



June 15, 2023

## **NJSBA Position Statement**

### **OPPOSING**

#### **Assembly Bill No. 5430**

(Reynolds-Jackson / Wimberly / Verrelli)

#### **Establishes procedures and standards regarding public services privatization contracts.**

The New Jersey School Boards Association (NJSBA), a federation of all of the state's local boards of education, respectfully **opposes** A-5430. As introduced, this legislation establishes various procedures and standards regarding public service privatization contracts, including those entered into by the state's local boards of education.

NJSBA believes it is critical that a board of education have the ability to enter into privatization or subcontracting agreements for economic reasons or to advance the best interests of the school district. It is in the interests of both students and taxpayers that local boards of education continue to have the authority, without onerous restrictions, to privatize certain services in order to maximize the investments they can make towards educational programs. Because A-5430 mandates various expensive and burdensome procedures with which boards of education must comply before and after entering into a privatization agreement, NJSBA is concerned that the process will become more restrictive for local districts, more expensive for local taxpayers and, ultimately, of little or no benefit to the students receiving a public education in New Jersey.

While it contains myriad overly bureaucratic procedures governing the privatization process, one of the most concerning aspects of A-5430 is that it will prohibit a board of education from privatizing a service unless the contractor continues to provide "wage and benefit rates at least equal to the agency employees currently performing the services." The NJSBA believes that such a provision will negate any potential savings and make it nearly impossible to privatize, as employee compensation often constitutes as much as 75% of any school district budget. This runs contrary to the goal of making the most efficient use of taxpayer dollars, while ensuring that our students continue to receive the quality of education that makes New Jersey a standout compared to the rest of the country.

Many boards of education currently engage in some form of privatization or subcontracting. The vast majority of our member districts fully subcontract one or more of the following services: food services or cafeteria management; maintenance, building and grounds or custodial services; and pupil transportation, among others. Furthermore, nearly all school districts that privatize services make accommodations to assist displaced employees. These efforts include requiring the subcontractor to hire or guarantee interviews with any displaced employees; offering severance packages; privatizing only as employees leave or retire; and finding suitable jobs elsewhere in the district. These efforts are far more accommodating than anything one could find in the private sector.

Privatization has resulted in school districts savings millions of dollars in taxpayer money every year. These savings are then directed to various purposes, including: educational programming and services, keeping

property taxes under control, investing in new technology, repairing facilities, or hiring more classroom teachers. Absent the ability to privatize, school districts will be faced with the difficult decision to reduce services, trim staff, or increase property taxes – none of which is desirable from either a financial or an educational standpoint.

It is also important to point out that a relatively new education law (P.L.2020, c.79) already establishes various requirements that boards of education must comply with prior to entering into a subcontracting (i.e., privatization) agreement. This law applies to all school districts and includes various protections for district employees affected by a potential subcontracting agreement, such as:

- Makes any school district's decision to subcontract a mandatory subject of negotiations with any union that would be affected;
- Explicitly prohibits subcontracting that affects employees in a collective bargaining agreement (CBA) while the CBA is in effect;
- Prohibits subcontracting unless the board of education provides notice to affected unions and the NJ PERC at least 90 days prior to soliciting bids, and offers the union the opportunity to meet and consult over the decision to subcontract and engage in negotiations over the impact of the subcontracting;
- Provides affected employees with recall and seniority rights when any subcontracting agreement terminates; and
- Establishes penalties (i.e., unfair labor practice) for boards of education that violate the law as well as relief for employees adversely impacted by such violation.

While we oppose A-5430 on its merits, the NJSBA also hopes to avoid establishing a completely separate process regarding privatization as existing law already contains clear procedures boards of education must follow, as well as various protections for affected employees. Should A-5430 become law in its current form, employees will have little incentive to engage in good faith negotiations pursuant to the 2020 law cited above, rendering that law essentially moot. In that vein, we would like to request an amendment to A-5430 to exclude NJ school districts from its provisions.

For these reasons, the NJSBA respectfully asks the Legislature to consider the adverse impact A-5430 will have on students and taxpayers. Thank you for your consideration of the NJSBA's position on this important matter. Any questions or comments may be directed to Jonathan Pushman, NJSBA Director of Governmental Relations, at [jpushman@njsba.org](mailto:jpushman@njsba.org) or (609) 278-5248.