

CHAPTER 79

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

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

C.34:13A-44 Definitions relative to collective bargaining agreements and subcontracting.

1. As used in this act:

"Employer" means 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.

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

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

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

C.34:13A-45 Subcontracting mandatory subjects of negotiations, exceptions.

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

C.34:13A-46 Employer entering into subcontract agreement, terms, conditions.

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

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

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

C.34:13A-47 Rights of displaced employee.

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

C.34:13A-48 Violation, unfair practice; remedies.

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

C.34:13A-49 Construction of act.

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

7. This act shall take effect immediately.

Approved September 11, 2020.