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RWH/CL

P.L. 2020, CHAPTER 79, *approved September 11, 2020*  
Senate, No. 2303 (*First Reprint*)

1 **AN ACT** concerning collective bargaining agreements and  
2 subcontracting and supplementing P.L.1941, c.100 (C.34:13A-1  
3 et seq.).  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. As used in this act:

9 "Employer" means any local or regional school district,  
10 educational services commission, jointure commission, county special  
11 services school district, county college, <sup>1</sup>State college, public college  
12 or university under the authority of the Secretary of Higher  
13 Education,<sup>1</sup> or board or commission under the authority of the  
14 Commissioner of Education or the State Board of Education.

15 "Employee" means any employee, whether employed on a full or  
16 part-time basis, of an employer.

17 "Subcontracting" means any action, practice, or effort by an  
18 employer which results in any services or work performed by any of  
19 its employees being performed or provided by any other person,  
20 vendor, corporation, partnership or entity.

21 "Subcontracting agreement" means any agreement or arrangement  
22 entered into by an employer to implement subcontracting, but shall not  
23 include any contract entered into pursuant to the "Uniform Shared  
24 Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-1 et al.),  
25 or any contract entered into to provide services to nonpublic schools  
26 through State or federal funds.  
27

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

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

**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:

<sup>1</sup>Assembly AAP committee amendments adopted June 25, 2020.

1 a. Provides written notice to the majority representative of  
2 employees in each collective bargaining unit which may be affected  
3 by the subcontracting agreement and to the New Jersey Public  
4 Employment Relations Commission, not less than 90 days before  
5 the employer requests bids, or solicits contractual proposals for the  
6 subcontracting agreement; and

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

16

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

21

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

32

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

39

40 7. This act shall take effect immediately.

41

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43

44

45 Concerns subcontracting agreements entered into by public  
46 school districts and county colleges.

# SENATE, No. 2303

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

**Sponsored by:**

**Senator ANTHONY M. BUCCO**

**District 25 (Morris and Somerset)**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Co-Sponsored by:**

**Senators Brown, Gopal, Addiego, Bateman, Thompson and Turner**

**SYNOPSIS**

Concerns subcontracting agreements entered into by public school districts and public institutions of higher education.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/19/2020)**

1 AN ACT concerning collective bargaining agreements and  
2 subcontracting and supplementing P.L.1941, c.100 (C.34:13A-1  
3 et seq.).  
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*  
7

8 1. As used in this act:

9 "Employer" means any local or regional school district,  
10 educational services commission, jointure commission, county  
11 special services school district, county college, State college, public  
12 college or university under the authority of the Secretary of Higher  
13 Education, or board or commission under the authority of the  
14 Commissioner of Education or the State Board of Education.

15 "Employee" means any employee, whether employed on a full or  
16 part-time basis, of an employer.

17 "Subcontracting" means any action, practice, or effort by an  
18 employer which results in any services or work performed by any of  
19 its employees being performed or provided by any other person,  
20 vendor, corporation, partnership or entity.

21 "Subcontracting agreement" means any agreement or  
22 arrangement entered into by an employer to implement  
23 subcontracting, but shall not include any contract entered into  
24 pursuant to the "Uniform Shared Services and Consolidation Act,"  
25 P.L.2007, c.63 (C.40A:65-1 et al.), or any contract entered into to  
26 provide services to nonpublic schools through State or federal  
27 funds.  
28

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

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

42 a. Provides written notice to the majority representative of  
43 employees in each collective bargaining unit which may be affected  
44 by the subcontracting agreement and to the New Jersey Public  
45 Employment Relations Commission, not less than 90 days before  
46 the employer requests bids, or solicits contractual proposals for the  
47 subcontracting agreement; and

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

10

11       4. Each employee replaced or displaced as the result of a  
12 subcontracting agreement shall retain all previously acquired  
13 seniority during that period and shall have recall rights whenever  
14 the subcontracting terminates.

15

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

26

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

33

34       7. This act shall take effect immediately.

35

36

37

#### STATEMENT

38

39       This bill prohibits an employer from entering into a  
40 subcontracting agreement which may affect the employment of any  
41 employees in a collective bargaining unit under any circumstances  
42 during the term of an existing collective bargaining agreement  
43 covering the employees. The bill defines "employer" to include any  
44 local or regional school district, educational services commission,  
45 jointure commission, county special services school district, county  
46 college, State college, public college or university under the  
47 authority of the Secretary of Higher Education, or board or

1 commission under the authority of the Commissioner of Education  
2 or the State Board of Education.

3 The employer is permitted to enter into a subcontracting  
4 agreement for a period following the term of a current collecting  
5 bargaining agreement only if the employer:

6 first, provides notice to both the majority representative of  
7 employees in each collective bargaining unit and to the Public  
8 Employment Relations Commission at least 90 days prior to any  
9 effort by the employer to seek the subcontracting agreement; and

10 second, offers the majority representative the opportunity to meet  
11 and discuss the decision to subcontract and negotiate over its  
12 impact. The employer's duty to negotiate over the impact of the  
13 subcontracting would not preclude the employer's right to  
14 subcontract should no successor agreement exist.

15 The bill makes all actions of an employer regarding  
16 subcontracting, except for those expressly required or prohibited by  
17 the bill, mandatory subjects of negotiations.

18 Each employee replaced or displaced because of a subcontracting  
19 agreement would retain all previously acquired seniority and would  
20 have recall rights when the subcontracting terminates.

21 The bill provides that an employer who violates the act has  
22 committed an unfair practice and may be subject to an unfair  
23 practice charge with the Public Employment Relations Commission,  
24 under which the employee may be entitled to a remedy including,  
25 but not limited to: reinstatement, back pay, back benefits, back  
26 emoluments, tenure and seniority credit, and attorney's fees.



# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2303**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 26, 2020

The Assembly Appropriations Committee reports favorably Senate Bill No. 2303, with committee amendments.

As amended, this bill prohibits an employer from entering into a subcontracting agreement which may affect the employment of any employees in a collective bargaining unit under any circumstances during the term of an existing collective bargaining agreement covering the employees. The bill defines "employer" to include any local or regional school district, educational services commission, jointure commission, county special services school district, county college, or board or commission under the authority of the Commissioner of Education or the State Board of Education.

The employer is permitted to enter into a subcontracting agreement for a period following the term of a current collective bargaining agreement only if the employer:

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

second, offers the majority representative the opportunity to meet and discuss the decision to subcontract and negotiate over its impact. The employer's duty to negotiate over the impact of the subcontracting would not preclude the employer's right to subcontract should no successor agreement exist.

The bill makes all actions of an employer regarding subcontracting, except for those expressly required or prohibited by the bill, mandatory subjects of negotiations.

Each employee replaced or displaced because of a subcontracting agreement would retain all previously acquired seniority and would have recall rights when the subcontracting terminates.

The bill provides that an employer who violates the act has committed an unfair practice and may be subject to an unfair practice charge with the Public Employment Relations Commission, under which the employee may be entitled to a remedy including, but not limited to: reinstatement, back pay, back benefits, back emoluments, tenure and seniority credit, and attorney's fees.

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

COMMITTEE AMENDMENTS

The committee amended the bill to eliminate public colleges, other than county colleges, from the definition of “employer.” Consequently, these institutions will not be subject to the bill’s provisions.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

# ASSEMBLY, No. 4140

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 11, 2020

**Sponsored by:**

**Assemblyman ROY FREIMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

**Assemblyman ANDREW ZWICKER**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Co-Sponsored by:**

**Assemblyman Danielsen, Assemblywomen Reynolds-Jackson, Swain,  
Assemblyman Tully, Assemblywoman Jasey, Assemblyman McKeon and  
Assemblywoman Tucker**

**SYNOPSIS**

Concerns subcontracting agreements entered into by public school districts and county colleges.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/29/2020)**

1 AN ACT concerning collective bargaining agreements and  
2 subcontracting and supplementing P.L.1941, c.100 (C.34:13A-1  
3 et seq.).

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

7  
8 1. As used in this act:

9 "Employer" means any local or regional school district,  
10 educational services commission, jointure commission, county  
11 special services school district, county college, or board or  
12 commission under the authority of the Commissioner of Education  
13 or the State Board of Education.

14 "Employee" means any employee, whether employed on a full or  
15 part-time basis, of an employer.

16 "Subcontracting" means any action, practice, or effort by an  
17 employer which results in any services or work performed by any of  
18 its employees being performed or provided by any other person,  
19 vendor, corporation, partnership or entity.

20 "Subcontracting agreement" means any agreement or  
21 arrangement entered into by an employer to implement  
22 subcontracting, but shall not include any contract entered into  
23 pursuant to the "Uniform Shared Services and Consolidation Act,"  
24 P.L.2007, c.63 (C.40A:65-1 et al.), or any contract entered into to  
25 provide services to nonpublic schools through State or federal  
26 funds.

27  
28 2. Except for actions of an employer expressly required or  
29 prohibited by the provisions of this act, all aspects or actions  
30 relating to or resulting from an employer's decision to subcontract  
31 including, but not limited to, whether or not severance pay is  
32 provided, shall be mandatory subjects of negotiations.

33  
34 3. No employer shall enter into a subcontracting agreement  
35 which affects the employment of any employees in a collective  
36 bargaining unit represented by a majority representative during the  
37 term that an existing collective bargaining agreement with the  
38 majority representative is in effect. No employer shall enter into a  
39 subcontracting agreement for a period following the term of the  
40 current collective bargaining agreement unless the employer:

41 a. Provides written notice to the majority representative of  
42 employees in each collective bargaining unit which may be affected  
43 by the subcontracting agreement and to the New Jersey Public  
44 Employment Relations Commission, not less than 90 days before  
45 the employer requests bids, or solicits contractual proposals for the  
46 subcontracting agreement; and

47 b. Has offered the majority representative of the employees in  
48 each collective bargaining unit which may be affected by the

1 subcontracting agreement the opportunity to meet and consult with  
2 the employer to discuss the decision to subcontract, and the  
3 opportunity to engage in negotiations over the impact of the  
4 subcontracting. The employer's duty to negotiate with the majority  
5 representative of the employees in each collective bargaining unit  
6 shall not preclude the employer's right to subcontract should no  
7 successor agreement exist.

8  
9 4. Each employee replaced or displaced as the result of a  
10 subcontracting agreement shall retain all previously acquired  
11 seniority during that period and shall have recall rights whenever  
12 the subcontracting terminates.

13  
14 5. An employer who violates any provision of this act shall be  
15 deemed to have committed an unfair practice, and any employee or  
16 majority representative organization affected by the violation may  
17 file an unfair practice charge with the New Jersey Public  
18 Employment Relations Commission. If the employee or  
19 organization prevails on the charge, the employee is entitled to a  
20 remedy including, but not limited to, reinstatement, back pay, back  
21 benefits, back emoluments, tenure and seniority credit, attorney's  
22 fees, and any other relief the commission deems appropriate to  
23 effectuate the purposes of this act.

24  
25 6. Nothing in this act shall be construed as authorizing  
26 subcontracting which is not otherwise authorized by law. Nothing  
27 in this act shall be construed as restricting or limiting any right  
28 established or provided for employees by section 7 of P.L.1968,  
29 c.303 (C.34:13A-5.3); the purpose of this act is to provide rights in  
30 addition to those provided in that section.

31  
32 7. This act shall take effect immediately.

33  
34

35 STATEMENT

36  
37 This bill prohibits an employer from entering into a  
38 subcontracting agreement which may affect the employment of any  
39 employees in a collective bargaining unit under any circumstances  
40 during the term of an existing collective bargaining agreement  
41 covering the employees. The bill defines "employer" as any local  
42 or regional school district, educational services commission,  
43 jointure commission, county special services school district, county  
44 college, or board or commission under the authority of the  
45 Commissioner of Education or the State Board of Education.

46 The employer is permitted to enter into a subcontracting  
47 agreement for a period following the term of a current collecting  
48 bargaining agreement only if the employer:

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

6 (2) offers the majority representative the opportunity to meet  
7 and discuss the decision to subcontract and negotiate over its  
8 impact. The employer's duty to negotiate over the impact of the  
9 subcontracting would not preclude the employer's right to  
10 subcontract should no successor agreement exist.

11 The bill makes all actions of an employer regarding  
12 subcontracting, except for those expressly required or prohibited by  
13 the bill, mandatory subjects of negotiations.

14 Each employee replaced or displaced because of a subcontracting  
15 agreement would retain all previously acquired seniority and would  
16 have recall rights when the subcontracting terminates.

17 The bill provides that an employer who violates its provisions  
18 has committed an unfair practice and may be subject to an unfair  
19 practice charge with the New Jersey Public Employment Relations  
20 Commission, under which the employee may be entitled to a  
21 remedy including, but not limited to: reinstatement, back pay, back  
22 benefits, back emoluments, tenure and seniority credit, and  
23 attorney's fees.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 4140**

**STATE OF NEW JERSEY**

DATED: JUNE 26, 2020

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

This bill prohibits an employer from entering into a subcontracting agreement which may affect the employment of any employees in a collective bargaining unit under any circumstances during the term of an existing collective bargaining agreement covering the employees. The bill defines “employer” as any local or regional school district, educational services commission, jointure commission, county special services school district, county college, or board or commission under the authority of the Commissioner of Education or the State Board of Education.

The employer is permitted to enter into a subcontracting agreement for a period following the term of a current collective bargaining agreement only if the employer:

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

(2) offers the majority representative the opportunity to meet and discuss the decision to subcontract and negotiate over its impact. The employer's duty to negotiate over the impact of the subcontracting would not preclude the employer's right to subcontract should no successor agreement exist.

The bill makes all actions of an employer regarding subcontracting, except for those expressly required or prohibited by the bill, mandatory subjects of negotiations.

Each employee replaced or displaced because of a subcontracting agreement would retain all previously acquired seniority and would have recall rights when the subcontracting terminates.

The bill provides that an employer who violates its provisions has committed an unfair practice and may be subject to an unfair practice charge with the New Jersey Public Employment Relations Commission, under which the employee may be entitled to a remedy including, but not limited to: reinstatement, back pay, back benefits, back emoluments, tenure and seniority credit, and attorney's fees.

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

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.



# Governor Murphy Takes Action on Legislation

09/11/2020

**TRENTON** – Today, Governor Phil Murphy signed the following bill into law:

**S2303/A4140 (Bucco, Singleton/Freiman, Lopez, Zwicker)** Concerns subcontracting agreements entered into by public school districts and county colleges.