



**STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION**

PO Box 429
TRENTON, NEW JERSEY 08625-0429

www.nj.gov/perc

ADMINISTRATION/LEGAL
(609) 292-9830
CONCILIATION/ARBITRATION
(609) 292-9898
UNFAIR PRACTICE/REPRESENTATION
(609) 292-6780

For Courier Delivery
495 WEST STATE STREET
TRENTON, NEW JERSEY 08618

FAX: (609) 777-0089
EMAIL: mail@perc.nj.gov

August 5, 2024

VIA E-MAIL

David B. Bender, Esq.
Legal Affairs and Audit Specialist
New Jersey Office of the State Comptroller
22 West State Street
Trenton, NJ 08625

Re: Your letter dated July 22, 2024

Dear Mr. Bender:

This letter is in response to the July 22, 2024, draft report of the Office of the State Comptroller concerning local government compliance with the collective negotiations agreement (CNA) filing requirements of the New Jersey Employer-Employee Relations Act (EERA). N.J.S.A. 34:13A-1 et seq. PERC is a neutral labor relations agency in, but not of the Department of Labor and Workforce Development. PERC's statutory mission is to foster harmonious public sector labor relations by preventing or promptly settling labor disputes. N.J.S.A. 34:13A-2 and 34:13A-5. PERC is concerned exclusively with matters of public employment related to determining negotiations units, elections, certifications and settlement of public employee representative and public employer disputes and grievance procedures. N.J.S.A. 34:13A-5.1 Paramount to PERC's successful operations is the public and the parties' confidence in PERC's neutrality.

The draft report recommends that PERC enact enforcement mechanisms to improve compliance with the CNA filing requirements. Public sector CNAs are received and maintained on the PERC website. When PERC receives an inquiry about a contract that is not on the website, an email is sent to the respective business administrator requesting compliance with the filing requirements.

The EERA does not provide PERC with an enforcement mechanism. PERC does not have regulatory authority to craft an administrative enforcement and/or penalty mechanism. The Legislature has only granted PERC the authority to charge fees in interest arbitration matters. N.J.S.A. 34:13A-16.3 (PERC may assess fees for actual costs in interest arbitration matters, 34:13A-14 et seq., P.L. 1977, c. 85, as amended). For example, fact-finders are not employees of PERC. PERC regulations regarding the Commission's payment of fact-finder fees for service are derived from the EERA but have been overridden in the State Appropriation Act for many years. Cf. N.J.A.C. 19:12-4.2(f) providing PERC will pay fees and State of New Jersey FY 25 State Budget at D-264 providing that "Notwithstanding the provisions of the New Jersey Employer-Employee Relations Act, the cost of fact-finding shall be borne equally by the public employer and the exclusive employee representative." www.nj.gov/treasury/omb/publications/25budget PERC's regulations regarding grievance arbitration do not set fees, but rather inform the parties that their CNA determines payment for the costs of arbitration. N.J.A.C. 19:12-5.11.

With respect to the remaining recommendations by the Comptroller, PERC is in the process of obtaining a new case management system to replace the current system that was developed over 20 years ago. The PERC IT Strategic Plan for 2023-2025 provides for a modern website that follows the state's standard look and feel in accordance with the New Jersey Web Presence Guidelines. This new system will provide an enhanced user experience from the current system.

While PERC does not currently have authority to enforce compliance, if the Legislature amends the EERA regarding PERC's role in the collection of CNAs, the Agency will administer the Act as required. The Agency has reviewed the recommendations of the Comptroller and determined that if the Legislature provides enforcement powers to PERC, it will require an increase of at least 5 FTE to provide these functions properly. The Agency would have to create a new division that would operate apart from the labor relations staff to avoid conflicts and maintain neutrality.

On behalf of PERC, I thank you for the opportunity to provide our comments.

Sincerely,

/s/ Mary E. Hennessy-Shotter

Mary E. Hennessy-Shotter
Chair

MEH-S/lc