

[First Reprint]

ASSEMBLY, No. 3395

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED FEBRUARY 15, 2018

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SYNOPSIS

Concerns subcontracting agreements entered into by public school districts.

CURRENT VERSION OF TEXT

As reported by the Assembly Labor Committee on February 14, 2019, with amendments.

(Sponsorship Updated As Of: 5/14/2019)

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
11 special services school district, ¹county college, State college,
12 public college or university under the authority of the Secretary of
13 Higher Education,¹ or board or commission under the authority of
14 the 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 ¹**["Interlocal Services Act," P.L.1973, c.208**
25 **(C.40:8A-1 et seq.)]** "Uniform Shared Services and Consolidation
26 Act," P.L.2007, c.63 (C.40A:65-1 et al.)¹, or any contract entered
27 into to provide services to nonpublic schools through State or
28 federal funds.

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

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

43 a. Provides written notice to the majority representative of
44 employees in each collective bargaining unit which may be affected

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 ALA committee amendments adopted February 14, 2019.

1 by the subcontracting agreement and to the New Jersey Public
2 Employment Relations Commission, not less than 90 days before
3 the employer requests bids, or solicits contractual proposals for the
4 subcontracting agreement; and

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

14

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

19

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

30

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

37

38 7. This act shall take effect immediately.