

A local law establishing Erie county provisions and procedures for county employees' rights of organization and representation for the purpose of collectively negotiating conditions of employment.

Became a law with the approval of the county executive, August 28, 1967. Passed by the local legislative body of the county of Erie. Filed in the office of the secretary of state August 31, 1967.

Be it enacted by the board of supervisors of the county of Erie as follows:

Section 1. Legislative declaration. The board of supervisors of the county of Erie hereby finds and declares that it is in the best interests of the citizens of the county and the employees of the Erie county government to provide for the effective implementation of the requirements of the Public Employees' Fair Employment Act, as set forth in article fourteen of the Civil Service Law as added by chapter three hundred ninety-two of the laws of nineteen hundred sixty-seven, by establishing local provisions and procedures with respect to the determination of the representation status of employees' organizations and the resolution of disputes in the course of collective negotiations with such organizations.

It is the purpose of the said act and the local provisions and procedures herein established to promote a harmonious and cooperative relationship between the county government and its employees and to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of county government. With this end in view this board of supervisors also creates, as hereinafter provided, a local public employment board and establishes herein further procedures relating to the prohibition against strikes by public employees as provided in said act.

§ 2. Definitions. As used in this local law:

1. "Board" means the public employment relations board created by section five of this local law.

2. "Budget submission date" means the date by which a proposed budget of the county or a budget containing proposed expenses

applicable to the county must be submitted to the board of supervisors for final action.

3. "Membership dues deduction" means the obligation or practice of the county to deduct from the salary of a public employee with his consent an amount for the payment of his membership dues in an employee organization and transmitting the sums so deducted to an employee organization.

4. "Chief legal officer" means the county attorney.

5. "Terms and conditions of employment" means salaries, wages, hours and other terms and conditions of employment.

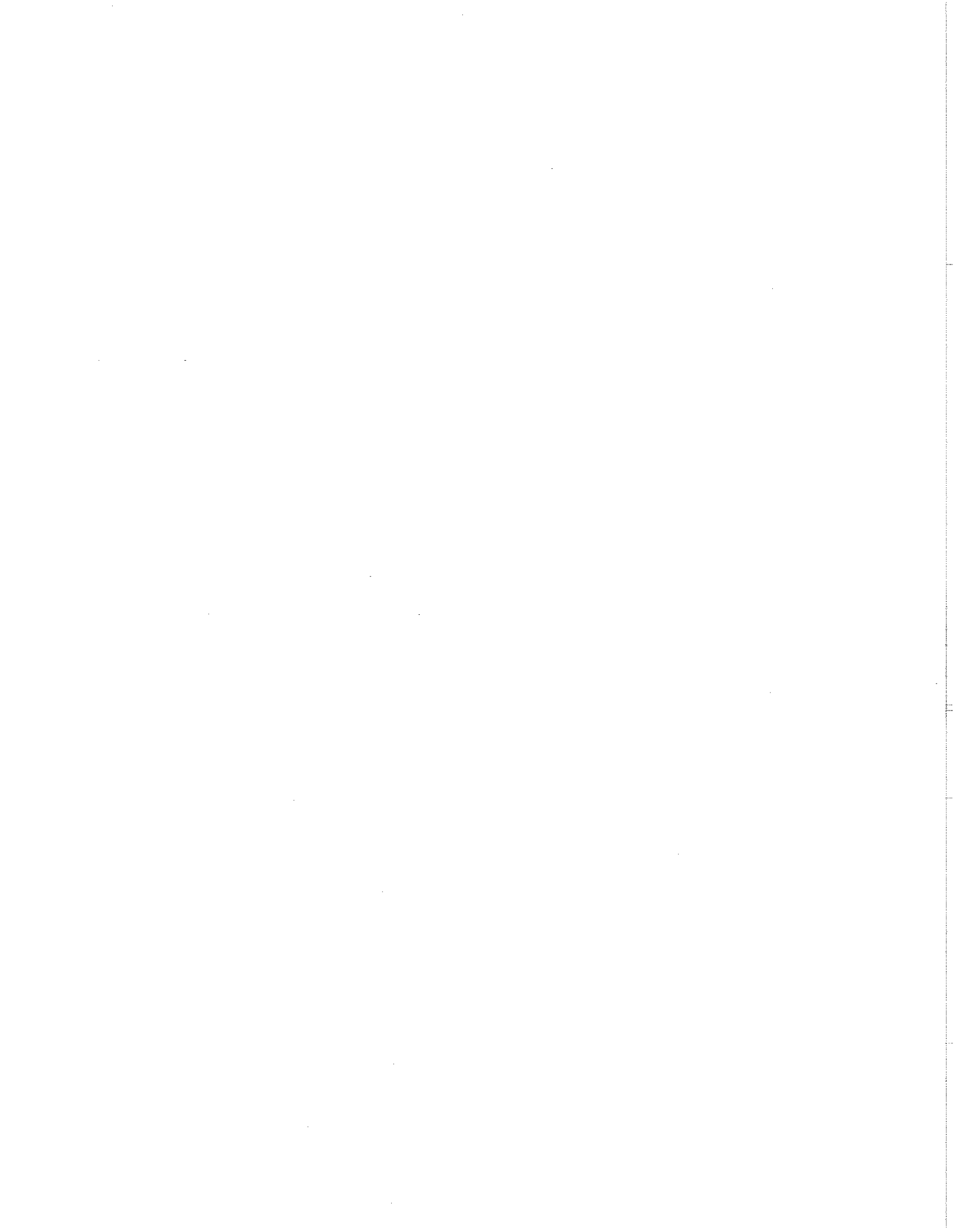
6. "Employee organization" means an organization of any kind having as its primary purpose the improvement of terms and conditions of employment of public employees, except that such term shall not include an organization: (a) Membership in which is prohibited by section one hundred five of the Civil Service Laws* of the state of New York, (b) which discriminates with regard to the terms or conditions of membership because of race, color, creed, or national origin, or (c) which, in the case of public employees who hold positions by appointment or employment in the service of the board and who are excluded from the application of this local law by rules and regulations of the board, admits to membership or is affiliated directly or indirectly with an organization which admits to membership persons not in the service of the board, for purposes of any provision of this local law other than sections nine and ten of this local law.

7. "Government" or "public employer" means the county of Erie.

8. "Public employee" means any person holding a position by appointment or employment in the service of the county of Erie.

9. The term "strike" means any strike or other concerted stoppage of work or slowdowns by public employees.

* So in original.



§ 3. Right of organization. Employees of the county of Erie shall have the right to form, join and participate in, or to refrain from forming, joining, or participating in, any employee organization of their own choosing. The term "employees" as used herein shall mean those persons holding a position by appointment or employment in the service of the county of Erie.

§ 4. Right of representation. Such employees shall have the right to be represented by employee organizations to negotiate collectively with the county in the determination of their terms and conditions of employment and the administration of grievances arising thereunder. The terms "employee organization" and "terms and conditions of employment" as used in this section shall have such meaning as is defined in section two hundred one of article fourteen of the Civil Service Law as added by chapter three hundred ninety-two of the laws of nineteen hundred sixty-seven.

§ 5. Public employment relations board. (a) There is hereby created a county board to be known as the public employment relations board of Erie county. The said board shall consist of three members to be appointed by the county executive, subject to confirmation by the board of supervisors. Not more than two members of the board shall be members of the same political party. The said members shall be appointed for a term of six years, except that of the members first appointed, one shall be appointed for a term of two years, one for a term of four years and one for a term of six years. The aforesaid board shall choose a chairman from among its members. A vacancy shall be filled in the same manner as the original appointment for the unexpired term.

(b) Members of the board shall hold no other public office or public employment.

(c) The members of such board shall receive such compensation as may be provided by the board of supervisors. Nothing herein shall be construed to require the board of supervisors to provide compensation for such members, however. The said board shall appoint such officers and employees as may be provided by the board of supervisors, except as hereinafter provided.

(d) In addition to the powers and functions as may be provided by law or elsewhere in this local law, the said board shall have the following powers and functions:

1. To establish procedures to resolve disputes concerning the representation status of employee organizations.

2. To resolve, pursuant to such procedures, disputes concerning the representation status of employee organizations or employees of the county of Erie.

3. To conduct studies of problems involved in representation and negotiation, including, but not limited to: (i) whether employee organizations are to be recognized as representatives of their members only or are to have exclusive representation for all employees in the bargaining unit, (ii) the problems of unit determination, and (iii) those subjects which are open to negotiation in whole or in part.

4. To establish, after consulting representatives of employee organizations, the county executive and the board of supervisors, panels of qualified persons broadly representative of the community, and, as far as* practicable, who are versed in the field of labor relations, to be available to serve as mediators or members of fact-finding boards.

5. To hold such hearings and make such inquiries as it deems necessary for the board properly to carry out its functions and powers.

6. For the purpose of such hearings and inquiries, the members of such board shall have the power to administer oaths and affirmations and to compel the attendance of witnesses and the production of books and papers.

* So in original.

7. To make, amend and rescind, from time to time, such rules and regulations, including but not limited to those governing its internal organization and conduct of its affairs, and to exercise such other powers, as may be appropriate, to effectuate the purposes and provisions of this local law.

§ 6. Determination of representation status. For purposes of resolving disputes concerning representation status the public employment relations board of Erie county shall:

(a) Define the appropriate employer-employee negotiating unit, taking into account the following standards:

1. The definition of the unit shall correspond to a community of interest among the employees to be included in the unit;

2. The departmental officials at the level of the unit shall have the power to make effective recommendations to their departmental heads, or in the case of a departmental head, to the county executive and the board of supervisors, with respect to the terms and conditions of employment upon which the employees desire to negotiate;

3. The unit shall be compatible with the joint responsibilities of the county and its employees to serve the interests of the public; and

4. The recommendations of the county executive, the board of supervisors and the employee organizations as to the definition of the appropriate unit.

(b) Ascertain the county employees' choice of employee organization as their representative, in those cases where agreement has not been reached on the means to ascertain the choice, on the basis of dues deduction authorization and other evidences, or if necessary, by conducting an election.

(c) Certify or recognize* an employee organization upon:

1. The determination that such organization represents that group of county employees it claims to represent; and

2. As provided in section two hundred seven (three) (b) of the Civil Service Law, the affirmation by such organization that it does not assert the right to strike against any government, to assist or participate in any such strike, or to impose an obligation to conduct, assist or participate in such a strike.

§ 7. Rights accompanying certification or recognition. The county of Erie shall extend to an employee organization certified or recognized* pursuant to this local law, the following rights:

(a) To represent the employees in negotiations and in the settlement of grievances in accordance with the personnel procedure established under article sixteen of the General Municipal Law.

(b) To membership dues deduction, upon presentation of dues deduction authorization cards signed by individual employees; and

(c) To unchallenged representation status until the next succeeding budget submission date and, thereafter, for an additional period of either twelve months or, if the parties so agree, not less than twelve months nor more than twenty-four months, which period shall commence one hundred twenty days prior to such next succeeding budget submission date. The term "budget submission date" as used herein shall be the date for the filing of the county budget by the county executive as provided in local law number six, nineteen hundred sixty-one, section two or any amendment thereof.

§ 8. Resolution of disputes in the course of collective negotiations. (a) For purposes of this section, an impasse may be deemed to exist if the parties fail to achieve agreement at least sixty days prior to the aforesaid budget submission date;

(b) The county may enter into written agreements with recognized or certified employee organizations setting forth procedures to be invoked in the event of disputes which reach an impasse in the course of collective negotiations. In the event such procedures fail to solve the impasse, or in the event no such written agreement is entered into, either the county or the organization, or both, may request the public employment relations board of Erie county to render assistance, as hereinafter provided;

* So in original. [Word misspelled.]

(c) On request of either party and in the event the said board determines that an impasse exists in collective negotiations between such employee organization and the county as to the conditions of employment the board shall render assistance as follows:

1. To assist the parties to effect a voluntary resolution of the dispute, the board shall appoint a mediator or mediators representative of the public from the list of qualified persons maintained by the board as provided in section five hereof;

2. If the impasse continues, the board shall appoint a fact-finding board of not more than three members, each representative of the public, from the list of qualified persons maintained by the board as provided in section five hereof, which fact-finding board shall have, in addition to the powers delegated to it by the board, the power to make public recommendations for the resolution of the dispute;

3. If the dispute is not resolved at least fifteen days prior to the budget submission date, the fact-finding board, acting by a majority of its members, shall immediately transmit its findings of fact and recommendations for resolution of the dispute to the county executive and to the employee organization involved, and shall simultaneously make public such findings and recommendations;

4. In the event that the findings of fact and recommendations are made public by a fact-finding board established pursuant to procedures agreed upon by the parties under paragraph (b) of this section, and the impasse continues, the public employment relations board shall have the power to take whatever steps it deems appropriate to resolve the dispute, including the making of recommendations after giving due consideration to the findings of fact and recommendations of such fact-finding board, but no further fact-finding board shall be appointed;

5. In the event that either the county or the employee organization does not accept in whole or part the recommendations of the fact-finding board, the county executive shall, within five days after receipt of the findings of fact and recommendations of the fact-finding board, submit to the board of supervisors a copy of the findings of fact and recommendations of the fact-finding board, together with his recommendations for settling the dispute; and the employee organization may also submit to the board of supervisors its recommendations for settling the dispute.

§ 9. Prohibition of strikes. (a) No employee of the county of Erie or employee organization shall engage in a strike, and no employee organization shall cause, instigate, encourage, or condone a strike.

(b) Any employee of the county who violates the aforesaid provision of this section shall be subject to the disciplinary penalties provided by law for misconduct, in accordance with procedures established by law.

(c) 1. An employee organization which is determined by the public employment relations board of Erie county to have violated the provisions of subdivision (a) of this section shall, in accordance with the provisions of this section, lose the rights granted pursuant to the provisions of subdivision (b) of section seven of this local law.

2. In the event of a violation of subdivision (a) of this section, it shall be the duty of the county executive (i) forthwith to so notify the public employment relations board of Erie county and the county attorney and (ii) to provide the said board and the county attorney with such facilities, assistance and data as will enable the said board and the county attorney to carry out their duties under this section.

3. In the event of a violation of subdivision (a) of this section, the county attorney, or the public employment relations board of Erie county on its own motion, shall forthwith institute proceedings before the public employment relations board of Erie county to determine whether such employee organization has violated the provisions of subdivision (a) of this section.

4. Proceedings against an employee organization under this section shall be commenced by service upon it of a written notice, together with a copy of the charges. The employee organization shall have eight days within which to serve its written answer to such charges. The hearing of the public employment relations board of Erie county shall be held promptly thereafter and at such hearing the parties shall be permitted to be represented by counsel and to summon witnesses in their behalf. Compliance with the technical rules of evidence shall not be required.

5. In determining whether an employee organization has violated subdivision (a) of this section, the said board shall consider (i) whether the employee organization called the strike or tried to prevent it, (ii) whether the employee organization made or was making good faith efforts to terminate the strike, and (iii) whether,

if so alleged by the employee organization, the county or its representative engaged in such acts of extreme provocation as to detract from the responsibility of the employee organization for the strike.

6. If the said board determines that an employee organization has violated the provisions of subdivision (a) of this section, the said board shall order forfeiture of the rights granted pursuant to the provisions of subdivision (b) of section seven of this local law, for a specified period of time, as the board shall determine, but in no event to exceed eighteen months; provided, however, that where a fine imposed on an employee organization pursuant to subdivision two of section seven hundred fifty-one of the Judiciary Law remains wholly or partly unpaid, after the exhaustion of the cash and securities of the employee organization, the said board shall direct that, notwithstanding such forfeiture, such membership dues deduction shall be continued to the extent necessary to pay such fine and the county shall transmit such moneys to the court.

7. An employee organization whose right granted pursuant to the provisions of subdivision (b) of section seven of this local law have been ordered forfeited pursuant to this section may be granted such rights after the termination of such forfeiture only after complying with the provisions of paragraph two of subdivision (c) of section six of this local law.

(d) Orders of the public employment relations board of Erie county made pursuant to this section (including, but not limited to, orders made pursuant to subdivision (c) of this section) shall be reviewable as provided by law.

§ 10. The provisions and procedures established herein shall be submitted for approval to the New York state public employment relations board, as provided in section two hundred twelve of the Civil Service Law, as added by chapter three hundred ninety-two of the laws of nineteen hundred sixty-seven, and if so approved, this local law shall become effective immediately upon such approval.
