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RH/CL

P.L. 2021, CHAPTER 104, *approved June 11, 2021*
Senate, No. 2932

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 a State college or university established
10 pursuant to chapter 64 of Title 18A of the New Jersey Statutes or a
11 public research university.

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

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

18 "Subcontracting agreement" means any agreement or
19 arrangement entered into by an employer to implement
20 subcontracting.
21

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

28 3. No employer shall enter into a subcontracting agreement
29 which affects the employment of any employees in a collective
30 bargaining unit represented by a majority representative during the
31 term that an existing collective bargaining agreement with the
32 majority representative is in effect. No employer shall enter into a
33 subcontracting agreement for a period following the term of the
34 current collective bargaining agreement unless the employer:

35 a. Provides written notice to the majority representative of
36 employees in each collective bargaining unit which may be affected
37 by the subcontracting agreement and to the New Jersey Public
38 Employment Relations Commission, not less than 90 days before
39 the employer requests bids, or solicits contractual proposals for the
40 subcontracting agreement; and

41 b. Has offered the majority representative of the employees in
42 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
29 P.L.1968, c.303 (C.34:13A-5.3); the purpose of this act is to
30 provide rights in 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 a State
42 four-year institution of higher education.

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

46 first, provides notice to both the majority representative of
47 employees in each collective bargaining unit and to the Public
48 Employment Relations Commission at least 90 days prior to any

1 effort by the employer to seek the subcontracting agreement; and
2 second, offers the majority representative the opportunity to meet
3 and discuss the decision to subcontract and negotiate over its
4 impact. The employer's duty to negotiate over the impact of the
5 subcontracting would not preclude the employer's right to
6 subcontract should no successor agreement exist.

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

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

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

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20

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22

23 _____
24 Concerns subcontracting agreements entered into by four-year
public institutions of higher education.

SENATE, No. 2932

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED SEPTEMBER 17, 2020

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Assemblywoman Murphy

SYNOPSIS

Concerns subcontracting agreements entered into by four-year public institutions of higher education.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/20/2021)

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:*
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8 1. As used in this act:

9 "Employer" means a State college or university established
10 pursuant to chapter 64 of Title 18A of the New Jersey Statutes or a
11 public research university.

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

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

18 "Subcontracting agreement" means any agreement or
19 arrangement entered into by an employer to implement
20 subcontracting.
21

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

28 3. No employer shall enter into a subcontracting agreement
29 which affects the employment of any employees in a collective
30 bargaining unit represented by a majority representative during the
31 term that an existing collective bargaining agreement with the
32 majority representative is in effect. No employer shall enter into a
33 subcontracting agreement for a period following the term of the
34 current collective bargaining agreement unless the employer:

35 a. Provides written notice to the majority representative of
36 employees in each collective bargaining unit which may be affected
37 by the subcontracting agreement and to the New Jersey Public
38 Employment Relations Commission, not less than 90 days before
39 the employer requests bids, or solicits contractual proposals for the
40 subcontracting agreement; and

41 b. Has offered the majority representative of the employees in
42 each collective bargaining unit which may be affected by the
43 subcontracting agreement the opportunity to meet and consult with
44 the employer to discuss the decision to subcontract, and the
45 opportunity to engage in negotiations over the impact of the
46 subcontracting. The employer's duty to negotiate with the majority

1 representative of the employees in each collective bargaining unit
2 shall not preclude the employer's right to subcontract should no
3 successor agreement exist.

4

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

9

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

20

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

27

28 7. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 This bill prohibits an employer from entering into a
34 subcontracting agreement which may affect the employment of any
35 employees in a collective bargaining unit under any circumstances
36 during the term of an existing collective bargaining agreement
37 covering the employees. The bill defines "employer" as a State
38 four-year institution of higher education.

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

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

46 second, offers the majority representative the opportunity to meet
47 and discuss the decision to subcontract and negotiate over its
48 impact. The employer's duty to negotiate over the impact of the

S2932 SWEENEY

1 subcontracting would not preclude the employer's right to
2 subcontract should no successor agreement exist.

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

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

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

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

SENATE, No. 2932

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 2021

The Assembly Labor Committee reports favorably Senate Bill No. 2932.

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 a State four-year institution of higher 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.

SENATE HIGHER EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 2932

STATE OF NEW JERSEY

DATED: DECEMBER 10, 2020

The Senate Higher Education Committee reports favorably Senate Bill No. 2932.

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 a State four-year institution of higher education.

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ASSEMBLY, No. 4680

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED SEPTEMBER 17, 2020

Sponsored by:

Assemblyman JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Assemblywoman Murphy

SYNOPSIS

Concerns subcontracting agreements entered into by four-year public institutions of higher education.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/20/2021)

A4680 BURZICHELLI

2

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2 subcontracting and supplementing P.L.1941, c.100 (C.34:13A-1
3 et seq.).
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A4680 BURZICHELLI

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ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4680

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 2021

The Assembly Labor Committee reports favorably Assembly Bill No. 4680.

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 a State four-year institution of higher 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:

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Governor Murphy Takes Action on Legislation

06/11/2021

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

A-4680/S-2932 (Sweeney/Burzichelli) – Concerns subcontracting agreements entered into by four-year public institutions of higher education

A-5344/S-3197 (Scutari, Smith/Mukherji) – Clarifies eligibility for deferred retirement for certain judges in JRS

A-5696/S-3690 (Quijano, Carter, Kennedy/Scutari, Cryan) – Revises modified basic training program for certain county correctional police officers to be certified as county prosecutor's detectives or investigators or county or municipal police officers

A-5725/S-1246 (Downey, Houghtaling/Gopal, Turner) – Changes dates on which members of municipal and county committees of political party take office and hold annual meetings; transfers certain election responsibilities to county clerks