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

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

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

3 Section 3. INVESTIGATIONS OF HAZARDOUS DUTY OFFICERS--
4 REQUIREMENTS--LIMITATION.--

5 A. When a hazardous duty officer is under
6 investigation by the officer's employer for alleged actions
7 that could result in administrative sanctions being levied
8 against the officer, any interrogation of the officer shall
9 be conducted:

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

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

15 B. Prior to commencement of an interrogation
16 session:

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

21 (2) the officer shall be informed of the
22 nature of the investigation, and the names of all known
23 complainants shall be disclosed to the officer unless the
24 chief administrator of the officer's employer determines that
25 the identification of the complainant shall not be disclosed

1 because it is necessary for the protection of an informant or
2 because disclosure would jeopardize or compromise the
3 integrity or security of the investigation; and

4 (3) a reasonable attempt shall be made to
5 notify the officer's immediate superior of the pending
6 interrogation.

7 C. During an interrogation session, the following
8 requirements shall be adhered to:

9 (1) each interrogation session shall not
10 exceed two hours unless the parties mutually consent to
11 continuation of the session;

12 (2) there shall not be more than one
13 interrogation session within a twenty-four-hour period,
14 unless the parties mutually consent to additional sessions,
15 provided that there shall be at least a one-hour rest period
16 between the sessions;

17 (3) there shall not be more than two
18 interrogators at any given time;

19 (4) the officer shall be allowed to attend
20 to physical necessities as they occur in the course of an
21 interrogation session; and

22 (5) the officer shall not be subjected to
23 offensive language or illegal coercion by the officer's
24 interrogator in the course of an interrogation session.

25 D. An interrogation of an officer shall be

1 recorded, and the complete interrogation shall be published
2 as a transcript; provided that any recesses called during the
3 interrogation shall be noted in the transcript. An accurate
4 copy of the transcript or tape shall be provided to the
5 officer, upon written request, no later than fifteen working
6 days after the investigation has been completed.

7 Section 4. POLYGRAPH EXAMINATIONS.--After reviewing all
8 the information collected in the course of an investigation
9 of a hazardous duty officer, the chief administrator of the
10 officer's employer may order the officer to submit to a
11 polygraph examination administered by a licensed polygraph
12 examiner, provided that:

13 A. all other reasonable investigative means have
14 been exhausted; and

15 B. the officer has been advised of the
16 administrator's reasons for ordering the polygraph
17 examination.

18 Section 5. RIGHT TO PRODUCE EVIDENCE.--When a hazardous
19 duty officer is under investigation for an administrative
20 matter, the officer shall be permitted to produce any
21 relevant documents, witnesses or other evidence to support
22 the officer's case and the officer may cross-examine any
23 adverse witnesses during any grievance process or appeal
24 involving disciplinary action.

25 Section 6. PERSONNEL FILES.--

1 A. No document containing comments adverse to a
2 hazardous duty officer shall be entered into the officer's
3 personnel file unless the officer has read and signed the
4 document. When an officer refuses to sign a document
5 containing adverse comments, the document may be entered into
6 an officer's personnel file if:

7 (1) the officer's refusal to sign is noted
8 on the document by the chief administrator of the officer's
9 employer; and

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

12 B. A hazardous duty officer may file a written
13 response to any document containing adverse comments entered
14 into the officer's personnel file, and the response shall be
15 filed with the officer's employer within thirty days after
16 the document was entered into the officer's personnel file.
17 A hazardous duty officer's written response shall be attached
18 to the document.

19 Section 7. CONSTITUTIONAL RIGHTS--NOTIFICATION.--When a
20 hazardous duty officer is under administrative investigation
21 and a determination is made to commence a criminal
22 investigation, the officer shall be immediately notified of
23 the investigation and shall be afforded all the protections
24 set forth in the bill of rights of the United States
25 constitution and of the constitution of New Mexico.

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

7 Section 9. POLITICAL ACTIVITY.--A hazardous duty
8 officer shall not be prohibited by an employer from engaging
9 in any political activity when the officer is off duty,
10 except as otherwise provided by law.

11 Section 10. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2010. _____

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