, by creating a distinction between managers who formulate management policies and practices and those who effectuate the policies and practices.

The bill also revises the definition of "confidential employee" for employees of the State of New Jersey. Only employees who have direct involvement in representing the State in the collective negotiations process will qualify as confidential employees, making their membership in any appropriate negotiating unit incompatible with their official duties.

Under the act's current definition, for the purposes of determining which public managers are subject to the provisions of the act, "managerial executives" are persons who formulate management policies and practices, and persons who are charged with the responsibility of directing the effectuation of those management policies and practices. This bill changes that definition so that in the case of the State as a public employer, "managerial executives" means persons who formulate management policies and practices, but does not include persons who are charged with the responsibility of directing the effectuation of those policies and practices. The bill also specifies that, in the case of the Executive Branch of the State Government, "managerial executive" includes only personnel at or above the level of assistant commissioner.

Also under the act's current definition, "confidential employees" of a public employer means employees whose functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make their membership in any appropriate negotiating unit incompatible with their official duties. This bill changes the definition so that "confidential employees" of the State only includes employees who have direct involvement in representing the State in collective negotiations.

By this change in definition, any manager employed by the Executive Branch of State Government at a level below the level of

assistant commissioner, and any manager employed by the State who is not involved with formulating management policies and practices, may join employee organizations and through these organizations collectively negotiate salaries and benefits with public employers.

The bill does not change the existing definition of "managerial executives" or "confidential employees" for persons employed by public employers other than the State.

This bill also changes the number of collective negotiations units for civilian employees of the Executive Branch of State government from ten to twelve in order to add State government managers and deputy attorneys general to allow persons holding such positions to be covered under the act. For this purpose, the bill also amends current law to remove the confidential employee status of deputy attorneys general in the Department of Law and Public Safety.

STATEMENT TO
ASSEMBLY, No. 4261

with Assembly Floor Amendments
(Proposed by Assemblyman GUSCIORA)

ADOPTED: JANUARY 7, 2010

These amendments provide that State investigators in the Division of Criminal Justice would not be considered "confidential employees."

Currently, all investigative officers in the Division of Criminal Justice in the Department of Law and Public Safety are considered to be unclassified employees. Unclassified employees of the division are deemed confidential employees for the purposes of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) which defines a "confidential employee" as an employee whose functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make their membership in any appropriate negotiating unit incompatible with their official duties.