SENATE, No. 1928

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:
Senator ANTHONY M. BUCCO
District 25 (Morris and Somerset)
Senator TROY SINGLETON
District 7 (Burlington)

Co-Sponsored by:
Senator Gill

SYNOPSIS
Concerns subcontracting agreements entered into by public school districts.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 3/5/2020)
AN ACT concerning collective bargaining agreements and subcontracting and supplementing P.L.1941, c.100 (C.34:13A-1 et seq.).

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

1. As used in this act:
   "Employer" means any local or regional school district, educational services commission, jointure commission, county special services school district, or board or commission under the authority of the Commissioner of Education or the State Board of Education.
   "Employee" means any employee, whether employed on a full or part-time basis, of an employer.
   "Subcontracting" means any action, practice, or effort by an employer which results in any services or work performed by any of its employees being performed or provided by any other person, vendor, corporation, partnership or entity.
   "Subcontracting agreement" means any agreement or arrangement entered into by an employer to implement subcontracting, but shall not include any contract entered into pursuant to the "Uniform Shared Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-1 et al.), or any contract entered into to provide services to nonpublic schools through State or federal funds.

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

3. No employer shall enter into a subcontracting agreement which affects the employment of any employees in a collective bargaining unit represented by a majority representative during the term that an existing collective bargaining agreement with the majority representative is in effect. No employer shall enter into a subcontracting agreement for a period following the term of the current collective bargaining agreement unless the employer:
   a. Provides written notice to the majority representative of employees in each collective bargaining unit which may be affected by the subcontracting agreement and to the New Jersey Public Employment Relations Commission, not less than 90 days before the employer requests bids, or solicits contractual proposals for the subcontracting agreement; and
   b. Has offered the majority representative of the employees in each collective bargaining unit which may be affected by the
subcontracting agreement the opportunity to meet and consult with
the employer to discuss the decision to subcontract, and the
opportunity to engage in negotiations over the impact of the
subcontracting. The employer's duty to negotiate with the majority
representative of the employees in each collective bargaining unit
shall not preclude the employer's right to subcontract should no
successor agreement exist.

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

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

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

7. This act shall take effect immediately.

STATEMENT

This bill prohibits an employer from entering into a
subcontracting agreement which may affect the employment of any
employees in a collective bargaining unit under any circumstances
during the term of an existing collective bargaining agreement
covering the employees. The bill defines "employer" to include any
local or regional school district, educational services commission,
jointure commission, county special services school district, or
board or commission under the authority of the Commissioner of
Education or the State Board of Education.

The employer is permitted to enter into a subcontracting
agreement for a period following the term of a current collecting
bargaining agreement only if the employer:
first, provides notice to both the majority representative of
employees in each collective bargaining unit and to the Public
Employment Relations Commission at least 90 days prior to any
effort by the employer to seek the subcontracting agreement; and
second, offers the majority representative the opportunity to meet
and discuss the decision to subcontract and negotiate over its
impact. The employer's duty to negotiate over the impact of the
subcontracting would not preclude the employer's right to
subcontract should no successor agreement exist.

The bill makes all actions of an employer regarding
subcontracting, except for those expressly required or prohibited by
the bill, mandatory subjects of negotiations.

Each employee replaced or displaced because of a subcontracting
agreement would retain all previously acquired seniority and would
have recall rights when the subcontracting terminates.

The bill provides that an employer who violates the act has
committed an unfair practice and may be subject to an unfair
practice charge with the Public Employment Relations Commission,
under which the employee may be entitled to a remedy including,
but not limited to: reinstatement, back pay, back benefits, back
emoluments, tenure and seniority credit, and attorney's fees.