

LEGISLATIVE HISTORY CHECKLIST

NJSA: 34:13A-22

(Public school employees--expand scope of negotiations)

LAWS OF: 1989

CHAPTER: 269

Bill No: A4706

Sponsor(s): Hay

Date Introduced: June 19, 1989

Committee: Assembly: Labor

Senate: -----

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: December 18, 1989

Senate: December 21, 1989

Date of Approval: January 4, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: No

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: Yes

(over)

974.90 New Jersey. Legislatur.
E54 Senate. Labor, Industry and Professions Committee.
1989 Public hearing on S266, S606, S855, S3567, collective
bargaining, held 5-22-89. Trenton, 1989.

See newspaper clippings--attached:

"Bill widening scope of school talks clears Assembly..."12-12-89 Star Ledger

"Kean must decide on bill that gives school unions more," 12-22-89 Trenton Times

"Teacher gain on right to negotiate extra work,"12-22-89 Star Ledger

P.L.1989, CHAPTER 269, *approved January 4, 1990*
1989 Assembly No. 4706 (*First Reprint*)

1 AN ACT concerning collective bargaining and public school
2 employees and supplementing P.L.1941, c.100 (C.34:13A-1 et
3 seq.).

4

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

7 1. As used in this act:

8 "Commission" means the New Jersey Public Employment
9 Relations Commission.

10 "Commissioner" means the Commissioner of Education.

11 "Discipline" includes all forms of discipline, except tenure
12 charges filed pursuant to the provisions of subsubarticle 2 of
13 subarticle B of Article 2 of chapter 6 of Subtitle 3 of Title 18A of
14 the New Jersey Statutes ¹[(C.18A:6-10 et al.)], N.J.S. 18A:6-10
15 et seq.¹, or the withholding of increments pursuant to
16 N.J.S.18A:29-14.

17 "Employees" means employees of an employer as defined by
18 this act.

19 "Employer" means any local or regional school district,
20 educational services commission, jointure commission, county
21 special services school district, or board or commission under the
22 authority of the commissioner or the State Board of Education.

23 "Extracurricular activities" include those activities or
24 assignments not specified as part of the teaching and duty
25 assignments scheduled in the regular work day, work week, or
26 work year.

27 "Minor discipline" includes, but is not limited to, various forms
28 of ¹[reprimands,]¹ fines and suspensions, but does not include
29 tenure charges filed pursuant to the provisions of subsubarticle 2
30 of subarticle B of Article 2 of chapter 6 of Subtitle 3 of Title 18A
31 of the New Jersey Statutes ¹[(C.18A:6-10 et al.)] ,
32 N.J.S.18A:6-10 et seq.¹, or the withholding of increments
33 pursuant to N.J.S.18A:29-14 ¹, letters of reprimand, or

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
¹ Assembly ALA committee amendments adopted November 27, 1989.

1 suspensions with pay pursuant to section 1 of P.L. 1971, c. 435
2 (C.18A:6-8.3) and N.J.S. 18A:25-6¹.

3 "Regular work day, work week, or work year" means that
4 period of time that all members of the bargaining unit are
5 required
6 to be present and at work.

7 "Teaching staff member" means a member of the professional
8 staff of any employer holding office, position or employment of
9 such character that the qualifications, for the office, position or
10 employment, require him to hold a valid and effective standard,
11 provisional or emergency certificate, appropriate to that office,
12 position or employment, issued by the State Board of Examiners.
13 "Teaching staff member" includes a school nurse.

14 2. All aspects of assignment to ¹[and employment in] ,
15 retention in, dismissal from, and any terms and conditions of
16 employment concerning¹ extracurricular activities shall be
17 deemed mandatory subjects for collective negotiations between
18 an employer and ¹the¹ majority representative of the employees
19 in a collective bargaining unit, except that the establishment of
20 qualifications for such positions shall not constitute a mandatory
21 subject for negotiations. If the negotiated selection procedures
22 fail to produce a qualified candidate from within the district the
23 employer may employ from outside the district any qualified
24 person who holds an appropriate New Jersey teaching
25 certificate. ¹If the employer is unable to employ a qualified
26 person from outside of the district, the employer may assign a
27 qualified teaching staff member from within the district.¹

28 3. a. Notwithstanding any other law to the contrary, and if
29 negotiated with the majority representative of the employees in
30 the appropriate collective bargaining unit, an employer shall have
31 the authority to impose minor discipline on employees. ¹Nothing
32 contained herein shall limit the authority of the employer to
33 impose, in the absence of a negotiated agreement regarding
34 minor discipline, any disciplinary sanction which is authorized and
35 not prohibited by law.¹

36 b. The scope of such negotiations shall include a schedule
37 setting forth the acts and omissions for which minor discipline
38 may be imposed, and also the penalty to be imposed for any act
39 or omission warranting imposition of minor discipline.

1 c. Fines and suspensions for minor discipline shall not
2 constitute a reduction in compensation pursuant to the provisions
3 of N.J.S.18A:6-10.

4 4. Transfers of employees by employers between work sites
5 shall not be mandatorily negotiable except that no employer shall
6 transfer an employee for disciplinary reasons.

7 5. Disputes involving the withholding of an employee's
8 increment by an employer for predominately disciplinary reasons
9 shall be subject to the grievance procedures established pursuant
10 to law and shall be subject to the provisions of section 8 of this
11 act.

12 6. a. If there is a dispute as to whether a transfer of an
13 employee between work sites or withholding of an increment of a
14 teaching staff member is disciplinary, the commission shall
15 determine whether the basis for the transfer or withholding is
16 predominately disciplinary.

17 b. If the commission determines that the basis for a transfer is
18 predominately disciplinary, the commission shall have the
19 authority to take reasonable action to effectuate the purposes of
20 this act.

21 c. If the commission determines that the basis for an
22 increment withholding is predominately disciplinary, the dispute
23 shall be resolved through the grievance procedures established
24 pursuant to law and shall be subject to the provisions of section 8
25 of this act.

26 d. If a dispute involving the reason for the withholding of a
27 teaching staff member's increment is submitted to the
28 commission pursuant to subsection a. of this section, and the
29 commission determines that the reason for the increment
30 withholding relates predominately to the evaluation of a teaching
31 staff member's teaching performance, the teaching staff
32 member may file a petition of appeal pursuant to N.J.S.18A:6-9
33 and N.J.S.18A:29-14, and the petition shall be deemed to be
34 timely if filed within 90 days of notice of the commission's
35 decision, or of the final judicial decision in any appeal from the
36 decision of the commission, whichever date is later.

37 7. Nothing in this act shall be deemed to restrict or limit any
38 right established or provided by section 7 of P.L.1968, c.303
39 (C.34:13A-5.3); this act shall be construed as providing additional

1 rights in addition to and supplementing the rights provided by
2 that section.

3 8. a. The grievance procedures that employers covered by this
4 act are required to negotiate pursuant to section 7 of P.L.1968,
5 c.303 (C.34:13A-5.3) shall be deemed to require binding
6 arbitration as the terminal step with respect to disputes
7 concerning imposition of ¹reprimands and¹ discipline as that term
8 is defined in this act.

9 b. In any grievance procedure negotiated pursuant to this act,
10 the burden of proof shall be on the employer covered by this act
11 seeking to impose discipline as that term is defined in this act.

12 9. This act shall take effect immediately and nothing in this
13 act shall require the reopening of any negotiated agreement in
14 existence at the time of enactment.

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16

17 LABOR AND EMPLOYMENT

18

Teachers

19

20 Expands the scope of negotiations for public school employees.

1 existence at the time of enactment.

3

SPONSOR

STATEMENT

5

This bill expands the scope of negotiations for public school employees in matters relating to extra curricular activities and discipline, including increment withholding.

9 The bill provides public school employees with the right to negotiate all aspects of extracurricular employment, except the qualifications for the position. It reserves the right of the employer to hire from outside the district if no qualified candidate can be found under the negotiated procedures.

13 The bill provides for the establishment of a schedule of reprimands, fines and suspensions for certain acts or omissions, provided that such a schedule is first negotiated between the employer and the employee's representative. Neither reprimands, fines nor suspensions are required to be negotiated by the parties. The form of such penalties is totally within the control of the parties. In addition, the bill provides that all discipline up to and including the withholding of increments for disciplinary reasons may be appealed through the locally negotiated grievance procedures which must provide for binding arbitration as the final step in the procedure. The withholding of a teaching staff member's increment based on the actual teaching performance would still be appealable to the Commissioner of Education.

27 The bill also forbids transfers of employees between sites for disciplinary reasons. If there is a dispute as to whether the reason for a transfer or increment withholding is predominately disciplinary, the New Jersey Public Employment Relations Commission will make the determination as it previously did in Holland Township Board of Education and Holland Township Education Association, PERC No. 87-43, 12 NJPER 17316, affirmed N.J. Superior Ct., Appellate Division, October 23, 1987.

35 The rights granted in this bill are in addition to those rights that public school employees already enjoy. This bill should not be construed as detracting from the rights of those covered or as detracting from the rights of other employees not covered by this bill.

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ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4706

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 27, 1989

The Assembly Labor Committee reports favorably Assembly Bill No. 4706 with committee amendments.

This bill expands the scope of negotiations for public school employees in matters relating to extracurricular activities and discipline, including increment withholding.

The bill deems all aspects of extracurricular employment of public school employees to be mandatory subjects of negotiation, except the qualifications for the position. It reserves the right of the employer to hire from outside the district if no qualified candidate can be found under the negotiated procedures. As amended, the bill also permits an employer to assign qualified teachers from within the district if it is not possible to locate a qualified person from outside of the district.

The bill provides public schools with the authority to impose minor discipline on employees, if negotiated. As amended, the bill defines minor discipline as including fines and suspensions, but not letters of reprimand, tenure changes, withholding of increments, or certain suspensions with pay. As amended, the bill permits an employer to use whatever disciplinary sanctions are authorized by law if there is no negotiated agreement regarding minor discipline. The bill includes in the scope of those negotiations the establishment of a schedule for the fines and suspensions. As amended, the bill also provides that all discipline, including reprimands, may be appealed through the locally negotiated grievance procedures which must provide for binding arbitration as the final step in the procedure. The withholding of a teaching staff member's increment based on the actual teaching performance would still be appealable to the Commissioner of Education.

The bill also forbids transfers of employees between sites for disciplinary reasons. If there is a dispute as to whether the reason for a transfer or increment withholding is predominately disciplinary, the New Jersey Public Employment Relations Commission will make the determination.

This bill is not to be construed as detracting from the rights of those covered or as detracting from the rights of other employees not covered by this bill.

The committee amendments provide the following:

1. That an employer may assign qualified teachers from within the district for extracurricular activities if it is not possible to locate a qualified person from outside of the district;

2. That suspensions with pay pursuant to N.J.S.18A:6-8.3 and N.J.S.18A:25-6 and reprimands not be regarded as "minor discipline" for the purposes of the bill;

3. That an employer be permitted to use whatever disciplinary sanctions are authorized by law in cases where there is no negotiated agreement regarding minor discipline; and

4. That the negotiated grievance procedure which applies to reprimands must provide for binding arbitration as the final step in the procedure.