

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 60

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

AN ACT

RELATING TO PUBLIC EMPLOYEES; ENACTING THE HAZARDOUS DUTY OFFICERS' EMPLOYER-EMPLOYEE RELATIONS ACT; PROVIDING PROCEDURES FOR EMPLOYERS AND EMPLOYEES TO FOLLOW IN CERTAIN ADMINISTRATIVE ACTIONS; PROVIDING CERTAIN RIGHTS TO HAZARDOUS DUTY OFFICERS IN CERTAIN CIRCUMSTANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "Hazardous Duty Officers' Employer-Employee Relations Act".

Section 2. DEFINITIONS.--As used in the Hazardous Duty Officers' Employer-Employee Relations Act:

A. "emergency medical technician" means an individual who has been licensed by the department of health as an emergency medical technician;

B. "firefighter" means an individual who is

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1 employed as a non-volunteer firefighter and who has taken the
2 oath prescribed for firefighters;

3 C. "hazardous duty officer" or "officer" means an
4 individual who is employed full-time by the state or a
5 political subdivision of the state as a firefighter, emergency
6 medical technician or paramedic, provided that "hazardous duty
7 officer" does not include an individual who has not completed
8 the probationary period established by the individual's
9 employer as a condition of employment; and

10 D. "paramedic" means an individual who has been
11 licensed by the department of health as a paramedic.

12 Section 3. INVESTIGATIONS OF HAZARDOUS DUTY OFFICERS--
13 REQUIREMENTS--LIMITATION.--

14 A. When a hazardous duty officer is under
15 investigation by the officer's employer for alleged actions
16 that could result in administrative sanctions being levied
17 against the officer, any interrogation of the officer shall be
18 conducted:

19 (1) when the officer is on duty or during the
20 officer's normal waking hours, unless the urgency of the
21 investigation requires otherwise; and

22 (2) at the employer's facility, unless the
23 urgency of the investigation requires otherwise.

24 B. Prior to commencement of an interrogation
25 session:

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1 (1) the officer shall be informed of the name
2 and rank of the person in charge of the interrogation and all
3 other persons who will be present during the interrogation;

4 (2) the officer shall be informed of the
5 nature of the investigation, and the names of all known
6 complainants shall be disclosed to the officer unless the chief
7 administrator of the officer's employer determines that the
8 identification of the complainant shall not be disclosed
9 because it is necessary for the protection of an informant or
10 because disclosure would jeopardize or compromise the integrity
11 or security of the investigation; and

12 (3) a reasonable attempt shall be made to
13 notify the officer's immediate superior of the pending
14 interrogation.

15 C. During an interrogation session, the following
16 requirements shall be adhered to:

17 (1) each interrogation session shall not
18 exceed two hours unless the parties mutually consent to
19 continuation of the session;

20 (2) there shall not be more than two
21 interrogation sessions within a twenty-four-hour period, unless
22 the parties mutually consent to additional sessions, provided
23 that there shall be at least a one-hour rest period between the
24 sessions;

25 (3) the combined duration of the officer's

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1 work shift and an interrogation session shall not exceed
2 fourteen hours within a twenty-four-hour period, unless the
3 urgency of the investigation requires otherwise;

4 (4) there shall not be more than two
5 interrogators at any given time;

6 (5) the officer shall be allowed to attend to
7 physical necessities as they occur in the course of an
8 interrogation session; and

9 (6) the officer shall not be subjected to
10 offensive language or illegal coercion by the officer's
11 interrogator in the course of an interrogation session.

12 D. An interrogation of an officer shall be
13 recorded, and the complete interrogation shall be published as
14 a transcript; provided that any recesses called during the
15 interrogation shall be noted in the transcript. An accurate
16 copy of the transcript or tape shall be provided to the
17 officer, upon written request, no later than fifteen working
18 days after the investigation has been completed.

19 Section 4. POLYGRAPH EXAMINATIONS.--After reviewing all
20 the information collected in the course of an investigation of
21 a hazardous duty officer, the chief administrator of the
22 officer's employer may order the officer to submit to a
23 polygraph examination administered by a licensed polygraph
24 examiner, provided that:

25 A. all other reasonable investigative means have

1 been exhausted; and

2 B. the officer has been advised of the
3 administrator's reasons for ordering the polygraph examination.

4 Section 5. RIGHT TO PRODUCE EVIDENCE.--When a hazardous
5 duty officer is under investigation for an administrative
6 matter, the officer shall be permitted to produce any relevant
7 documents, witnesses or other evidence to support the officer's
8 case and the officer may cross-examine any adverse witnesses
9 during any grievance process or appeal involving disciplinary
10 action.

11 Section 6. PERSONNEL FILES.--

12 A. No document containing comments adverse to a
13 hazardous duty officer shall be entered into the officer's
14 personnel file unless the officer has read and signed the
15 document. When an officer refuses to sign a document
16 containing adverse comments, the document may be entered into
17 an officer's personnel file if:

18 (1) the officer's refusal to sign is noted on
19 the document by the chief administrator of the officer's
20 employer; and

21 (2) the notation regarding the officer's
22 refusal to sign the document is witnessed by a third party.

23 B. A hazardous duty officer may file a written
24 response to any document containing adverse comments entered
25 into the officer's personnel file, and the response shall be

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1 filed with the officer's employer within thirty days after the
2 document was entered into the officer's personnel file. A
3 hazardous duty officer's written response shall be attached to
4 the document.

5 Section 7. CONSTITUTIONAL RIGHTS--NOTIFICATION.--When a
6 hazardous duty officer is under administrative investigation
7 and a determination is made to commence a criminal
8 investigation, the officer shall be immediately notified of the
9 investigation and shall be afforded all the protections set
10 forth in the bill of rights of the United States constitution
11 and of the constitution of New Mexico.

12 Section 8. FORCED DISCLOSURE OF FINANCIAL INFORMATION.--A
13 hazardous duty officer shall not be required by an employer to
14 disclose information regarding the officer's financial status,
15 unless all other reasonable investigative means have been
16 exhausted or except as otherwise required by law.

17 Section 9. POLITICAL ACTIVITY.--

18 A. A hazardous duty officer shall not be prohibited
19 by an employer from engaging in any political activity when the
20 officer is off duty, except as otherwise provided by law.

21 B. A hazardous duty officer who is an employee of a
22 political subdivision of the state shall not, as a condition of
23 that employment, be prohibited from seeking election to, or
24 serving as a member of, the governing body of any other
25 political subdivision of the state.

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1 Section 10. EXERCISE OF RIGHTS.--A hazardous duty officer
2 shall not be subjected to any retaliation by an employer due to
3 the officer's lawful exercise of the officer's rights under the
4 Hazardous Duty Officers' Employer-Employee Relations Act.

5 Section 11. APPLICABILITY.--The provisions of the
6 Hazardous Duty Officers' Employer-Employee Relations Act govern
7 the relationships between hazardous duty officers, as
8 employees, and the state or any of its political subdivisions,
9 including home rule municipalities and class H counties, as
10 employers; provided that nothing in that act shall supersede or
11 otherwise affect the application of any statute or local
12 ordinance relating to criminal investigations or procedure.

13 Section 12. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2010.

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