

1 SENATE BILL 487

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Gregory A. Baca

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9  
10 AN ACT

11 RELATING TO THE PUBLIC EMPLOYEE BARGAINING ACT; CLARIFYING  
12 ENFORCEMENT AUTHORITY OF THE PUBLIC EMPLOYEE LABOR RELATIONS  
13 BOARD; ADDRESSING PROHIBITED PRACTICES.

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

16 SECTION 1. Section 10-7E-9 NMSA 1978 (being Laws 2003,  
17 Chapter 4, Section 9 and Laws 2003, Chapter 5, Section 9) is  
18 amended to read:

19 "10-7E-9. BOARD--POWERS AND DUTIES.--

20 A. The board shall promulgate rules necessary to  
21 accomplish and perform its functions and duties as established  
22 in the Public Employee Bargaining Act, including the  
23 establishment of procedures for:

24 (1) the designation of appropriate bargaining  
25 units;

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1 (2) the selection, certification and  
2 decertification of exclusive representatives; and

3 (3) the filing of, hearing on and  
4 determination of complaints of prohibited practices.

5 B. The board shall:

6 (1) hold hearings and make inquiries necessary  
7 to carry out its functions and duties;

8 (2) conduct studies on problems pertaining to  
9 employee-employer relations; and

10 (3) request from public employers and labor  
11 organizations the information and data necessary to carry out  
12 the board's functions and responsibilities.

13 C. The board may issue subpoenas requiring, upon  
14 reasonable notice, the attendance and testimony of witnesses  
15 and the production of evidence, including books, records,  
16 correspondence or documents relating to the matter in question.  
17 The board may prescribe the form of subpoena, but it shall  
18 adhere insofar as practicable to the form used in civil actions  
19 in the district court. The board may administer oaths and  
20 affirmations, examine witnesses and receive evidence.

21 D. The board shall decide issues by majority vote  
22 and shall issue its decisions in the form of written orders and  
23 opinions.

24 E. The board may hire personnel or contract with  
25 third parties as it deems necessary to assist it in carrying

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1 out its functions.

2 F. The board has the power to enforce provisions of  
3 the Public Employee Bargaining Act through the imposition of  
4 appropriate administrative remedies; provided that those  
5 remedies do not include reinstatement of position or the award  
6 of compensatory damages.

7 G. A rule promulgated by the board or a local board  
8 shall not require, directly or indirectly, as a condition of  
9 continuous employment, a public employee covered by the Public  
10 Employee Bargaining Act to pay money to a labor organization  
11 that is certified as an exclusive representative. The issue of  
12 fair share shall be left a permissive subject of bargaining by  
13 the public employer and the exclusive representative of each  
14 bargaining unit."

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; or

16 G. refuse or fail to comply with a provision of the  
17 Public Employee Bargaining Act or board rule [~~or~~

18 ~~H. refuse or fail to comply with a collective~~  
19 ~~bargaining agreement]."~~