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SENATE BILL 93

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Sander Rue

AN ACT

RELATING TO LABOR; REVISING THE PUBLIC EMPLOYEE BARGAINING ACT
TO PROHIBIT PAYROLL DEDUCTIONS OF MEMBERSHIP DUES.

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

SECTION 1. Section 10-7E-17 NMSA 1978 (being Laws 2003,
Chapter 4, Section 17 and Laws 2003, Chapter 5, Section 17) is
amended to read:

"10-7E-17. SCOPE OF BARGAINING.--

A. Except for retirement programs provided pursuant
to the Public Employees Retirement Act or the Educational
Retirement Act, public employers and exclusive representatives:

(1) shall bargain in good faith on wages,
hours and all other terms and conditions of employment and
other issues agreed to by the parties. However, neither the
public employer nor the exclusive representative shall be

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1 required to agree to a proposal or to make a concession; and

2 (2) shall enter into written collective
3 bargaining agreements covering employment relations.

4 B. The obligation to bargain collectively imposed
5 by the Public Employee Bargaining Act shall not be construed as
6 authorizing a public employer and an exclusive representative
7 to enter into an agreement that is in conflict with the
8 provisions of any other statute of this state. In the event of
9 conflict between the provisions of any other statute of this
10 state and an agreement entered into by the public employer and
11 the exclusive representative in collective bargaining, the
12 statutes of this state shall prevail.

13 C. Payroll deduction of the exclusive
14 representative's membership dues shall ~~[be a mandatory]~~ not be
15 a subject of bargaining ~~[if either party chooses to negotiate~~
16 ~~the issue. The amount of dues shall be certified in writing by~~
17 ~~an official of the labor organization and shall not include~~
18 ~~special assessments, penalties or fines of any type. The~~
19 ~~public employer shall honor payroll deductions until the~~
20 ~~authorization is revoked in writing by the public employee in~~
21 ~~accordance with the negotiated agreement and for so long as the~~
22 ~~labor organization is certified as the exclusive~~
23 ~~representative. During the time that a board certification is~~
24 ~~in effect for a particular appropriate bargaining unit, the~~
25 ~~public employer shall not deduct dues for any other labor~~

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1 ~~organization~~].

2 D. The scope of bargaining for representatives of
3 public schools as well as educational employees in state
4 agencies shall include, as a mandatory subject of bargaining,
5 the impact of professional and instructional decisions made by
6 the employer.

7 E. An impasse resolution or an agreement provision
8 by the state and an exclusive representative that requires the
9 expenditure of funds shall be contingent upon the specific
10 appropriation of funds by the legislature and the availability
11 of funds. An impasse resolution or an agreement provision by a
12 public employer other than the state or the public schools and
13 an exclusive representative that requires the expenditure of
14 funds shall be contingent upon the specific appropriation of
15 funds by the appropriate governing body and the availability of
16 funds. An agreement provision by a local school board and an
17 exclusive representative that requires the expenditure of funds
18 shall be contingent upon ratification by the appropriate
19 governing body. An arbitration decision shall not require the
20 reappropriation of funds.

21 F. An agreement shall include a grievance procedure
22 to be used for the settlement of disputes pertaining to
23 employment terms and conditions and related personnel matters.
24 The grievance procedure shall provide for a final and binding
25 determination. The final determination shall constitute an

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1 arbitration award within the meaning of the Uniform Arbitration
2 Act; such award shall be subject to judicial review pursuant to
3 the standard set forth in the Uniform Arbitration Act. The
4 costs of an arbitration proceeding conducted pursuant to this
5 subsection shall be shared equally by the parties.

6 G. The following meetings shall be closed:

7 (1) meetings for the discussion of bargaining
8 strategy preliminary to collective bargaining negotiations
9 between the public employer and the exclusive representative of
10 the public employees of the public employer;

11 (2) collective bargaining sessions; and

12 (3) consultations and impasse resolution
13 procedures at which the public employer and the exclusive
14 representative of the appropriate bargaining unit are present."

15 SECTION 2. Section 10-7E-19 NMSA 1978 (being Laws 2003,
16 Chapter 4, Section 19 and Laws 2003, Chapter 5, Section 19) is
17 amended to read:

18 "10-7E-19. PUBLIC EMPLOYERS--PROHIBITED PRACTICES.--A
19 public employer or [~~his~~] the public employer's representative
20 shall not:

21 A. discriminate against a public employee with
22 regard to terms and conditions of employment because of the
23 employee's membership in a labor organization;

24 B. interfere with, restrain or coerce a public
25 employee in the exercise of a right guaranteed pursuant to the

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1 Public Employee Bargaining Act;

2 C. dominate or interfere in the formation,
3 existence or administration of a labor organization;

4 D. discriminate in regard to hiring, tenure or a
5 term or condition of employment in order to encourage or
6 discourage membership in a labor organization;

7 E. discharge or otherwise discriminate against a
8 public employee because [~~he~~] the employee has signed or filed
9 an affidavit, petition, grievance or complaint or given
10 information or testimony pursuant to the provisions of the
11 Public Employee Bargaining Act or because a public employee is
12 forming, joining or choosing to be represented by a labor
13 organization;

14 F. refuse to bargain collectively in good faith
15 with the exclusive representative;

16 G. deduct membership dues for a labor organization
17 using payroll deductions;

18 [~~G.~~] H. refuse or fail to comply with a provision
19 of the Public Employee Bargaining Act or board rule; or

20 [~~H.~~] I. refuse or fail to comply with a collective
21 bargaining agreement."

22 SECTION 3. Section 10-7E-26 NMSA 1978 (being Laws 2003,
23 Chapter 4, Section 26 and Laws 2003, Chapter 5, Section 26) is
24 amended to read:

25 "10-7E-26. EXISTING ORDINANCES PROVIDING FOR PUBLIC

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1 EMPLOYEE BARGAINING.--

2 A. A public employer other than the state that
3 prior to October 1, 1991 adopted by ordinance, resolution or
4 charter amendment a system of provisions and procedures
5 permitting employees to form, join or assist a labor
6 organization for the purpose of bargaining collectively through
7 exclusive representatives may continue to operate under those
8 provisions and procedures. Any substantial change after
9 January 1, 2003 to any ordinance, resolution or charter
10 amendment shall subject the public employer to full compliance
11 with the provisions of Subsection B of this section [~~26 of the~~
12 ~~Public Employee Bargaining Act~~].

13 B. A public employer other than the state that
14 subsequent to October 1, 1991 adopts by ordinance, resolution
15 or charter amendment a system of provisions and procedures
16 permitting employees to form, join or assist a labor
17 organization for the purpose of bargaining collectively through
18 exclusive representatives freely chosen by its employees may
19 operate under those provisions and procedures rather than those
20 set forth in the Public Employee Bargaining Act; provided that
21 the employer shall comply with the provisions of Sections [~~8~~
22 ~~through 12 and Subsection D of Section 17 of that act~~] 10-7E-8
23 through 10-7E-12 NMSA 1978 and Subsection D of Section 10-7E-17
24 NMSA 1978 and provided the following provisions and procedures
25 are included in each ordinance, resolution or charter

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1 amendment:

2 (1) the right of public employees to form,
3 join or assist employee organizations for the purpose of
4 achieving collective bargaining;

5 (2) procedures for the identification of
6 appropriate bargaining units, certification elections and
7 decertification elections equivalent to those set forth in the
8 Public Employee Bargaining Act;

9 (3) the right of a labor organization to be
10 certified as an exclusive representative;

11 (4) the right of an exclusive representative
12 to negotiate all wages, hours and other terms and conditions of
13 employment for public employees in the appropriate bargaining
14 unit;

15 (5) the obligation to incorporate agreements
16 reached by the public employer and the exclusive representative
17 into a collective bargaining agreement;

18 (6) a requirement that grievance procedures
19 culminating with binding arbitration be negotiated;

20 ~~[(7) a requirement that payroll deductions for~~
21 ~~the exclusive representative's membership dues be negotiated if~~
22 ~~requested by the exclusive representative;~~

23 ~~(8)]~~ (7) impasse resolution procedures
24 equivalent to those set forth in Section ~~[18 of the Public~~
25 ~~Employee Bargaining Act]~~ 10-7E-18 NMSA 1978; and

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[~~(9)~~] (8) prohibited practices for the public employer, public employees and labor organizations that promote the principles established in Sections [~~19 through 21 of the Public Employee Bargaining Act~~] 10-7E-19 through 10-7E-21 NMSA 1978."