

34:21-16 to 34:21-20
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2023 **CHAPTER:** 128

NJSA: 34:21-16 to 34:21-20 Establishes employment protections for certain service employees during changes of ownership.

BILL NO: A4682 (Substituted for S2389 (3R))

SPONSOR(S) Schaer, Gary S. and others

DATE INTRODUCED: 9/29/2022

COMMITTEE: **ASSEMBLY:** Labor
State & Local Government
Commerce & Economic Development
SENATE:

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 06/30/2023
SENATE: 06/30/2023

DATE OF APPROVAL: 7/24/2023

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (A4682 AcaAaAca (3R) enacted) Yes

A4682

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Labor
State & Local Government
Commerce & Econ Dev
SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: No

S2389 (3R)

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No
SENATE: Yes Labor

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes 02/27/2023
06/20/2023

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

Matthew Fazelpoor, 'Murphy signs legislation establishing protections for service workers', *NJBIZ* (online), 25 Jul2023

CL/JA

§§1-5
C.34:21-16
to 34:21-20
§6
Note to all
sections

P.L. 2023, CHAPTER 128, *approved July 24, 2023*
Assembly, No. 4682 (*Third Reprint*)

1 **AN ACT** concerning service employees and employment protections
2 and supplementing 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. As used in this act:

8 “Awarding authority” means any person that awards or enters
9 into a service contract or subcontract, except that the Port Authority
10 of New York and New Jersey shall not be an awarding authority.

11 “Contractor” means any person, including a subcontractor, who
12 enters into a service contract or subcontract to be performed,
13 provided the contractor employs more than four service employees
14 anywhere in the United States.

15 “Covered location” means one of the following locations,
16 whether publicly or privately owned:

17 (1) multi-family residential building with more than 50 units;

18 (2) commercial center or complex or an office building or
19 complex occupying more than 100,000 square feet;

20 (3) primary and secondary school, or tertiary educational
21 institution;

22 (4) cultural center or complex, such as a museum, convention
23 center, arena or performance hall;

24 (5) industrial site or pharmaceutical lab;

25 (6) airport and train station;

26 (7) hospital, nursing care facility, senior care centers or other
27 health care provider location ¹, except that the provisions of
28 P.L. _____, c. (C. _____) (pending before the Legislature as this bill)
29 shall not apply to any change in control of a “health care entity,” as
30 defined in section 1 of P.L.2022, c.101 (C.34:11-4.15), which
31 change in control falls within the scope of P.L.2022, c.101
32 (C.34:11-4.15 et seq.)¹;

33 (8) State courts; or

34 (9) warehouse or distribution center or other facility whose
35 primary purpose is the storage or distribution of general
36 merchandise, refrigerated goods, or other products.

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 December 8, 2022.

²Assembly floor amendments adopted March 30, 2023.

³Assembly ACE committee amendments adopted June 22, 2023.

1 “Employer” means any person who employs service employees
2 at a covered location.

3 “Person” means any individual, proprietorship, partnership, joint
4 venture, corporation, limited liability company, trust, association, or
5 other entity that may employ persons or enter into a service
6 contract.

7 “Service contract” means a contract between an awarding
8 authority and a contractor to provide services performed by a
9 service employee at a covered location.

10 “Service employee” means an individual employed or assigned to
11 a covered location on a full or part-time basis for at least ³[90] 60³
12 days and who is not a managerial or professional employee or
13 regularly scheduled to work less than 16 hours per week in:

14 (1) connection with the care or maintenance of a building or
15 property, and includes but is not limited to work performed by a
16 security guard; a front desk worker; a janitor; a maintenance
17 employee; building superintendent; grounds maintenance worker;
18 a stationary fireman; elevator operator and starter; or window
19 cleaner;

20 (2) passenger related security services, cargo related and ramp
21 services, in-terminal and passenger handling and cleaning services
22 at an airport; or

23 (3) food preparation services at a primary or secondary school, or
24 a tertiary educational institution.

25 ¹“Service employee” does not include any individual who
26 performs work on any building, structural, electric, HVAC, or
27 plumbing project, if the work requires a permit to be issued by a
28 municipal building or construction department.¹

29 “Successor employer” means an employer that:

30 (1) is awarded a service contract to provide, in whole or in part,
31 services that are substantially similar to those provided at any time
32 during the previous 90 days;

33 (2) has purchased or acquired control of a property where
34 service employees were employed at any time during the previous
35 90 days; or

36 (3) terminates a service contract and hires service employees as
37 its direct employees to perform services that are substantially
38 similar within 90 days after a service contract is terminated or
39 cancelled.

40

41 2. a. ¹[At least] Not less than¹ 15 days before terminating
42 any service contract or ¹[entering into a service contract for
43 work that its own employees had been performing,] contracting
44 out services previously performed by the covered entity,¹ or selling
45 or transferring any property where service employees are employed,
46 an awarding authority shall:

- 1 (1) request the terminated contractor to give the successor
2 employer a list containing the name, date of hire, and job
3 classification of each service employee working on the service
4 contract and name and contact information of the employee's
5 collective bargaining representative, if any;
- 6 (2) give the successor employer a list containing the name, date
7 of hire, job classification of each service employee currently
8 performing the work to be performed pursuant to the service
9 contract and name and contact information of the employee's
10 collective bargaining representative, if any;
- 11 (3) provide written notice to any collective bargaining
12 representative of the affected service employees of the decision to
13 terminate the service contract, enter into a new service contract, or
14 sell or transfer the property;
- 15 (4) ensure that a written notice to all affected service employees
16 describing the pending termination of the service contract, entrance
17 into a service contract, or sale or transfer of the property, including
18 the name and address of the awardee, purchaser, or transferee, and
19 the employees' rights provided by this section, are conspicuously
20 posted at any affected work site; and
- 21 (5) provide the affected service employees and their collective
22 bargaining representative with the name and address of any
23 successor employer or the purchaser or transferee of the property.
- 24 b. A successor employer shall take reasonable steps to
25 ascertain the identity of the affected service employee.
- 26 c. Subject to subsection e. of this section, a successor employer
27 shall retain an affected service employee at a covered location for
28 ³[90] 60³ days or until its service contract is terminated,
29 whichever is earlier. No successor employer shall reduce any
30 affected service employee's work hours in order to circumvent the
31 protections provided by P.L. , c. (C.) (pending before the
32 Legislature as this bill). No successor employer shall be required to
33 retain any employee based upon the provisions of
34 P.L. , c. (C.) (pending before the Legislature as this bill)
35 beyond ³[90] 60³ days¹[;].¹
- 36 d. A successor employer shall give an affected service
37 employee a written offer of employment and send a copy to the
38 employee's collective bargaining representative, if any. The offer
39 shall state the date by which the service employee is required to
40 accept the offer, and the date shall be at least 10 days after the
41 notice is delivered. An offer shall state the name, address, and
42 telephone number of the successor employer and the name of the
43 individual who is authorized by the successor employer to make the
44 employment offer. The written offer required by this section shall
45 be substantially in the form set forth in section 4 of P.L. ,
46 c. (C.) (pending before the Legislature as this bill) in a
47 language in which at least 10 percent of the employees are fluent.
48 The department shall provide translations in the five most common

1 languages spoken in New Jersey apart from English. A written
2 offer may be sent via electronic mail.

3 e. A successor employer may retain less than all of the affected
4 service employees during the ³~~90-day~~ 60-day³ transition period
5 only if the successor employer:

6 (1) finds that fewer service employees are required to perform
7 the work than the predecessor employer had employed;

8 (2) retains service employees by seniority within each job
9 classification;

10 (3) maintains a preferential hiring list of those employees not
11 retained; and

12 (4) hires any additional service employees from the list, in order
13 of seniority, until all affected service employees have been offered
14 employment.

15 f. Except as provided in subsection e. of this section, a
16 successor employer shall not discharge a service employee retained
17 pursuant to this section without just cause during the ³~~90-day~~ 60-
18 day³ transition period.

19 g. The provisions of this section shall not apply if any
20 successor employer, on or before the termination of the service
21 contract, agrees to assume, and to be bound by, the collective
22 bargaining agreement of the awarding authority or contractor,
23 provided that the collective bargaining agreement provides terms
24 and conditions for the discharge or laying off of employees.

25 h. Any agreement that restricts or hinders the ability of a
26 successor employer to fulfill its obligations pursuant to this section
27 is hereby declared to be contrary to public policy and void.

28

29 3. a. A service employee who has been discharged or
30 otherwise not retained in violation of P.L. , c. (C.)
31 (pending before the Legislature as this bill) may bring an action in a
32 court of competent jurisdiction against a successor employer for any
33 violation of ¹~~subsection b. of~~¹ section 2 of P.L. , c. (C.)
34 (pending before the Legislature as this bill), and against an
35 awarding authority for any violation of subsection a. of section 2 of
36 P.L. , c. (C.) (pending before the Legislature as this bill).

37 b. The court may impose¹, for a first violation of P.L. ,
38 c. (C.) (pending before the Legislature as this bill),¹ a fine
39 not exceeding ¹~~[\$2,000]~~ \$2,500, and, for a second and each
40 subsequent violation, a fine not exceeding \$5,000 ³~~1~~¹ or
41 imprisonment for any term not ¹less than 10 days and not¹
42 exceeding 90 days, or³ ¹[a period of community service not
43 exceeding 90 days for a violation of P.L. , c. (C.) (pending
44 before the Legislature as this bill)] ³~~both the fine and~~³both the fine and
45 imprisonment¹]³. ²Each week, in any day of which a violation
46 occurs, shall constitute a separate offense.²

1 (1) ¹【The minimum fine shall be \$100 for each violation of
2 P.L. , c. (C.) (pending before the Legislature as this bill).

3 (2) ¹【The court may ³【deem each day that an employee was not
4 employed in violation of P.L. , c. (C.) (pending before the
5 Legislature as this bill) a separate violation of P.L. , c. (C.)
6 (pending before the Legislature as this bill), and may³【award the
7 employee reasonable attorney’s fees and costs.

8 ¹【(3)】 (2)¹ The court may require the violator to pay restitution
9 to an employee deprived of wages or benefits due to the violation of
10 P.L. , c. (C.) (pending before the Legislature as this bill).

11 ¹【(4)】 (3)¹ The court may require the violator to pay
12 consequential damages arising due to the violation of P.L. ,
13 c. (C.) (pending before the Legislature as this bill).

14 ¹【(5)】 (4)¹ The court may issue injunctive relief requiring a
15 successor employer to employ employees in compliance with
16 P.L. , c. (C.) (pending before the Legislature as this bill)
17 and for the provision of any information required pursuant to
18 section 2 of P.L. , c. (C.) (pending before the Legislature
19 as this bill).

20
21 4. The offer of employment required to be provided to an
22 incumbent worker by ¹【subsection b.】¹ of section 2 of P.L. ,
23 c. (C.) (pending before the Legislature as this bill) shall be
24 substantially in the form below:

25
26 DATE:
27 TO: (name of employee)
28 IMPORTANT INFORMATION REGARDING YOUR
29 EMPLOYMENT
30 We have received information that you are employed by (name of
31 predecessor contractor or employer) and are currently performing
32 work at (address of worksite). (name of predecessor contractor) has
33 lost its contract with the owners of (address of worksite) and will no
34 longer be providing (type of service or employment) as of (last day
35 of predecessor contract).
36
37 We are (name of successor contractor) and have been hired by the
38 owners of (address of worksite) to provide the same (or janitorial,
39 building maintenance) service. We are offering you a job with us
40 for a ³【90】 60³ day probationary period starting (first day of
41 successor contract) to perform the same type of work that you have
42 already been doing for (name of predecessor contractor) under the
43 following terms:
44
45 Pay rate (per hour): \$
46 Hours per shift:
47 Total Hours Per Week: ___
48 Benefits:

1 You must respond to this offer within the next ten (10) days. If you
2 want to continue working at (address of worksite), you must let us
3 know by (mm/dd/yyyy - no later than five days prior to the
4 expiration of the predecessor contract or 10 days after the date of
5 this letter if the predecessor contract has already expired). If we do
6 not receive your response by the end of business that day, we will
7 not hire you and you will lose your job. We can be reached at
8 (successor contractor phone number).

9
10 The Service Worker Retention Law, of the Laws of New Jersey
11 gives you the following rights:

12 1. You have the right, with certain exceptions, to be hired by our
13 company for the first ninety days that we begin to provide services
14 at (address of worksite).

15 2. During this ³[90-day] 60-day³ period, you cannot be fired
16 without just cause.

17 3. If you believe that you have been fired or laid off in violation of
18 the Service Worker Retention Law, you have the right to institute
19 legal action, and if successful may be awarded back pay,
20 reinstatement, liquidated damages, attorney's fees and court costs.

21
22 FROM: (³Name³ of successor contractor) (³Name³ of authorized
23 representative) (Address of successor contractor)
24 (Telephone # of successor contractor)

25
26 5. P.L. , c. (C.) (pending before the Legislature as this
27 bill) shall supersede and preempt all rules, regulations, codes, or
28 ordinances of any county or municipality with regard to worker
29 retention for service employees, but shall not preempt any county or
30 municipality from regulating worker retention for non-service
31 employees.

32
33 6. This act shall take effect on the 90th day next following
34 enactment, and apply to contracts entered into or renewed after that
35 date.

36
37
38 _____
39
40 Establishes employment protections for certain service
41 employees during changes of ownership.

ASSEMBLY, No. 4682

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED SEPTEMBER 29, 2022

Sponsored by:

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

Co-Sponsored by:

Assemblywomen Tucker, Haider and Assemblyman Atkins

SYNOPSIS

Establishes employment protections for certain service employees during changes of ownership.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/8/2022)

1 AN ACT concerning service employees and employment protections
2 and supplementing 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. As used in this act:

8 “Awarding authority” means any person that awards or enters
9 into a service contract or subcontract, except that the Port Authority
10 of New York and New Jersey shall not be an awarding authority.

11 “Contractor” means any person, including a subcontractor, who
12 enters into a service contract or subcontract to be performed,
13 provided the contractor employs more than four service employees
14 anywhere in the United States.

15 “Covered location” means one of the following locations,
16 whether publicly or privately owned:

17 (1) multi-family residential building with more than 50 units;

18 (2) commercial center or complex or an office building or
19 complex occupying more than 100,000 square feet;

20 (3) primary and secondary school, or tertiary educational
21 institution;

22 (4) cultural center or complex, such as a museum, convention
23 center, arena or performance hall;

24 (5) industrial site or pharmaceutical lab;

25 (6) airport and train station;

26 (7) hospital, nursing care facility, senior care centers or other
27 health care provider location;

28 (8) State courts; or

29 (9) warehouse or distribution center or other facility whose
30 primary purpose is the storage or distribution of general
31 merchandise, refrigerated goods, or other products.

32 “Employer” means any person who employs service employees
33 at a covered location.

34 “Person” means any individual, proprietorship, partnership, joint
35 venture, corporation, limited liability company, trust, association, or
36 other entity that may employ persons or enter into a service
37 contract.

38 “Service contract” means a contract between an awarding
39 authority and a contractor to provide services performed by a
40 service employee at a covered location.

41 “Service employee” means an individual employed or assigned
42 to a covered location on a full or part-time basis for at least 90 days
43 and who is not a managerial or professional employee or regularly
44 scheduled to work less than 16 hours per week in:

45 (1) connection with the care or maintenance of a building or
46 property, and includes but is not limited to work performed by a
47 security guard; a front desk worker; a janitor; a maintenance
48 employee; building superintendent; grounds maintenance worker;

1 a stationary fireman; elevator operator and starter; or window
2 cleaner;

3 (2) passenger related security services, cargo related and ramp
4 services, in-terminal and passenger handling and cleaning services
5 at an airport; or

6 (3) food preparation services at a primary or secondary school, or
7 a tertiary educational institution.

8 "Successor employer" means an employer that:

9 (1) is awarded a service contract to provide, in whole or in part,
10 services that are substantially similar to those provided at any time
11 during the previous 90 days;

12 (2) has purchased or acquired control of a property where
13 service employees were employed at any time during the previous
14 90 days; or

15 (3) terminates a service contract and hires service employees as
16 its direct employees to perform services that are substantially
17 similar within 90 days after a service contract is terminated or
18 cancelled.

19

20 2. a. At least 15 days before terminating any service contract
21 or entering into a service contract for work that its own
22 employees had been performing, or selling or transferring any
23 property where service employees are employed, an awarding
24 authority shall:

25 (1) request the terminated contractor to give the successor
26 employer a list containing the name, date of hire, and job
27 classification of each service employee working on the service
28 contract and name and contact information of the employee's
29 collective bargaining representative, if any;

30 (2) give the successor employer a list containing the name, date
31 of hire, job classification of each service employee currently
32 performing the work to be performed pursuant to the service
33 contract and name and contact information of the employee's
34 collective bargaining representative, if any;

35 (3) provide written notice to any collective bargaining
36 representative of the affected service employees of the decision to
37 terminate the service contract, enter into a new service contract, or
38 sell or transfer the property;

39 (4) ensure that a written notice to all affected service employees
40 describing the pending termination of the service contract, entrance
41 into a service contract, or sale or transfer of the property, including
42 the name and address of the awardee, purchaser, or transferee, and
43 the employees' rights provided by this section, are conspicuously
44 posted at any affected work site; and

45 (5) provide the affected service employees and their collective
46 bargaining representative with the name and address of any
47 successor employer or the purchaser or transferee of the property.

- 1 b. A successor employer shall take reasonable steps to
2 ascertain the identity of the affected service employee.
- 3 c. Subject to subsection e. of this section, a successor employer
4 shall retain an affected service employee at a covered location for
5 90 days or until its service contract is terminated, whichever is
6 earlier. No successor employer shall reduce any affected service
7 employee's work hours in order to circumvent the protections
8 provided by P.L. , c. (C.) (pending before the Legislature
9 as this bill). No successor employer shall be required to retain any
10 employee based upon the provisions of P.L. , c. (C.)
11 (pending before the Legislature as this bill) beyond 90 days;
- 12 d. A successor employer shall give an affected service
13 employee a written offer of employment and send a copy to the
14 employee's collective bargaining representative, if any. The offer
15 shall state the date by which the service employee is required to
16 accept the offer, and the date shall be at least 10 days after the
17 notice is delivered. An offer shall state the name, address, and
18 telephone number of the successor employer and the name of the
19 individual who is authorized by the successor employer to make the
20 employment offer. The written offer required by this section shall
21 be substantially in the form set forth in section 4 of P.L. , c.
22 (C.) (pending before the Legislature as this bill) in a language
23 in which at least 10 percent of the employees are fluent. The
24 department shall provide translations in the five most common
25 languages spoken in New Jersey apart from English. A written
26 offer may be sent via electronic mail.
- 27 e. A successor employer may retain less than all of the affected
28 service employees during the 90-day transition period only if the
29 successor employer:
- 30 (1) finds that fewer service employees are required to perform
31 the work than the predecessor employer had employed;
- 32 (2) retains service employees by seniority within each job
33 classification;
- 34 (3) maintains a preferential hiring list of those employees not
35 retained; and
- 36 (4) hires any additional service employees from the list, in order
37 of seniority, until all affected service employees have been offered
38 employment.
- 39 f. Except as provided in subsection e. of this section, a
40 successor employer shall not discharge a service employee retained
41 pursuant to this section without just cause during the 90-day
42 transition period.
- 43 g. The provisions of this section shall not apply if any
44 successor employer, on or before the termination of the service
45 contract, agrees to assume, and to be bound by, the collective
46 bargaining agreement of the awarding authority or contractor,
47 provided that the collective bargaining agreement provides terms
48 and conditions for the discharge or laying off of employees.

1 h. Any agreement that restricts or hinders the ability of a
2 successor employer to fulfill its obligations pursuant to this section
3 is hereby declared to be contrary to public policy and void.

4
5 3. a. A service employee who has been discharged or
6 otherwise not retained in violation of P.L. , c. (C.)
7 (pending before the Legislature as this bill) may bring an action in a
8 court of competent jurisdiction against a successor employer for any
9 violation of subsection b. of section 2 of P.L. , c. (C.)
10 (pending before the Legislature as this bill), and against an
11 awarding authority for any violation of subsection a. of section 2 of
12 P.L. , c. (C.) (pending before the Legislature as this bill).

13 b. The court may impose a fine not exceeding \$2,000 or
14 imprisonment for any term not exceeding 90 days, or a period of
15 community service not exceeding 90 days for a violation of P.L. ,
16 c. (C.) (pending before the Legislature as this bill).

17 (1) The minimum fine shall be \$100 for each violation of
18 P.L. , c. (C.) (pending before the Legislature as this bill).

19 (2) The court may deem each day that an employee was not
20 employed in violation of P.L. , c. (C.) (pending before the
21 Legislature as this bill) a separate violation of P.L. , c. (C.)
22 (pending before the Legislature as this bill), and may award the
23 employee reasonable attorney's fees and costs.

24 (3) The court may require the violator to pay restitution to an
25 employee deprived of wages or benefits due to the violation of
26 P.L. , c. (C.) (pending before the Legislature as this bill).

27 (4) The court may require the violator to pay consequential
28 damages arising due to the violation of P.L. , c. (C.)
29 (pending before the Legislature as this bill).

30 (5) The court may issue injunctive relief requiring a successor
31 employer to employ employees in compliance with P.L. , c.
32 (C.) (pending before the Legislature as this bill) and for the
33 provision of any information required pursuant to section 2 of P.L.
34 , c. (C.) (pending before the Legislature as this bill).

35
36 4. The offer of employment required to be provided to an
37 incumbent worker by subsection b. of section 2 of P.L. , c.
38 (C.) (pending before the Legislature as this bill) shall be
39 substantially in the form below:

40
41 DATE:

42 TO: (name of employee)

43 IMPORTANT INFORMATION REGARDING YOUR
44 EMPLOYMENT

45
46 We have received information that you are employed by (name of
47 predecessor contractor or employer) and are currently performing
48 work at (address of worksite). (name of predecessor contractor) has

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6

1 lost its contract with the owners of (address of worksite) and will no
2 longer be providing (type of service or employment) as of (last day
3 of predecessor contract).

4
5 We are (name of successor contractor) and have been hired by the
6 owners of (address of worksite) to provide the same (or janitorial,
7 building maintenance) service. We are offering you a job with us
8 for a 90 day probationary period starting (first day of successor
9 contract) to perform the same type of work that you have already
10 been doing for (name of predecessor contractor) under the
11 following terms:

12
13 Pay rate (per hour): \$
14 Hours per shift:
15 Total Hours Per Week: ___
16 Benefits:

17
18 You must respond to this offer within the next ten (10) days. If you
19 want to continue working at (address of worksite), you must let us
20 know by (mm/dd/yyyy - no later than five days prior to the
21 expiration of the predecessor contract or 10 days after the date of
22 this letter if the predecessor contract has already expired). If we do
23 not receive your response by the end of business that day, we will
24 not hire you and you will lose your job. We can be reached at
25 (successor contractor phone number).

26
27 The Service Worker Retention Law, of the Laws of New Jersey
28 gives you the following rights:

- 29 1. You have the right, with certain exceptions, to be hired by our
30 company for the first ninety days that we begin to provide services
31 at (address of worksite).
32 2. During this 90-day period, you cannot be fired without just
33 cause.
34 3. If you believe that you have been fired or laid off in violation of
35 the Service Worker Retention Law, you have the right to institute
36 legal action, and if successful may be awarded back pay,
37 reinstatement, liquidated damages, attorney's fees and court costs.

38
39 FROM: (of successor contractor) (of authorized representative)
40 (Address of successor contractor)
41 (Telephone # of successor contractor)

42
43 5. P.L. , c. (C.) (pending before the Legislature as this
44 bill) shall supersede and preempt all rules, regulations, codes, or
45 ordinances of any county or municipality with regard to worker
46 retention for service employees, but shall not preempt any county or
47 municipality from regulating worker retention for non-service
48 employees.

1 (4) require written notice of the actions at the affected work site.

2 The bill requires successor employers to take reasonable steps to
3 ascertain the identity of affected service employees.

4 The bill requires a successor employer to retain an affected
5 service employee at a covered location for 90 days or until its
6 service contract is terminated, whichever is earlier. No successor
7 employer may reduce any affected service employee's work hours
8 in order to circumvent the protections by the bill.

9 The bill requires a successor employer to give an affected
10 service employee a written offer of employment and send a copy to
11 the employee's collective bargaining representative, if any.

12 A successor employer may retain less than all of the affected
13 service employees during the 90-day transition period only if the
14 successor employer:

15 (1) finds that fewer service employees are required to perform
16 the work than the predecessor employer had employed;

17 (2) retains service employees by seniority within each job
18 classification;

19 (3) maintains a preferential hiring list of those employees not
20 retained; and

21 (4) hires any additional service employees from the list, in order
22 of seniority, until all affected service employees have been offered
23 employment.

24 Except as provided above, a successor employer is prohibited
25 from discharging a service employee retained pursuant to the bill
26 without just cause during the 90-day transition period.

27 These provisions of the bill do not apply if any successor
28 employer, on or before the termination of the service contract,
29 agrees to assume, and to be bound by, the collective bargaining
30 agreement of the awarding authority or contractor, provided that the
31 collective bargaining agreement provides terms and conditions for
32 the discharge or laying off of employees.

33 A service employee who has been discharged or otherwise not
34 retained in violation of the provisions of the bill may bring an
35 action in a court of competent jurisdiction against a successor
36 employer or an awarding authority. The court may impose a fine
37 not exceeding \$2,000 or imprisonment for any term not exceeding
38 90 days, or a period of community service not exceeding 90 days,
39 and may order restitution and injunctive relief.

40 The bill provides that an offer of employment required to be
41 provided to an incumbent worker must be substantially similar to a
42 form provided in the bill.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4682

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2022

The Assembly Labor Committee reports favorably and with committee amendments Assembly Bill No. 4682.

This bill establishes employment protections for certain service employees during changes of ownership.

The bill applies to contractors, including subcontractors, who enter into a service contract or subcontract if the contractor employs more than four service employees anywhere in the United States. As amended, the bill does not apply to health care entities which are covered by P.L.2022, c.101.

Service employees are individuals employed assigned to a covered location on a full or part-time basis for at least 90 days who are not managerial or professional employees or regularly scheduled to work less than 16 hours per week in connection with:

1. the care or maintenance of a building or property;
2. passenger related security services, cargo related and ramp services, in-terminal and passenger handling and cleaning services at an airport; or
3. food preparation services at a primary or secondary school, or at a tertiary educational institution.

As amended, service employees covered by the bill do not include employees performing work on certain projects requiring local permits.

The bill covers any location that is: a multi-family residential building with more than 50 units; a commercial center or complex or an office building or complex occupying more than 100,000 square feet; a primary and secondary school, tertiary educational institution; a cultural center or complex; an industrial site or pharmaceutical lab; an airport and train station; a hospital, nursing care facility, senior care centers or other health care provider location; a State court; or a warehouse or distribution center.

As amended, the bill requires an authority awarding a service contract, not less than 15 days before terminating any service contract or contracting out services previously performed by the covered entity, or selling or transferring any property where service employees are employed to:

1. request certain information from any terminated contractors regarding service employees;
2. give successor employers information regarding service employees;
3. provide written notice to collective bargaining representatives of the affected service employees of actions affecting their employment; and
4. provide written notice of the actions at the affected work site.

The bill requires successor employers to take reasonable steps to ascertain the identity of affected service employees.

The bill requires a successor employer to retain an affected service employee at a covered location for 90 days or until its service contract is terminated, whichever is earlier. A successor employer may not reduce any affected service employee's work hours in order to circumvent the protections of the bill.

The bill requires a successor employer to give an affected service employee a written offer of employment and send a copy to the employee's collective bargaining representative, if any.

A successor employer may retain less than all of the affected service employees during the 90-day transition period only if the successor employer: finds that fewer service employees are required to perform the work than the predecessor employer had employed; retains service employees by seniority within each job classification; maintains a preferential hiring list of those employees not retained; and hires any additional service employees from the list, in order of seniority, until all affected service employees have been offered employment.

Except as provided above, a successor employer is prohibited from discharging a service employee retained pursuant to the bill without just cause during the 90-day transition period.

These provisions of the bill do not apply if any successor employer, on or before the termination of the service contract, agrees to assume, and to be bound by, the collective bargaining agreement of the awarding authority or contractor, provided that the collective bargaining agreement provides terms and conditions for the discharge or laying off of employees.

A service employee who has been discharged or otherwise not retained in violation of the provisions of the bill may bring an action in a court of competent jurisdiction against a successor employer or an awarding authority. As amended, for a first violation, the court may impose a fine not exceeding \$2,500 and, for second and subsequent violations, a fine not exceeding \$5,000 or imprisonment for a term not less than 10 days or more than 90 days, and may order restitution and injunctive relief.

The bill provides that an offer of employment required to be provided to an incumbent worker must be substantially similar to a form provided in the bill.

COMMITTEE AMENDMENTS:

The amendments adopted by the committee:

1. Exclude from the provisions of the bill health care entities which are already subject to similar provisions under P.L.2022, c.101;

2. Exclude from the provisions of the bill any individual who performs work on any building, structural, electric, HVAC, or plumbing project, if the work requires a permit to be issued by a municipal building or construction department;

3. Omit from the circumstances which trigger the responsibility of an awarding authority to take actions required by the bill “entering into a service contract for work that its own employees had been performing” and adding to the triggering circumstances “contracting out services previously performed by the covered entity”; and

4. Change the penalties by having the option of imprisonment apply only to second and subsequent offenses, having no minimum fines, and raising the maximum fines to \$2,500 for a first offense and \$5,000 for a second and each subsequent offense.

The amendments make the bill identical to Senate No. 2389 (1R) of the 2022-2023 Legislative Session.

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4682

STATE OF NEW JERSEY

DATED: MARCH 20, 2023

The Assembly State and Local Government Committee reports favorably Assembly Bill No. 4682 (1R).

This bill establishes employment protections for certain service employees during changes of ownership.

The bill applies to contractors, including subcontractors, who enter into a service contract or subcontract if the contractor employs more than four service employees anywhere in the United States. The bill does not apply to health care entities which are covered by P.L.2022, c.101.

Under the bill, service employees are individuals employed or assigned to a covered location on a full or part-time basis for at least 90 days who are not managerial or professional employees or regularly scheduled to work less than 16 hours per week in connection with:

- the care or maintenance of a building or property;
- passenger related security services, cargo related and ramp services, in-terminal and passenger handling, and cleaning services at an airport; or
- food preparation services at a primary or secondary school, or at a tertiary educational institution.

Service employees covered by the bill do not include employees performing work on certain projects requiring local permits.

The bill covers any location that is: a multi-family residential building with more than 50 units; a commercial center or complex or an office building or complex occupying more than 100,000 square feet; a primary and secondary school, tertiary educational institution; a cultural center or complex; an industrial site or pharmaceutical lab; an airport and train station; a hospital, nursing care facility, senior care centers or other health care provider location; a State court; or a warehouse or distribution center.

The bill requires an authority awarding a service contract, not less than 15 days before terminating any service contract or contracting out services previously performed by the covered entity, or selling or transferring any property where service employees are employed to:

- request certain information from any terminated contractors regarding service employees;

- give successor employers information regarding service employees;
- provide written notice to collective bargaining representatives of the affected service employees of actions affecting their employment;
- provide written notice of the actions at the affected work site; and
- provide the affected service employees and their collective bargaining representative with the name and address of any successor employer or the purchaser or transferee of the property.

The bill requires a successor employer to retain an affected service employee at a covered location for 90 days or until its service contract is terminated, whichever is earlier. A successor employer may not reduce any affected service employee's work hours in order to circumvent the protections of the bill.

The bill requires a successor employer to give an affected service employee a written offer of employment and send a copy to the employee's collective bargaining representative, if any.

A successor employer may retain less than all of the affected service employees during the 90-day transition period only if the successor employer: finds that fewer service employees are required to perform the work than the predecessor employer had employed; retains service employees by seniority within each job classification; maintains a preferential hiring list of those employees not retained; and hires any additional service employees from the list, in order of seniority, until all affected service employees have been offered employment.

Except as provided above, a successor employer is prohibited from discharging a service employee retained pursuant to the bill without just cause during the 90-day transition period.

These provisions of the bill do not apply if any successor employer, on or before the termination of the service contract, agrees to assume, and to be bound by, the collective bargaining agreement of the awarding authority or contractor, provided that the collective bargaining agreement provides terms and conditions for the discharge or laying off of employees.

A service employee who has been discharged or otherwise not retained in violation of the provisions of the bill may bring an action in a court of competent jurisdiction against a successor employer or an awarding authority. For a first violation, the court may impose a fine not exceeding \$2,500 and, for second and subsequent violations, a fine not exceeding \$5,000 or imprisonment for a term not less than 10 days or more than 90 days, and may order restitution and injunctive relief.

The bill provides that an offer of employment required to be provided to an incumbent worker must be substantially similar to a form provided in the bill.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO

[Second Reprint]
ASSEMBLY, No. 4682

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 2023

The Assembly Commerce and Economic Development Committee reports favorably and with committee amendments Assembly Bill No. 4682 (2R).

This bill, as amended, establishes employment protections for certain service employees during changes of ownership.

The bill applies to contractors, including subcontractors, who enter into a service contract or subcontract if the contractor employs more than four service employees anywhere in the United States. The bill does not apply to health care entities which are covered by P.L.2022, c.101.

Under the bill, service employees are individuals employed or assigned to a covered location on a full or part-time basis for at least 60 days who are not managerial or professional employees or regularly scheduled to work less than 16 hours per week in connection with:

- the care or maintenance of a building or property;
- passenger related security services, cargo related and ramp services, in-terminal and passenger handling, and cleaning services at an airport; or
- food preparation services at a primary or secondary school, or at a tertiary educational institution.

Service employees covered by the bill do not include employees performing work on certain projects requiring local permits.

The bill covers any location that is: a multi-family residential building with more than 50 units; a commercial center or complex or an office building or complex occupying more than 100,000 square feet; a primary and secondary school, tertiary educational institution; a cultural center or complex; an industrial site or pharmaceutical lab; an airport and train station; a hospital, nursing care facility, senior care centers or other health care provider location; a State court; or a warehouse or distribution center.

The bill requires an authority awarding a service contract, not less than 15 days before terminating any service contract or contracting out

services previously performed by the covered entity, or selling or transferring any property where service employees are employed to:

- request certain information from any terminated contractors regarding service employees;
- give successor employers information regarding service employees;
- provide written notice to collective bargaining representatives of the affected service employees of actions affecting their employment;
- provide written notice of the actions at the affected work site; and
- provide the affected service employees and their collective bargaining representative with the name and address of any successor employer or the purchaser or transferee of the property.

The bill requires a successor employer to retain an affected service employee at a covered location for 60 days or until its service contract is terminated, whichever is earlier. A successor employer may not reduce any affected service employee's work hours in order to circumvent the protections of the bill.

The bill requires a successor employer to give an affected service employee a written offer of employment and send a copy to the employee's collective bargaining representative, if any.

A successor employer may retain less than all of the affected service employees during the 60-day transition period only if the successor employer: finds that fewer service employees are required to perform the work than the predecessor employer had employed; retains service employees by seniority within each job classification; maintains a preferential hiring list of those employees not retained; and hires any additional service employees from the list, in order of seniority, until all affected service employees have been offered employment.

Except as provided above, a successor employer is prohibited from discharging a service employee retained pursuant to the bill without just cause during the 60-day transition period.

These provisions of the bill do not apply if any successor employer, on or before the termination of the service contract, agrees to assume, and to be bound by, the collective bargaining agreement of the awarding authority or contractor, provided that the collective bargaining agreement provides terms and conditions for the discharge or laying off of employees.

A service employee who has been discharged or otherwise not retained in violation of the provisions of the bill may bring an action in a court of competent jurisdiction against a successor employer or an awarding authority. For a first violation, the court may impose a fine not exceeding \$2,500 and, for second and subsequent violations, a fine

not exceeding \$5,000. The court may order restitution and injunctive relief.

The bill provides that an offer of employment required to be provided to an incumbent worker must be substantially similar to a form provided in the bill.

COMMITTEE AMENDMENTS:

The committee amendments shorten, from 90 days to 60 days, the period during which the bill's transitional employment protections would apply.

Additionally, the amendments remove from the bill a provision that otherwise allows a court to impose imprisonment for violating certain provisions of the bill, and make certain technical changes.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 4682

with Assembly Floor Amendments
(Proposed by Assemblyman SCHAER)

ADOPTED: MARCH 30, 2023

These amendments provide that each week, in any day of which a violation of the provisions of the bill occurs, will constitute a separate offense, and that if a violation does not continue for any period after the first week in which the violation occurs, it will not be regarded as a second or subsequent violation.

SENATE, No. 2389

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MARCH 24, 2022

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

Senators Johnson, Stack, Cruz-Perez and Codey

SYNOPSIS

Establishes employment protections for certain service employees during changes of ownership.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/1/2022)

1 AN ACT concerning service employees and employment protections
2 and supplementing 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. As used in this act:

8 “Awarding authority” means any person that awards or enters
9 into a service contract or subcontract, except that the Port Authority
10 of New York and New Jersey shall not be an awarding authority.

11 “Contractor” means any person, including a subcontractor, who
12 enters into a service contract or subcontract to be performed,
13 provided the contractor employs more than four service employees
14 anywhere in the United States.

15 “Covered location” means one of the following locations,
16 whether publicly or privately owned:

17 (1) multi-family residential building with more than 50 units;

18 (2) commercial center or complex or an office building or
19 complex occupying more than 100,000 square feet;

20 (3) primary and secondary school, or tertiary educational
21 institution;

22 (4) cultural center or complex, such as a museum, convention
23 center, arena or performance hall;

24 (5) industrial site or pharmaceutical lab;

25 (6) airport and train station;

26 (7) hospital, nursing care facility, senior care centers or other
27 health care provider location;

28 (8) State courts; or

29 (9) warehouse or distribution center or other facility whose
30 primary purpose is the storage or distribution of general
31 merchandise, refrigerated goods, or other products.

32 “Employer” means any person who employs service employees
33 at a covered location.

34 “Person” means any individual, proprietorship, partnership, joint
35 venture, corporation, limited liability company, trust, association, or
36 other entity that may employ persons or enter into a service
37 contract.

38 “Service contract” means a contract between an awarding
39 authority and a contractor to provide services performed by a
40 service employee at a covered location.

41 “Service employee” means an individual employed or assigned
42 to a covered location on a full or part-time basis for at least 90 days
43 and who is not a managerial or professional employee or regularly
44 scheduled to work less than 16 hours per week in:

45 (1) connection with the care or maintenance of a building or
46 property, and includes but is not limited to work performed by a
47 security guard; a front desk worker; a janitor; a maintenance
48 employee; building superintendent; grounds maintenance worker;

- 1 a stationary fireman; elevator operator and starter; or window
2 cleaner;
- 3 (2) passenger related security services, cargo related and ramp
4 services, in-terminal and passenger handling and cleaning services
5 at an airport; or
- 6 (3) food preparation services at a primary or secondary school, or
7 a tertiary educational institution.
- 8 “Successor employer” means an employer that:
- 9 (1) is awarded a service contract to provide, in whole or in part,
10 services that are substantially similar to those provided at any time
11 during the previous 90 days;
- 12 (2) has purchased or acquired control of a property where
13 service employees were employed at any time during the previous
14 90 days; or
- 15 (3) terminates a service contract and hires service employees as
16 its direct employees to perform services that are substantially
17 similar within 90 days after a service contract is terminated or
18 cancelled.
- 19
- 20 2. a. At least 15 days before terminating any service contract
21 or entering into a service contract for work that its own
22 employees had been performing, or selling or transferring any
23 property where service employees are employed, an awarding
24 authority shall:
- 25 (1) request the terminated contractor to give the successor
26 employer a list containing the name, date of hire, and job
27 classification of each service employee working on the service
28 contract and name and contact information of the employee's
29 collective bargaining representative, if any;
- 30 (2) give the successor employer a list containing the name, date
31 of hire, job classification of each service employee currently
32 performing the work to be performed pursuant to the service
33 contract and name and contact information of the employee's
34 collective bargaining representative, if any;
- 35 (3) provide written notice to any collective bargaining
36 representative of the affected service employees of the decision to
37 terminate the service contract, enter into a new service contract, or
38 sell or transfer the property;
- 39 (4) ensure that a written notice to all affected service employees
40 describing the pending termination of the service contract, entrance
41 into a service contract, or sale or transfer of the property, including
42 the name and address of the awardee, purchaser, or transferee, and
43 the employees' rights provided by this section, are conspicuously
44 posted at any affected work site; and
- 45 (5) provide the affected service employees and their collective
46 bargaining representative with the name and address of any
47 successor employer or the purchaser or transferee of the property.

- 1 b. A successor employer shall take reasonable steps to
2 ascertain the identity of the affected service employee.
- 3 c. Subject to subsection e. of this section, a successor employer
4 shall retain an affected service employee at a covered location for
5 90 days or until its service contract is terminated, whichever is
6 earlier. No successor employer shall reduce any affected service
7 employee's work hours in order to circumvent the protections
8 provided by P.L. , c. (C.) (pending before the Legislature
9 as this bill). No successor employer shall be required to retain any
10 employee based upon the provisions of P.L. , c. (C.)
11 (pending before the Legislature as this bill) beyond 90 days;
- 12 d. A successor employer shall give an affected service
13 employee a written offer of employment and send a copy to the
14 employee's collective bargaining representative, if any. The offer
15 shall state the date by which the service employee is required to
16 accept the offer, and the date shall be at least 10 days after the
17 notice is delivered. An offer shall state the name, address, and
18 telephone number of the successor employer and the name of the
19 individual who is authorized by the successor employer to make the
20 employment offer. The written offer required by this section shall
21 be substantially in the form set forth in section 4 of P.L. , c. (C.
22) (pending before the Legislature as this bill) in a language in which
23 at least 10 percent of the employees are fluent. The department
24 shall provide translations in the five most common languages
25 spoken in New Jersey apart from English. A written offer may be
26 sent via electronic mail.
- 27 e. A successor employer may retain less than all of the affected
28 service employees during the 90-day transition period only if the
29 successor employer:
- 30 (1) finds that fewer service employees are required to perform
31 the work than the predecessor employer had employed;
- 32 (2) retains service employees by seniority within each job
33 classification;
- 34 (3) maintains a preferential hiring list of those employees not
35 retained; and
- 36 (4) hires any additional service employees from the list, in order
37 of seniority, until all affected service employees have been offered
38 employment.
- 39 f. Except as provided in subsection e. of this section, a
40 successor employer shall not discharge a service employee retained
41 pursuant to this section without just cause during the 90-day
42 transition period.
- 43 g. The provisions of this section shall not apply if any
44 successor employer, on or before the termination of the service
45 contract, agrees to assume, and to be bound by, the collective
46 bargaining agreement of the awarding authority or contractor,
47 provided that the collective bargaining agreement provides terms
48 and conditions for the discharge or laying off of employees.

1 h. Any agreement that restricts or hinders the ability of a
2 successor employer to fulfill its obligations pursuant to this section
3 is hereby declared to be contrary to public policy and void.

4
5 3. a. A service employee who has been discharged or
6 otherwise not retained in violation of P.L. , c. (C.)
7 (pending before the Legislature as this bill) may bring an action in a
8 court of competent jurisdiction against a successor employer for any
9 violation of subsection b. of section 2 of P.L. , c. (C.)
10 (pending before the Legislature as this bill), and against an
11 awarding authority for any violation of subsection a. of section 2 of
12 P.L. , c. (C.) (pending before the Legislature as this bill).

13 b. The court may impose a fine not exceeding \$2,000 or
14 imprisonment for any term not exceeding 90 days, or a period of
15 community service not exceeding 90 days for a violation
16 of P.L. , c. (C.) (pending before the Legislature as this
17 bill).

18 (1) The minimum fine shall be \$100 for each violation of
19 P.L. , c. (C.) (pending before the Legislature as this bill).

20 (2) The court may deem each day that an employee was not
21 employed in violation of P.L. , c. (C.) (pending before the
22 Legislature as this bill) a separate violation of P.L. , c. (C.)
23 (pending before the Legislature as this bill), and may award the
24 employee reasonable attorney's fees and costs.

25 (3) The court may require the violator to pay restitution to an
26 employee deprived of wages or benefits due to the violation of
27 P.L. , c. (C.) (pending before the Legislature as this bill).

28 (4) The court may require the violator to pay consequential
29 damages arising due to the violation of P.L. , c. (C.)
30 (pending before the Legislature as this bill).

31 (5) The court may issue injunctive relief requiring a successor
32 employer to employ employees in compliance with
33 P.L. , c. (C.) (pending before the Legislature as this bill)
34 and for the provision of any information required pursuant to
35 section 2 of P.L. , c. (C.) (pending before the Legislature
36 as this bill).

37
38 4. The offer of employment required to be provided to an
39 incumbent worker by subsection b. of section 2 of
40 P.L. , c. (C.) (pending before the Legislature as this bill)
41 shall be substantially in the form below:

42
43 DATE:

44 TO: (name of employee)

45 IMPORTANT INFORMATION REGARDING YOUR
46 EMPLOYMENT

1 We have received information that you are employed by (name of
2 predecessor contractor or employer) and are currently performing
3 work at (address of worksite). (name of predecessor contractor) has
4 lost its contract with the owners of (address of worksite) and will no
5 longer be providing (type of service or employment) as of (last day
6 of predecessor contract).

7
8 We are (name of successor contractor) and have been hired by the
9 owners of (address of worksite) to provide the same (or janitorial,
10 building maintenance) service. We are offering you a job with us
11 for a 90 day probationary period starting (first day of successor
12 contract) to perform the same type of work that you have already
13 been doing for (name of predecessor contractor) under the
14 following terms:

15
16 Pay rate (per hour): \$
17 Hours per shift:
18 Total Hours Per Week: ___
19 Benefits:

20
21 You must respond to this offer within the next ten (10) days. If you
22 want to continue working at (address of worksite), you must let us
23 know by (mm/dd/yyyy - no later than five days prior to the
24 expiration of the predecessor contract or 10 days after the date of
25 this letter if the predecessor contract has already expired). If we do
26 not receive your response by the end of business that day, we will
27 not hire you and you will lose your job. We can be reached at
28 (successor contractor phone number).

29
30 The Service Worker Retention Law, of the Laws of New Jersey
31 gives you the following rights:

- 32 1. You have the right, with certain exceptions, to be hired by our
33 company for the first ninety days that we begin to provide services
34 at (address of worksite).
- 35 2. During this 90-day period, you cannot be fired without just
36 cause.
- 37 3. If you believe that you have been fired or laid off in violation of
38 the Service Worker Retention Law, you have the right to institute
39 legal action, and if successful may be awarded back pay,
40 reinstatement, liquidated damages, attorney's fees and court costs.

41
42 FROM: (of successor contractor) (of authorized representative)
43 (Address of successor contractor)
44 (Telephone # of successor contractor)

45
46 5. P.L. , c. (C.) (pending before the Legislature as this
47 bill) shall supersede and preempt all rules, regulations, codes, or
48 ordinances of any county or municipality with regard to worker

1 retention for service employees, but shall not preempt any county or
2 municipality from regulating worker retention for non-service
3 employees.

4

5 6. This act shall take effect on the 90th day next following
6 enactment, and apply to contracts entered into or renewed after that
7 date.

8

9

10

STATEMENT

11

12 This bill establishes employment protections for certain service
13 employees during changes of ownership.

14 The bill applies to contractors, including subcontractors, who
15 enter into a service contract or subcontract to be performed,
16 provided the contractor employs more than four service employees
17 anywhere in the United States.

18 Service employees are individuals employed assigned to a
19 covered location on a full or part-time basis for at least 90 days and
20 who are not a managerial or professional employee or regularly
21 scheduled to work less than 16 hours per week in:

22 (1) connection with the care or maintenance of a building or
23 property;

24 (2) passenger related security services, cargo related and ramp
25 services, in-terminal and passenger handling and cleaning services
26 at an airport; or

27 (3) food preparation services at a primary or secondary school,
28 or at a tertiary educational institution.

29 The bill covers any location that is a:

30 (1) multi-family residential building with more than 50 units;

31 (2) commercial center or complex or an office building or
32 complex occupying more than 100,000 square feet;

33 (3) primary and secondary school, tertiary educational institution;

34 (4) cultural center or complex;

35 (5) industrial site or pharmaceutical lab;

36 (6) airport and train station;

37 (7) hospital, nursing care facility, senior care centers or other
38 health care provider location;

39 (8) state courts; or

40 (9) warehouse or distribution center.

41 The requires an authority awarding a service contract, at least 15
42 days before terminating any service contract or entering into a
43 service contract for work that its own employees had been
44 performing, or selling or transferring any property where service
45 employees are employed to:

46 (1) request certain information from any terminated contractors
47 regarding service employees;

1 (2) give successor employers information regarding service
2 employees;

3 (3) provide written notice to collective bargaining
4 representatives of the affected service employees of actions
5 affecting their employment; and

6 (4) require written notice of the actions at the affected work site.

7 The bill requires successor employers to take reasonable steps to
8 ascertain the identity of affected service employees.

9 The bill requires a successor employer to retain an affected
10 service employee at a covered location for 90 days or until its
11 service contract is terminated, whichever is earlier. No successor
12 employer may reduce any affected service employee's work hours
13 in order to circumvent the protections by the bill.

14 The bill requires a successor employer to give an affected
15 service employee a written offer of employment and send a copy to
16 the employee's collective bargaining representative, if any.

17 A successor employer may retain less than all of the affected
18 service employees during the 90-day transition period only if the
19 successor employer:

20 (1) finds that fewer service employees are required to perform
21 the work than the predecessor employer had employed;

22 (2) retains service employees by seniority within each job
23 classification;

24 (3) maintains a preferential hiring list of those employees not
25 retained; and

26 (4) hires any additional service employees from the list, in order
27 of seniority, until all affected service employees have been offered
28 employment.

29 Except as provided above, a successor employer is prohibited
30 from discharging a service employee retained pursuant to the bill
31 without just cause during the 90-day transition period.

32 These provisions of the bill do not apply if any successor
33 employer, on or before the termination of the service contract,
34 agrees to assume, and to be bound by, the collective bargaining
35 agreement of the awarding authority or contractor, provided that the
36 collective bargaining agreement provides terms and conditions for
37 the discharge or laying off of employees.

38 A service employee who has been discharged or otherwise not
39 retained in violation of the provisions of the bill may bring an
40 action in a court of competent jurisdiction against a successor
41 employer or an awarding authority. The court may impose a fine
42 not exceeding \$2,000 or imprisonment for any term not exceeding
43 90 days, or a period of community service not exceeding 90 days,
44 and may order restitution and injunctive relief.

45 The bill provides that an offer of employment required to be
46 provided to an incumbent worker must be substantially similar to a
47 form provided in the bill.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 2389

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 1, 2022

The Senate Labor Committee reports without recommendation and with committee amendments Senate Bill No. 2389.

This bill establishes employment protections for certain service employees during changes of ownership.

The bill applies to contractors, including subcontractors, who enter into a service contract or subcontract if the contractor employs more than four service employees anywhere in the United States. As amended, the bill does not apply to health care entities which are covered by P.L.2022, c.101.

Service employees are individuals employed assigned to a covered location on a full or part-time basis for at least 90 days who are not managerial or professional employees or regularly scheduled to work less than 16 hours per week in connection with:

1. the care or maintenance of a building or property;
2. passenger related security services, cargo related and ramp services, in-terminal and passenger handling and cleaning services at an airport; or
3. food preparation services at a primary or secondary school, or at a tertiary educational institution.

As amended, service employees covered by the bill do not include employees performing work on certain projects requiring local permits.

The bill covers any location that is: a multi-family residential building with more than 50 units; a commercial center or complex or an office building or complex occupying more than 100,000 square feet; a primary and secondary school, tertiary educational institution; a cultural center or complex; an industrial site or pharmaceutical lab; an airport and train station; a hospital, nursing care facility, senior care centers or other health care provider location; a State court; or a warehouse or distribution center.

As amended, the bill requires an authority awarding a service contract, not less than 15 days before terminating any service contract or contracting out services previously performed by the covered entity, or selling or transferring any property where service employees are employed to:

1. request certain information from any terminated contractors regarding service employees;
2. give successor employers information regarding service employees;
3. provide written notice to collective bargaining representatives of the affected service employees of actions affecting their employment; and
4. provide written notice of the actions at the affected work site.

The bill requires successor employers to take reasonable steps to ascertain the identity of affected service employees.

The bill requires a successor employer to retain an affected service employee at a covered location for 90 days or until its service contract is terminated, whichever is earlier. A successor employer may not reduce any affected service employee's work hours in order to circumvent the protections of the bill.

The bill requires a successor employer to give an affected service employee a written offer of employment and send a copy to the employee's collective bargaining representative, if any.

A successor employer may retain less than all of the affected service employees during the 90-day transition period only if the successor employer: finds that fewer service employees are required to perform the work than the predecessor employer had employed; retains service employees by seniority within each job classification; maintains a preferential hiring list of those employees not retained; and hires any additional service employees from the list, in order of seniority, until all affected service employees have been offered employment.

Except as provided above, a successor employer is prohibited from discharging a service employee retained pursuant to the bill without just cause during the 90-day transition period.

These provisions of the bill do not apply if any successor employer, on or before the termination of the service contract, agrees to assume, and to be bound by, the collective bargaining agreement of the awarding authority or contractor, provided that the collective bargaining agreement provides terms and conditions for the discharge or laying off of employees.

A service employee who has been discharged or otherwise not retained in violation of the provisions of the bill may bring an action in a court of competent jurisdiction against a successor employer or an awarding authority. As amended, for a first violation, the court may impose a fine not exceeding \$2,500 and, for second and subsequent violations, a fine not exceeding \$5,000 or imprisonment for a term not less than 10 days or more than 90 days, and may order restitution and injunctive relief.

The bill provides that an offer of employment required to be provided to an incumbent worker must be substantially similar to a form provided in the bill.

The amendments adopted by the committee:

1. Exclude from the provisions of the bill health care entities which are already subject to similar provisions under P.L.2022, c.101;
2. Exclude from the provisions of the bill any individual who performs work on any building, structural, electric, HVAC, or plumbing project, if the work requires a permit to be issued by a municipal building or construction department;
3. Omit from the circumstances which trigger the responsibility of an awarding authority to take actions required by the bill “entering into a service contract for work that its own employees had been performing” and adding to the triggering circumstances “contracting out services previously performed by the covered entity”; and
4. Change the penalties by having the option of imprisonment apply only to second and subsequent offenses, having no minimum fines, and raising the maximum fines to \$2,500 for a first offense and \$5,000 for a second and each subsequent offense.

STATEMENT TO
[First Reprint]
SENATE, No. 2389

with Senate Floor Amendments
(Proposed by Senator SINGLETON)

ADOPTED: FEBRUARY 27, 2023

These amendments provide that each week, in any day of which a violation of the provisions of the bill occurs, shall constitute a separate offense, and that if a violation does not continue for any period after the first week in which the violation occurs, it shall not be regarded as a second or subsequent violation.

STATEMENT TO
[Second Reprint]
SENATE, No. 2389

with Senate Floor Amendments
(Proposed by Senator SINGLETON)

ADOPTED: JUNE 20, 2023

These amendments change the period during which employment protections apply to service employees during transitions in service contracts at covered locations from 90 days to 60 days.

The amendments also remove a violation provision of the bill that allows courts to impose imprisonment on certain employers and authorities that award service contracts for violations.

Governor Murphy Signs Legislation Establishing Historic Employment Protections for Service Workers

07/24/2023

TRENTON – Governor Phil Murphy today signed a bill to protect service workers from a sudden and unexpected loss of employment due to a change in ownership where they work. The legislation will provide important employment protections and peace of mind for many New Jersey service employees.

“Service employees should not have the rug pulled out from under them for circumstances outside their control that have nothing to do with their job performance,” said **Governor Murphy**. “These protections will offer many hardworking employees the professional courtesy and stability they deserve during transitional periods.”

The bill (A-4682/S-2389) establishes employment protections for non-managerial/professional service employees who have been working at an eligible location on a full or part-time basis at least 16 hours per week for 60 or more days in connection with either:

- the care or maintenance of a building or property;
- passenger related security services, cargo related and ramp services, in-terminal and passenger handling, and cleaning services at an airport; or
- food preparation services at a primary, secondary, or post-secondary school.

The law requires current employers to notify bargaining representatives and post a notification at the job site about the upcoming change in property ownership at least 15 days in advance. The employer must also share information about the service workers with the new employer and information about the new employer with the current service workers.

Upon taking over ownership, new employers must retain the covered service employees for at least 60 days or until the employees’ existing contract comes to an end – whichever comes first – except in instances where the employer: finds that fewer service employees are needed to perform the work than had been employed; retains service employees by seniority within each job classification; maintains a preferential hiring list of the employees that were not retained; and hires any additional service employees from that list, in order of seniority, until all affected service workers have been offered the opportunity for employment.

New employers cannot reduce service workers’ hours in order to circumvent these protections and cannot otherwise fire the covered employees without just cause during that 60-day period.

The bill applies to locations such as multi-family residential buildings with more than 50 units, large commercial and office buildings/complexes, schools, cultural centers, industrial sites, pharmaceutical labs, airports, train stations, State courts, warehouses, and certain hospitals and nursing homes.

“Service workers should not be immediately out of a job, at no fault of their own and without warning, when a work site changes hands,” said **Robert Asaro-Angelo, Commissioner of the New Jersey Department of Labor and Workforce Development**. “With this law, New Jersey once again proves its dedication to protecting our workforce and ensuring workers are treated with the respect and dignity they deserve.”

Sponsors of the bill include Senator Troy Singleton and Gary Schaer, as well as Senator Andrew Zwicker and Assembly Members Britnee N. Timberlake and Joe Danielson.

“When ownership of service contracts changes, employees and their needs can often be forgotten. It is important to ensure that employees have job stability, even in transitions of management,” said **Senator Singleton**. “We are coming off of the heels of a pandemic that catalyzed mass layoffs across the board. This law will protect employees and their jobs, easing any anxiety that may arise when ownership changes, and laying out the provisions that will be afforded to service employees.”

“Employees in New Jersey should not have to worry they might lose their jobs overnight if a change of ownership occurs. During periods of transition, it is important that we prioritize the needs of our workforce and give them peace of mind during uncertain times,” said **Assemblyman Schaer**. “This law will better protect service employees, ensuring they have more job stability when ownership of a contract changes.”

“Statewide, New Jersey workers employed by building-service contractors have no legal right to keep their jobs if the contractor changes and the incoming contractor decides not to retain the existing workforce,” said **Senator Zwicker**. “This legislation would make service employee contracts more transparent to employees and make certain that contractors ensure the stable transfer of service employees.”

“With the signing of this bill, we are protecting the rights and job security of workers in our state. Nobody should have to worry about losing their job without due notice,” said **Assemblyman Danielson**. “During times of ownership changes, this law will ensure that service employees are treated with fairness and respect.”

“This legislation will serve as a protective measure for service employees during periods of transition,” said **Assemblywoman Britnee N. Timberlake**. “With this law, we are affirming our commitment to safeguarding the rights and livelihoods of service employees in our state, and helping to build a more equitable and just future for all employees.”

“We thank the Governor for his leadership and for signing this vital piece of legislation. The Building Service Worker Retention law gives New Jersey service workers peace of mind and law recognizes the inherent dignity of their work and their value to the state of New Jersey,” said **32BJ SEIU Executive Vice President and NJ State Director Kevin Brown**. “32BJ thanks Governor Murphy for his constant advocacy as a champion for working people across the state. We thank Assembly Speaker Coughlin and Senate President Scutari for their critical leadership in the legislature. We also thank Senator Troy Singleton and Assemblyman Gary Schaer for their sponsorship of the legislation. New Jersey is now the second state in the country to protect building service employees from arbitrary lay-offs during a change of building ownership or change of contractor for 60 days. Now, our state’s janitors, security officers, airport workers, concierges and other service workers will be protected from unfairly losing their jobs. This is a massive victory for workers’ rights.”