

# ASSEMBLY, No. 4680

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED SEPTEMBER 17, 2020

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Cumberland, Gloucester and Salem)**

**Co-Sponsored by:**

**Assemblywoman Murphy**

**SYNOPSIS**

Concerns subcontracting agreements entered into by four-year public institutions of higher education.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/20/2021)**

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 a State college or university established  
10 pursuant to chapter 64 of Title 18A of the New Jersey Statutes or a  
11 public research university.

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

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

18 "Subcontracting agreement" means any agreement or  
19 arrangement entered into by an employer to implement  
20 subcontracting.  
21

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

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

35 a. Provides written notice to the majority representative of  
36 employees in each collective bargaining unit which may be affected  
37 by the subcontracting agreement and to the New Jersey Public  
38 Employment Relations Commission, not less than 90 days before  
39 the employer requests bids, or solicits contractual proposals for the  
40 subcontracting agreement; and

41 b. Has offered the majority representative of the employees in  
42 each collective bargaining unit which may be affected by the  
43 subcontracting agreement the opportunity to meet and consult with  
44 the employer to discuss the decision to subcontract, and the  
45 opportunity to engage in negotiations over the impact of the  
46 subcontracting. The employer's duty to negotiate with the majority  
47 representative of the employees in each collective bargaining unit

1 shall not preclude the employer's right to subcontract should no  
2 successor agreement exist.

3

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

8

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

19

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

26

27 7. This act shall take effect immediately.

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## STATEMENT

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32 This bill prohibits an employer from entering into a  
33 subcontracting agreement which may affect the employment of any  
34 employees in a collective bargaining unit under any circumstances  
35 during the term of an existing collective bargaining agreement  
36 covering the employees. The bill defines "employer" as a State  
37 four-year institution of higher education.

38 The employer is permitted to enter into a subcontracting  
39 agreement for a period following the term of a current collecting  
40 bargaining agreement only if the employer:

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

45 second, offers the majority representative the opportunity to meet  
46 and discuss the decision to subcontract and negotiate over its  
47 impact. The employer's duty to negotiate over the impact of the  
48 subcontracting would not preclude the employer's right to

1 subcontract should no successor agreement exist.

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

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

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