

ASSEMBLY, No. 986

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman GEIST

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

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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, educational  
10 services commission, jointure commission, county special services  
11 school district, county college, state college, college or university  
12 under the authority of the Chancellor of Higher Education, or board  
13 or commission under the authority of the Commissioner of Education  
14 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.

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

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30 3. No employer shall enter into a subcontracting agreement which  
31 affects the employment of any employees in a collective bargaining  
32 unit represented by a majority representative during the term that an  
33 existing collective bargaining agreement with the majority  
34 representative is in effect. No employer shall enter into a  
35 subcontracting agreement for a period following the term of the

1 current collective bargaining agreement unless the employer:

2 a. Provides written notice to the majority representative of  
3 employees in each collective bargaining unit which may be affected by  
4 the subcontracting agreement and to the New Jersey Public  
5 Employment Relations Commission, not less than 180 days before the  
6 employer requests bids, or solicits contractual proposals or  
7 specifications for the subcontracting agreement; and

8 b. Has offered the majority representative of the employees in each  
9 collective bargaining unit which may be affected by the subcontracting  
10 agreement the opportunity to meet and consult with the employer to  
11 discuss the decision to subcontract, and the opportunity to engage in  
12 negotiations over the impact of the subcontracting. The employer's  
13 duty to negotiate over the impact of the subcontracting shall remain in  
14 effect until agreement is reached between the majority representative  
15 and the employer.

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

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

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

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40 7. This act shall take effect immediately.

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#### STATEMENT

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45 This bill establishes requirements regarding subcontracting by  
46 public school districts and public institutions of higher education.

1 The bill prohibits an employer from entering into a subcontracting  
2 agreement which may affect the employment of any employees in a  
3 collective bargaining unit under any circumstances during the term of  
4 an existing collective bargaining agreement covering the employees.  
5 The employer is permitted to enter into a subcontracting agreement for  
6 a period following the term of a current collective bargaining  
7 agreement only if the employer:

8 1. Provides notice to both the majority representative of employees  
9 and to the Public Employment Relations Commission at least 180 days  
10 prior to any effort by the employer to seek the subcontracting  
11 agreement; and

12 2. Offers the majority representative the opportunity to meet and  
13 discuss the decision to subcontract and negotiate over its impact. The  
14 employer's duty to negotiate over the impact of the subcontracting  
15 remains in effect until an agreement is reached.

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

19 Each employee replaced or displaced because of a subcontracting  
20 agreement is deemed by the bill to be on a leave of absence during the  
21 period of the subcontracting and therefore retains all previously  
22 acquired seniority and has recall rights when the subcontracting  
23 terminates.

24 The bill provides that an employer who violates the act has  
25 committed an unfair practice, and may be subject to unfair practice  
26 charge with the Public Employment Relations Commission, under  
27 which the employee may be entitled to a remedies including  
28 reinstatement, back pay, back benefits, back emoluments, tenure and  
29 seniority credit, attorney's fees.

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34 Concerns subcontracting by public schools and higher education  
35 institutions.