



The Legislature  
of the  
State of New Mexico

49th Legislature, Second Session

LAWS 2010

CHAPTER 62

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR

SENATE BILL 60, as amended

Introduced by



# Chapter 62

## AN ACT

RELATING TO PUBLIC EMPLOYEES; ENACTING THE HAZARDOUS DUTY OFFICERS' EMPLOYER-EMPLOYEE RELATIONS ACT; PROVIDING PROCEDURES FOR EMPLOYERS AND EMPLOYEES TO FOLLOW IN CERTAIN ADMINISTRATIVE ACTIONS; PROVIDING CERTAIN RIGHTS TO HAZARDOUS DUTY OFFICERS IN CERTAIN CIRCUMSTANCES.

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

Section 1. SHORT TITLE.--This act may be cited as the "Hazardous Duty Officers' Employer-Employee Relations Act".

Section 2. DEFINITIONS.--As used in the Hazardous Duty Officers' Employer-Employee Relations Act:

A. "emergency medical technician" means an individual who has been licensed by the department of health as an emergency medical technician;

B. "firefighter" means an individual who is employed as a non-volunteer firefighter and who has taken the oath prescribed for firefighters;

C. "hazardous duty officer" or "officer" means an individual who is employed full-time by the state or a political subdivision of the state as a firefighter, emergency medical technician or paramedic, provided that "hazardous duty officer" does not include an individual who has not completed the probationary period established by the individual's employer as a condition of employment; and

1           D. "paramedic" means an individual who has been  
2 licensed by the department of health as a paramedic.

3           Section 3. INVESTIGATIONS OF HAZARDOUS DUTY OFFICERS--  
4 REQUIREMENTS--LIMITATION.--

5           A. When a hazardous duty officer is under  
6 investigation by the officer's employer for alleged actions  
7 that could result in administrative sanctions being levied  
8 against the officer, any interrogation of the officer shall  
9 be conducted:

10                   (1) when the officer is on duty or during  
11 the officer's normal waking hours, unless the urgency of the  
12 investigation requires otherwise; and

13                   (2) at the employer's facility, unless the  
14 urgency of the investigation requires otherwise.

15           B. Prior to commencement of an interrogation  
16 session:

17                   (1) the officer shall be informed of the  
18 name and rank of the person in charge of the interrogation  
19 and all other persons who will be present during the  
20 interrogation;

21                   (2) the officer shall be informed of the  
22 nature of the investigation, and the names of all known  
23 complainants shall be disclosed to the officer unless the  
24 chief administrator of the officer's employer determines that  
25 the identification of the complainant shall not be disclosed

1 because it is necessary for the protection of an informant or  
2 because disclosure would jeopardize or compromise the  
3 integrity or security of the investigation; and

4 (3) a reasonable attempt shall be made to  
5 notify the officer's immediate superior of the pending  
6 interrogation.

7 C. During an interrogation session, the following  
8 requirements shall be adhered to:

9 (1) each interrogation session shall not  
10 exceed two hours unless the parties mutually consent to  
11 continuation of the session;

12 (2) there shall not be more than one  
13 interrogation session within a twenty-four-hour period,  
14 unless the parties mutually consent to additional sessions,  
15 provided that there shall be at least a one-hour rest period  
16 between the sessions;

17 (3) there shall not be more than two  
18 interrogators at any given time;

19 (4) the officer shall be allowed to attend  
20 to physical necessities as they occur in the course of an  
21 interrogation session; and

22 (5) the officer shall not be subjected to  
23 offensive language or illegal coercion by the officer's  
24 interrogator in the course of an interrogation session.

25 D. An interrogation of an officer shall be

1 recorded, and the complete interrogation shall be published  
2 as a transcript; provided that any recesses called during the  
3 interrogation shall be noted in the transcript. An accurate  
4 copy of the transcript or tape shall be provided to the  
5 officer, upon written request, no later than fifteen working  
6 days after the investigation has been completed.

7 Section 4. POLYGRAPH EXAMINATIONS.--After reviewing all  
8 the information collected in the course of an investigation  
9 of a hazardous duty officer, the chief administrator of the  
10 officer's employer may order the officer to submit to a  
11 polygraph examination administered by a licensed polygraph  
12 examiner, provided that:

13 A. all other reasonable investigative means have  
14 been exhausted; and

15 B. the officer has been advised of the  
16 administrator's reasons for ordering the polygraph  
17 examination.

18 Section 5. RIGHT TO PRODUCE EVIDENCE.--When a hazardous  
19 duty officer is under investigation for an administrative  
20 matter, the officer shall be permitted to produce any  
21 relevant documents, witnesses or other evidence to support  
22 the officer's case and the officer may cross-examine any  
23 adverse witnesses during any grievance process or appeal  
24 involving disciplinary action.

25 Section 6. PERSONNEL FILES.--

1           A. No document containing comments adverse to a  
2 hazardous duty officer shall be entered into the officer's  
3 personnel file unless the officer has read and signed the  
4 document. When an officer refuses to sign a document  
5 containing adverse comments, the document may be entered into  
6 an officer's personnel file if:

7                   (1) the officer's refusal to sign is noted  
8 on the document by the chief administrator of the officer's  
9 employer; and

10                   (2) the notation regarding the officer's  
11 refusal to sign the document is witnessed by a third party.

12           B. A hazardous duty officer may file a written  
13 response to any document containing adverse comments entered  
14 into the officer's personnel file, and the response shall be  
15 filed with the officer's employer within thirty days after  
16 the document was entered into the officer's personnel file.  
17 A hazardous duty officer's written response shall be attached  
18 to the document.

19           Section 7. CONSTITUTIONAL RIGHTS--NOTIFICATION.--When a  
20 hazardous duty officer is under administrative investigation  
21 and a determination is made to commence a criminal  
22 investigation, the officer shall be immediately notified of  
23 the investigation and shall be afforded all the protections  
24 set forth in the bill of rights of the United States  
25 constitution and of the constitution of New Mexico.

1           Section 8.  FORCED DISCLOSURE OF FINANCIAL  
2 INFORMATION.--A hazardous duty officer shall not be required  
3 by an employer to disclose information regarding the  
4 officer's financial status, unless all other reasonable  
5 investigative means have been exhausted or except as  
6 otherwise required by law.

7           Section 9.  POLITICAL ACTIVITY.--A hazardous duty  
8 officer shall not be prohibited by an employer from engaging  
9 in any political activity when the officer is off duty,  
10 except as otherwise provided by law.

11           Section 10.  EFFECTIVE DATE.--The effective date of the  
12 provisions of this act is July 1, 2010. \_\_\_\_\_

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Diane D. Denish

Diane D. Denish, President  
Senate

Lenore M. Naranjo  
Lenore M. Naranjo, Chief Clerk  
Senate

Ben Lujan  
Ben Lujan, Speaker  
House of Representatives

Stephen R. Arias  
Stephen R. Arias, Chief Clerk  
House of Representatives

Approved by me this 8<sup>th</sup> day of March, 2010

Bill Richardson  
Governor Bill Richardson  
State of New Mexico