

P.L. 2020, CHAPTER 79, *approved September 11, 2020*
Senate, No. 2303 (*First Reprint*)

1 **AN ACT** concerning collective bargaining agreements and
2 subcontracting and supplementing P.L.1941, c.100 (C.34:13A-1
3 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. As used in this act:

9 "Employer" means any local or regional school district,
10 educational services commission, jointure commission, county special
11 services school district, county college, ¹State college, public college
12 or university under the authority of the Secretary of Higher
13 Education,¹ or board or commission under the authority of the
14 Commissioner of Education or the State Board of Education.

15 "Employee" means any employee, whether employed on a full or
16 part-time basis, of an employer.

17 "Subcontracting" means any action, practice, or effort by an
18 employer which results in any services or work performed by any of
19 its employees being performed or provided by any other person,
20 vendor, corporation, partnership or entity.

21 "Subcontracting agreement" means any agreement or arrangement
22 entered into by an employer to implement subcontracting, but shall not
23 include any contract entered into pursuant to the "Uniform Shared
24 Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-1 et al.),
25 or any contract entered into to provide services to nonpublic schools
26 through State or federal funds.
27

28 2. Except for actions of an employer expressly required or
29 prohibited by the provisions of this act, all aspects or actions
30 relating to or resulting from an employer's decision to subcontract
31 including, but not limited to, whether or not severance pay is
32 provided, shall be mandatory subjects of negotiations.
33

34 3. No employer shall enter into a subcontracting agreement
35 which affects the employment of any employees in a collective
36 bargaining unit represented by a majority representative during the
37 term that an existing collective bargaining agreement with the
38 majority representative is in effect. No employer shall enter into a
39 subcontracting agreement for a period following the term of the
40 current collective bargaining agreement unless the employer:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted June 25, 2020.

1 a. Provides written notice to the majority representative of
2 employees in each collective bargaining unit which may be affected
3 by the subcontracting agreement and to the New Jersey Public
4 Employment Relations Commission, not less than 90 days before
5 the employer requests bids, or solicits contractual proposals for the
6 subcontracting agreement; and

7 b. Has offered the majority representative of the employees in
8 each collective bargaining unit which may be affected by the
9 subcontracting agreement the opportunity to meet and consult with
10 the employer to discuss the decision to subcontract, and the
11 opportunity to engage in negotiations over the impact of the
12 subcontracting. The employer's duty to negotiate with the majority
13 representative of the employees in each collective bargaining unit
14 shall not preclude the employer's right to subcontract should no
15 successor agreement exist.

16

17 4. Each employee replaced or displaced as the result of a
18 subcontracting agreement shall retain all previously acquired
19 seniority during that period and shall have recall rights whenever
20 the subcontracting terminates.

21

22 5. An employer who violates any provision of this act shall be
23 deemed to have committed an unfair practice, and any employee or
24 majority representative organization affected by the violation may
25 file an unfair practice charge with the New Jersey Public
26 Employment Relations Commission. If the employee or
27 organization prevails on the charge, the employee is entitled to a
28 remedy including, but not limited to, reinstatement, back pay, back
29 benefits, back emoluments, tenure and seniority credit, attorney's
30 fees, and any other relief the commission deems appropriate to
31 effectuate the purposes of this act.

32

33 6. Nothing in this act shall be construed as authorizing
34 subcontracting which is not otherwise authorized by law. Nothing
35 in this act shall be construed as restricting or limiting any right
36 established or provided for employees by section 7 of
37 P.L.1968, c.303 (C.34:13A-5.3); the purpose of this act is to
38 provide rights in addition to those provided in that section.

39

40 7. This act shall take effect immediately.

41

42

43

44

45 _____
46 Concerns subcontracting agreements entered into by public
school districts and county colleges.