



Changes to the Public Employee Bargaining Act

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Where Do I Find the New Language?

- ▶ <https://www.nmlegis.gov/Sessions/20%20Regular/final/HB0364.pdf>
- ▶ For full text of current PEBA:
<https://www.pelrb.state.nm.us/statute.php>

Top ~~Ten~~ Twelve Changes

1. Elimination of Local Labor Boards
2. **Management definition**
3. Addition of concerted activities
4. **No removal of job titles currently existing in a bargaining unit**
5. Elimination of union representation elections
6. Release of employee personal information to union
7. Union right to meet with employees on paid work time
8. Union right to use Employer's facilities
9. Perpetual bargaining
10. **Terminating dues limited to 10-day window**
11. No use of public monies to share information during organizing effort
12. No grandfathered Ordinances or Resolutions

Management Employee

- ▶ Protecting Management Employees from Exclusion from the Bargaining Unit
- ▶ Definition Portion Unchanged: An employee who is engaged primarily in executive and management functions and is charged with the responsibility of developing, administering, or effectuating management policies.
- ▶ Definition Portion changed: An employee shall not be deemed a management employee solely because the employee participates in cooperative decision-making programs ~~on an occasional basis~~ or whose fiscal responsibilities are routine, incidental, or clerical.

Management Employees

- ▶ How do I ensure management employees remain excluded from any bargaining unit?
 - ▶ Review job descriptions asap
 - ▶ Meetings involving management: document dates, agenda, individuals in attendance
 - ▶ Give assignments in writing
 - ▶ Draft, review, revise policies
 - ▶ Develop budget for department; review and develop plan for increases and decreases
 - ▶ Conduct training
 - ▶ Attend managerial training
- ▶ DOCUMENT everything!
- ▶ Be careful to avoid input rather than decision-making

Job Titles

- ▶ Bargaining unit positions remain as of January 1, 2020, under local ordinances/resolutions
 - ▶ Reclassifications mean additional titles in bargaining unit, not replacement of current titles
 - ▶ Additional titles requires an amendment of certification of the bargaining unit to be issued by the labor board

Local Labor Boards

- ▶ Adopt revised Resolution by December 31, 2020
- ▶ File Rules with PELRB by April 30, 2021
- ▶ Continued existence after December 31, 2021:
 - ▶ Affirmation by NMSU
 - ▶ Affirmation by Unions
 - ▶ Reconfirm every 2 years

Dues Deduction Window

- ▶ New language states termination of dues limited to 10-day window
- ▶ Negotiate window period
- ▶ If no agreement, 10-day window is on anniversary date of hire of each employee
- ▶ Is there an exception?
 - ▶ §10-7E-17(C) new language: a collective bargaining agreement that provides greater rights, remedies, and procedures to public employees than contained in a state statute shall not be considered to be in conflict with that state statute.

Constitutional Challenges to PEBA?

- ▶ §10-7E-17(E): Pending Janus cases result in win for Union
- ▶ Restriction on informed electorate
- ▶ Anti-Donation Clause and Governmental Conduct Act violations
- ▶ Dummy bill process

Questions?