

SENATE, No. 4048

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED NOVEMBER 8, 2021

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator RICHARD J. CODEY

District 27 (Essex and Morris)

Co-Sponsored by:

Senators Diegnan, Gopal and Stack

SYNOPSIS

Requires contracts for sale of certain health care entities to preserve employee wages and benefits and to honor collective bargaining agreements.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/9/2021)

1 **AN ACT** concerning health care entities and collective bargaining
2 and supplementing chapter 12 of Title 34 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. As used in this section, "health care entity" means a
8 health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1
9 et seq.), a staffing registry, or a home care services agency as
10 defined in section 1 of P.L.1947, c.262 (C.45:11-23).

11 b. Any contract or agreement that provides for the sale or
12 transfer of ownership or control of a health care entity shall
13 provide:

14 (1) if employees of the health care entity are covered by an
15 unexpired collective bargaining agreement, that the provisions of
16 the collective bargaining agreement shall remain in effect until the
17 existing expiration date of the agreement or a date six months after
18 the full effectuation of the sale or transfer, whichever is later; and

19 (2) that the wages and benefits, including health care, paid time
20 off, retirement, and education benefits, of non-managerial
21 employees of the health care entity who are not covered by an
22 unexpired collective bargaining agreement shall not be reduced or
23 diminished during the period ending six months after the full
24 effectuation of the sale or transfer.

25 c. All parties to a contract or agreement covered by this
26 section, and all health care entities sold or transferred pursuant to a
27 contract or agreement covered by this section, shall comply with all
28 provisions that are required by this section to be included in the
29 contract or agreement pursuant to subsection b. of this section,
30 regardless of whether those provisions are expressly included in the
31 contract or agreement.

32 d. Notwithstanding the foregoing, action taken pursuant to and
33 in compliance with a collective bargaining agreement entered into
34 by an exclusive representative of employees of a health care entity
35 sold or transferred pursuant to a contract or agreement covered by
36 this section shall not be considered a violation of this section.

37 e. An employee who has been affected by a violation of this
38 section may bring an action in any court of competent jurisdiction
39 against any party to a contract or agreement covered by this section
40 and any health care entity sold or transferred pursuant to a contract
41 or agreement covered by this section for violation of any obligation
42 imposed by this section. The court shall have authority to order
43 injunctive relief to prevent or remedy a violation of any obligation
44 imposed by this section. If the court finds that, by reason of a
45 violation of any obligation imposed by this section, a plaintiff has
46 suffered a loss of wages or benefits, the court shall award back pay
47 for all losses of wages and benefit pay, the costs of benefits the
48 health care entity or other defendant would have incurred for

1 benefits lost by the plaintiff, expenses incurred by the plaintiff as a
2 result of the lost benefits, and an amount equal to back pay as
3 liquidated damages.

4 f. The court shall award a plaintiff prevailing in an action
5 brought pursuant to subsection e. of this section reasonable
6 attorneys' fees.
7

8 2. This act shall take effect immediately and shall apply to
9 contracts or agreements for the sale or transfer of health care
10 entities entered into on or after the effective date of this act.
11

12
13 STATEMENT
14

15 This bill provides that contracts or agreements for the sale or
16 transfer of a health care entity will not affect the wages, benefits, or
17 terms of a collective bargaining agreement in place for a certain
18 period following the sale or transfer. As used in the bill, "health
19 care entity" means a licensed health care facility, a staffing registry,
20 or a home care services agency.

21 Specifically, the bill provides that any contract or agreement that
22 provides for the sale or transfer of ownership or control of a health
23 care entity will provide:

24 1) if employees of the health care entity are covered by an
25 unexpired collective bargaining agreement, that the provisions of
26 the collective bargaining agreement will remain in effect until the
27 existing expiration date of the agreement or a date six months after
28 the full effectuation of the sale or transfer, whichever is later; and

29 2) that the wages and benefits, including health care, paid time
30 off, retirement, and education benefits, of non-managerial
31 employees of the health care entity who are not covered by an
32 unexpired collective bargaining agreement will not be reduced or
33 diminished during the period ending six months after the full
34 effectuation of the sale or transfer.

35 All parties to a contract or agreement for the sale or transfer of a
36 health care entity will be required to comply with all provisions that
37 are required under the bill to be included in the contract or
38 agreement, regardless of whether those provisions are expressly
39 included in the contract or agreement.

40 Action taken pursuant to and in compliance with a collective
41 bargaining agreement entered into by an exclusive representative of
42 employees of a health care entity sold or transferred pursuant to a
43 contract or agreement to which the bill applies will not be
44 considered a violation of the requirements of the bill.

45 An employee who has been affected by a violation of the
46 requirements of the bill may bring an action in any court of
47 competent jurisdiction against any party to a contract or agreement
48 that is subject to the requirements of the bill, including a health care

1 entity that is being sold or transferred pursuant to the contract or
2 agreement. The court may order injunctive relief to prevent or
3 remedy a violation of the requirements of the bill and, if the court
4 finds the plaintiff suffered a loss of wages or benefits, the court is to
5 award back pay for all losses of wages and benefit pay, the costs of
6 benefits the health care entity or other defendant would have
7 incurred for benefits lost by the plaintiff, expenses incurred by the
8 plaintiff as a result of the lost benefits, and an amount equal to back
9 pay as liquidated damages. Courts are also to award a prevailing
10 plaintiff reasonable attorneys' fees.

11 The bill will take effect immediately and apply to contracts or
12 agreements for the sale or transfer of health care entities entered
13 into on or after the effective date of the bill.