

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4140

STATE OF NEW JERSEY

DATED: JUNE 26, 2020

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4140.

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” as any local or regional school district, educational services commission, jointure commission, county special services school district, county college, 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 collective bargaining agreement only if the employer:

(1) provides notice to both the majority representative of employees in each collective bargaining unit and to the New Jersey Public Employment Relations Commission at least 90 days prior to any effort by the employer to seek the subcontracting agreement; and

(2) 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 its provisions has committed an unfair practice and may be subject to an unfair practice charge with the New Jersey 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.

As reported by the committee, Assembly Bill No. 4140 is identical to Senate Bill No. 2303, which was reported by the committee on this date with committee amendments.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.