

[First Reprint]

ASSEMBLY, No. 4243

STATE OF NEW JERSEY

217th LEGISLATURE

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SYNOPSIS

Bars public entities and public employees from entering into confidential settlements of “whistleblower” claims; provides that such settlements constitute public records.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on March 20, 2017, with amendments.

AN ACT concerning certain settlements and supplementing chapter 19 of Title 34 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. As used in this act:

“Public entity” means the State, and any county, municipality, district, public authority, public agency, and any other political subdivision or public body in the State.

“Public employee” means an employee of a public entity.

b. (1) Except as provided in paragraph (2) of this subsection, no public entity or public employee may enter into any agreement to settle a claim or action to which the public entity, or a public employee in his capacity as a public employee, is a party where the public employee asserts the protections of the “Conscientious Employee Protection Act,” P.L.1986, c.105 (C.34:19-1 et seq.), if ¹;

(a) ¹ such agreement provides that the terms or conditions of the settlement are confidential ¹; or

(b) the purpose or effect of such agreement is to conceal information relating to any claim or action concerning the public interest¹.

(2) A public entity or public employee may enter into an agreement that provides that the terms or conditions of settlement of such a claim or action are confidential if the settlement involves a matter of national security.

2. Any agreement to settle a claim or action in which a public entity, or a public employee in his capacity as a public employee, is a party and where the public employee asserts the protections of the “Conscientious Employee Protection Act,” P.L.1986, c.105 (C.34:19-1 et seq.) ¹, as set forth in paragraph (1) of subsection b. of section 1 of P.L. , c. (C.) (pending before the Legislature as this bill),¹ shall be considered a public record within the meaning of P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.) except for matters involving national security.

3. Nothing in this act shall be deemed to affect the requirement set out in P.L.1989, c.336 (C.2A:82-46), or in any other law or Rule of Court, that in prosecutions for aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact, endangering the welfare of children under N.J.S.2C:24-4, or in any action alleging an abused or neglected child under P.L.1974, c.119 (C.9:6-8.21 et seq.), the name, address, and identity of a victim who was under the age of 18 at the time of the alleged commission of an offense shall not appear on the indictment, complaint, or any other public record.

4. Nothing in this act shall be deemed to preclude or otherwise limit the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.).

¹5. The Attorney General shall make publicly available on its website a list of any agreements set forth in paragraph (1) of subsection b. of section 1 of P.L. , c. (C.) (pending before the Legislature as this bill) to settle a claim or action in which a public entity, or a public employee in his capacity as a public employee, is a party. The list of the agreements shall be in a searchable format in a prominent location on the website and shall include for each settlement agreement:

a. the date on which the parties entered into the settlement agreement;

b. the names of the parties;

c. a description of the claims;

d. the total amount each party is obligated to pay; and

e. the total amount of compensation for any outside legal counsel.¹

¹6. Notwithstanding the provisions of any other law to the contrary, any agreement to settle a claim or action where a public entity is a party shall be considered a public record within the meaning of P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.), except for matters involving national security.¹

¹[5.] 7.¹ This act shall take effect on the 90th day following enactment.