Summary

Excluded from National Labor Relations Act (NLRA), public employees are subject to state and local laws governing collective bargaining. Many of these laws are “monopoly bargaining laws,” which means that even if an employee chooses not to join a union, he or she must accept the terms of the contract negotiated for unionized workers in the workplace. This act establishes the workers’ right, in mutual agreement with the public employer, to representation by a public employee’s own choosing.

Model Legislation

Section 1. {Short Title.} This Act shall be known as the Public Employee Freedom Act.

Section 2. {Legislative Declarations.} This legislature finds and declares that:
A. An employer and employee should be free to contract on their own terms.
B. Mandatory collective bargaining laws violate this freedom.
C. As a result, it is against the public policy interests of this State/Commonwealth to impose mandatory collective bargaining laws on public employees and the organizations that represent them in the collective bargaining process.

Section 3. {Definitions.}
A. “Employee organization” means any association or organization of employees, and any agency, employee representation committee, or plan in which employees participate that exists, in whole or in part, to advocate on behalf of employees about grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.
B. “Public employee” means a person holding a position by appointment or employment in the government of this State, or any of its political subdivisions, including, but not limited to public schools, and any authority, commission or board, or in any other branch of public service.
(1) “Public employee” does not include employees whose jobs entail managerial, supervisory, or confidential responsibilities.
C. For the purposes of this Act, “public employer” means any state or local government, government agency, government instrumentality, special district, joint powers authority, school board or special purpose organization that employs one or more persons in any capacity.

Section 4. {Public employee freedom guaranteed.}
A. Public employees shall have the right to represent themselves in their relations with the public employer.
B. No provision of any agreement between an employee organization and a public employer, or any other public policy, shall impose representation by an employee organization on public employees who are not members of that organization.

Section 5. {Prohibition of automatic payroll deductions} No dues, fees, assessments or any other automatic payroll deductions by public employers from public employee payroll compensation shall be allowed for transmission to any public employee organization, any intermediary, or private individual, other than for primary and supplemental pension plans, life, health and other employee benefits, or contributions made to 501C(3) charitable organizations through a workplace givings program.

Section 6. {Agreements in violation, and actions to induce such agreements, declared illegal.} Any agreement, understanding, or practice, written or oral, implied or expressed, between any employee organization and public employer that violates the rights of employees as guaranteed by provisions of this chapter is hereby declared to be unlawful, null and void, and of no legal effect. Any strike, picketing, boycott, or other action by an employee organization for the purpose of inducing or attempting to induce an employer to enter into any agreement prohibited by this chapter is hereby declared to be for an illegal purpose and is a violation of the provisions of this chapter.

Section 7. {Coercion and intimidation prohibited.} It shall be unlawful for any...
Section 7. {Coercion and intimidation prohibited.} Any person, employee organization, or officer, agent, or member thereof, by any threatened or actual intimidation of an employee or perspective employee, or an employee or perspective employee's parents, spouse, children, grandchildren, or any other persons residing in the employee's or perspective employee's home, or by any damage or threatened damage to an employee's or perspective employee's property, to compel or attempt to compel such employee to join, affiliate with, or financially support an employee organization.

Section 8. {Penalties.} Any person who directly or indirectly violates any provision of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not exceeding (insert amount) or imprisonment for a period of not more than (insert time period), or both such fine or imprisonment.

Section 9. {Duty to investigate} It shall be the duty of the state attorney general to investigate complaints of violation or threatened violations of this chapter and to prosecute any or all persons violating any of its provisions, and to take all means at his or her command to ensure its effective enforcement.

Section 10. {Prospective application} The provisions of this chapter shall apply to all contracts or contract extensions entered into after the effective date of this chapter, but no later than two years hence.

Section 11. {Severability clause.}

Section 12. {Repealer clause.}