

[First Reprint]

**ASSEMBLY, No. 4630**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

INTRODUCED SEPTEMBER 14, 2020

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Cumberland, Gloucester and Salem)**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**SYNOPSIS**

Concerns labor harmony agreements in retail and distribution center projects.

**CURRENT VERSION OF TEXT**

As amended on November 8, 2021 by the General Assembly pursuant to the Governor's recommendations.



**(Sponsorship Updated As Of: 6/30/2021)**

1 AN ACT regarding labor harmony agreements in connection with  
2 retail and distribution center projects and supplementing Title 52  
3 of the Revised Statutes.

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

7  
8 1. The Legislature hereby finds and declares that:

9 a. The State, through its investment in development projects  
10 has a significant and ongoing economic interest in the financial  
11 viability and competitiveness of those projects and their role in  
12 promoting the vital sectors of the State's economy;

13 b. Major development projects with large retail establishments  
14 and distribution centers, and the supply chain that ensures their  
15 goods arrive on time and in good condition, provide essential  
16 goods, services, and jobs for local residents, stimulate local  
17 economies, and are a vital economic engine that provides revenue  
18 for our communities and promotes vibrant downtowns and financial  
19 stability;

20 c. There are labor organizations in New Jersey that represent  
21 many retail and distribution center workers, and that actively  
22 engage in organizing activities to unionize additional retail and  
23 distribution center establishments in the State, which may include  
24 strikes, pickets, boycotts, and other economic activity during labor  
25 disputes;

26 d. New Jersey and other public bodies in the State have a  
27 compelling interest in preventing disruptive labor disputes in  
28 connection with projects in which the public bodies have  
29 proprietary interests as investors, owners, or financiers; and

30 e. Labor harmony agreements make possible legally  
31 enforceable guarantees that projects will be carried out in an orderly  
32 and timely manner, without strikes, lock-outs, or slowdowns, thus  
33 protecting the State's interest in these projects by promoting  
34 harmonious and productive work environments.

35  
36 2. As used in this section:

37 "Contractor" means a business entering into a contract or  
38 agreement to undertake a covered retail or distribution project, or to  
39 serve as the owner or operator of any facility, including but not  
40 limited to a retail establishment or distribution center, that is part of  
41 a covered retail or distribution project, or to provide services  
42 integral to the operations of the covered retail or distribution project  
43 or the facilities.

44 "Commissioner" means the Commissioner of Labor and  
45 Workforce Development.

**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 amendments adopted in accordance with Governor's recommendations November 8, 2021.

1 "Covered retail or distribution project" or "covered project"  
2 means a project undertaken pursuant to an agreement entered into  
3 after the effective date of this act between a public body and a  
4 contractor in which:

- 5 a. one or more retail establishments or distribution centers are  
6 part of the project;
- 7 b. the public body has a proprietary interest in the project or in  
8 a retail establishment or distribution center in the project; and
- 9 c. the project includes at least one retail establishment which  
10 will have more than <sup>1</sup>~~10~~ 20<sup>1</sup> employees, or at least one  
11 distribution center which will have more than 20 employees.

12 "Distribution center" means a warehouse, distribution center,  
13 sortation facility, fulfillment center, or any other building stocked  
14 with products or goods to be redistributed to retailers, to  
15 wholesalers, or directly to consumers.

16 "Labor harmony agreement" means an agreement between a  
17 contractor and one or more labor organizations, which requires, for  
18 the duration of the agreement, that any participating labor  
19 organization and its members agree to refrain from picketing, work  
20 stoppages, boycotts, or other economic interference against the  
21 contractor.

22 "Proprietary interest" means an economic and non-regulatory  
23 interest of a public body in the economic or financial success of a  
24 covered retail or distribution project, or the success of any facility  
25 in the project, including a retail establishment or distribution center,  
26 that could be adversely affected by labor-management conflict,  
27 including, but not limited to, the interest of the public body as a  
28 financier, investor, lessee, lessor, operator, or owner of the project,  
29 facility, or property on which the project or facility is located, or as  
30 the provider or facilitator of financial assistance to or for the  
31 project, facility, or property, whether by direct loan or grant, or by a  
32 guarantee, subsidy, deposit, credit enhancement or similar method,  
33 and any interest of a public body derived from the ongoing receipt  
34 by the public body of revenues from the project or facilities of the  
35 project.

36 "Public body" means the State of New Jersey, any of its political  
37 subdivisions, and any authority, instrumentality, or agency of the  
38 State or of any of its political subdivisions, or any other entity  
39 authorized to conduct economic development activity on behalf of a  
40 public body.

41 "Retail establishment" means any retail store selling goods  
42 primarily to members of the general public.

43

44 3. a. Except as provided in subsection c. of this section, no  
45 public body shall enter into any contract or agreement under which  
46 the public body has a proprietary interest in a covered project unless  
47 the contract or agreement includes a precondition that the contractor  
48 and all subcontractors of the contractor enter into a labor harmony

1 agreement with a labor organization which represents retail or  
2 distribution center employees in the State. The public body shall,  
3 prior to entering into the contract or agreement, provide written  
4 disclosure to the contractor and any subcontractors of all  
5 requirements of this act relevant to the contract or agreement. If it  
6 is required that contractors submit bids or other proposals to be  
7 considered for the agreement or contract, the public body shall  
8 provide the written disclosure to each prospective bidder or other  
9 contractor as part of the specifications for bidding or otherwise  
10 seeking the contract or agreement for the project. The contractor or  
11 subcontractor shall incorporate the terms of the labor harmony  
12 agreement in any contract, subcontract, lease, sublease, operating  
13 agreement, concessionaire agreement, franchise agreement, or other  
14 agreement or instrument giving a right to any person or entity to  
15 own or operate a retail establishment or distribution center in the  
16 covered project.

17 b. The duration of the labor harmony agreement shall be a  
18 period of not less than five years from the date on which the  
19 covered project becomes fully operational. The requirement to  
20 include a labor harmony agreement shall apply to any successor  
21 contractor, or any of its subcontractors, who takes the place of an  
22 initial contractor or subcontractor if the replacement occurs during  
23 the time in which a public body continues to have a proprietary  
24 interest in the project, and duration of the labor harmony agreement  
25 with the replacement contractor or subcontractor shall be a period  
26 of not less than five years commencing with the date of replacement  
27 or the date on which the covered project becomes fully operational,  
28 whichever is later.

29 c. A public body may enter into a contract or agreement with a  
30 contractor without entering into a labor harmony agreement only if  
31 the public body determines that the covered project would not be  
32 able to go forward if a labor harmony agreement is required. Such  
33 determination shall only be made after soliciting input from any  
34 labor organizations with which a labor harmony agreement would  
35 otherwise be required. The determination shall be supported by a  
36 written finding by the public body which provides documentation of  
37 the specific basis for the determination. The written determination  
38 shall be submitted to the commissioner, who shall review the  
39 determination and make public a finding on the determination  
40 within not more than 15 business days after the submission. If the  
41 commissioner approves the determination, the determination shall  
42 be, together with the commissioner's statement of approval,  
43 included in any public materials provided to any board or agency  
44 official in connection with the covered project and maintained and  
45 made available to the public by the public body. If the  
46 commissioner does not approve the determination, the contract or  
47 agreement shall be subject to the requirement of subsection a. of  
48 this section to include a precondition that the contractor and all

1 subcontractors of the contractor enter into a labor harmony  
2 agreement.

3 d. The requirements of this act regarding the inclusion of a  
4 labor harmony agreement in any agreement or contract for a  
5 contractor to undertake a covered project shall not be deemed to  
6 unduly restrict competition, and any bidder refusing to comply with  
7 the requirements of this act regarding labor harmony agreements  
8 shall not be regarded as a responsible bidder. No agreement or  
9 contract to undertake a covered retail or distribution project entered  
10 into after the effective date of this act between a public body and a  
11 contractor shall be valid or enforceable if it does not comply with  
12 the requirements of this act regarding the inclusion of labor  
13 harmony agreements.

14 e. Labor harmony agreements shall not be required by this act  
15 with respect to any construction work undertaken in connection  
16 with a covered project.

17

18 4. Each public body which enters into a contract which is  
19 subject to the provisions of this act regarding labor harmony  
20 agreements shall submit to the commissioner evidence of an  
21 executed labor harmony agreement and, if the public body  
22 determines that a labor harmony agreement will prevent a project  
23 from going forward, a copy of the determination and documentation  
24 supporting the finding. The public body shall provide, in a timely  
25 manner as required by the commissioner, information regarding any  
26 changes in the information submitted.

27

28 5. The commissioner shall adopt rules and regulations pursuant  
29 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
30 1 et seq.) to effectuate the purposes of this act. These rules and  
31 regulations shall provide a model labor harmony agreement, and  
32 shall provide remedies and procedures for public bodies to enforce  
33 compliance with the provisions of this act and any labor harmony  
34 agreement entered into pursuant to this act, including provisions for  
35 reimbursement of any costs or damages incurred by the public body  
36 in connection with any noncompliance with the provisions of this  
37 act or the agreements.

38

39 6. This act shall take effect on the 90th day after enactment.