

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

4

5

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STATEMENT

7

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

10       The bill applies to contractors, including subcontractors, who  
11 enter into a service contract or subcontract to be performed,  
12 provided the contractor employs more than four service employees  
13 anywhere in the United States.

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

18       (1) connection with the care or maintenance of a building or  
19 property;

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,  
24 or at a tertiary educational institution.

25       The bill covers any location that is a:

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

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

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

30       (4) cultural center or complex;

31       (5) industrial site or pharmaceutical lab;

32       (6) airport and train station;

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

35       (8) state courts; or

36       (9) warehouse or distribution center.

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

42       (1) request certain information from any terminated contractors  
43 regarding service employees;

44       (2) give successor employers information regarding service  
45 employees;

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

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.