

SENATE HEALTH, HUMAN SERVICES AND SENIOR CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 4048

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 6, 2022

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill, No.4048.

As amended by the committee, this bill provides that agreements for the change in control of a health care entity provides certain protections for employees regarding their wages, benefits, and employment in connection with any change in control of a health care facility.

The bill requires any agreement for the change in control, unless both the former and successor health care entity employers are governmental employers, to provide that all eligible employees be offered employment during a six-month transitional period; that none them be discharged except in a reduction of the work force, and then only on the basis of seniority and only if the laid off workers are offered employment if the positions are restored; and that employees are given written evaluations of their work during the transitional period and retained if their work is satisfactory.

No action taken pursuant to a collective bargaining agreement entered into by an exclusive representative of employees of a health care entity subject to an change of control is a violation of the bill, and the bill does not limit, delay, or prevent, including during the transitional period: the recognition of an employee collective bargaining representative; or collective bargaining between the successor health care entity employer and the representative.

An employee who has been affected by a violation of the requirements of the bill may bring an action in any court of competent jurisdiction against any party to a contract or agreement that is subject to the requirements of the bill, including a health care entity that is subject to a change in control pursuant to the contract or agreement. The court may order injunctive relief to prevent or remedy a violation of the requirements of the bill and, if the court finds the plaintiff suffered a loss of wages or benefits, the court is to award back pay for all losses of wages and benefit pay, the costs of benefits the health care entity or other defendant would have incurred for benefits lost by the

plaintiff, expenses incurred by the plaintiff as a result of the lost benefits, and an amount equal to back pay as liquidated damages. Courts are also to award a prevailing plaintiff reasonable attorneys' fees.

The bill will take effect on the 90th day after enactment and apply to contracts or agreements for the sale or transfer of health care entities entered into on or after the effective date of the bill.

As used in the bill, "health care entity" means a licensed health care facility, a staffing registry, or a home care services agency.

COMMITTEE AMENDMENTS:

The amendments adopted by the committee:

1. Remove the provisions of the bill which require a collective bargaining agreement in effect before the change in control to remain in effect after the change;
2. Exempt agreements in which both the former and successor health care entity employers are governmental employers;
3. Add the requirements: that all eligible employees be offered employment during a six-month transitional period; that none them be discharged except in a reduction of the work force, and then only on the basis of seniority and only if the laid off workers are offered employment if the positions are restored; and that employees are given written evaluations of their work during the transitional period and retained if their work is satisfactory;
4. Add the requirement that both the former entity and successor entity are required disclose information about employees, as needed to facilitate the implementation of the bill to each other and to employees and employee representatives;
5. Add language providing that the bill does not delay or prevent recognition of collective bargaining representatives or of collective bargaining, including in the transitional period; and
6. Add definitions of "change of control", "eligible employee", and "managerial employee."