

SENATE, No. 2303

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator ANTHONY M. BUCCO

District 25 (Morris and Somerset)

Senator TROY SINGLETON

District 7 (Burlington)

Co-Sponsored by:

Senators Brown, Gopal, Addiego, Bateman, Thompson and Turner

SYNOPSIS

Concerns subcontracting agreements entered into by public school districts and public institutions of higher education.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/19/2020)

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:*

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8 1. As used in this act:

9 "Employer" means any local or regional school district,
10 educational services commission, jointure commission, county
11 special services school district, county college, State college, public
12 college or university under the authority of the Secretary of Higher
13 Education, 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
22 arrangement entered into by an employer to implement
23 subcontracting, but shall not include any contract entered into
24 pursuant to the "Uniform Shared Services and Consolidation Act,"
25 P.L.2007, c.63 (C.40A:65-1 et al.), or any contract entered into to
26 provide services to nonpublic schools through State or federal
27 funds.

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

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

42 a. Provides written notice to the majority representative of
43 employees in each collective bargaining unit which may be affected
44 by the subcontracting agreement and to the New Jersey Public
45 Employment Relations Commission, not less than 90 days before
46 the employer requests bids, or solicits contractual proposals for the
47 subcontracting agreement; and

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

10

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

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

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

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34 7. This act shall take effect immediately.

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STATEMENT

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39 This bill prohibits an employer from entering into a
40 subcontracting agreement which may affect the employment of any
41 employees in a collective bargaining unit under any circumstances
42 during the term of an existing collective bargaining agreement
43 covering the employees. The bill defines "employer" to include any
44 local or regional school district, educational services commission,
45 jointure commission, county special services school district, county
46 college, State college, public college or university under the
47 authority of the Secretary of Higher Education, or board or

1 commission under the authority of the Commissioner of Education
2 or the State Board of Education.

3 The employer is permitted to enter into a subcontracting
4 agreement for a period following the term of a current collecting
5 bargaining agreement only if the employer:

6 first, provides notice to both the majority representative of
7 employees in each collective bargaining unit and to the Public
8 Employment Relations Commission at least 90 days prior to any
9 effort by the employer to seek the subcontracting agreement; and

10 second, offers the majority representative the opportunity to meet
11 and discuss the decision to subcontract and negotiate over its
12 impact. The employer's duty to negotiate over the impact of the
13 subcontracting would not preclude the employer's right to
14 subcontract should no successor agreement exist.

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

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

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