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To: Members of the Assembly Commerce Committee

From: Alexis Bailey, Vice President of Government Affairs

Date: June 22, 2023

RE: NJBIA Opposition to A-4682 – Establishes employment protections for certain service employees during changes of ownership

On behalf of our member companies that make NJBIA the largest, most impactful statewide business association in the nation, **I write to you in opposition to Assembly Bill No. 4682 (Schaer/Timberlake/Danielsen), which as amended would require a vast number of covered employers to retain a wide range of service employees for 60 days following not only the sale of a business that employs service workers, but also a change in service vendor contract ownership.** If enacted, this legislation would place an unwarranted mandate on business and stifle its ability to make necessary operational decisions.

We greatly appreciate the amendments being made to the bill today to remove the criminal penalties for employers and reduce the timeframe for employee retention from 90 to 60 days. These changes are a welcome improvement for the business community. However, we remain concerned about the impact this legislation will have on a business's ability to change service contract vendors when they need to for legitimate business reasons. Businesses do not make service contract vendor changes lightly. These vendor changes are made rarely, and the decision is made by necessity for health, safety, operational or financial reasons. **By mandating employee retention following minor vendor changes, this legislation remains the most far-reaching iteration of employee retention mandates to date in New Jersey and can have significant health and safety implications for our residents, employees and employers.**

In practice, this legislation will create a significant logistical burden for service vendors and interfere with private contracts. **This legislation would require a new service vendor, referred to as a “successor employer” to maintain the employees of a previous vendor if they are providing the same type of service.** For example, if Company A contracts with ABC Cleaning Service to clean their facility and ends that contract to hire XYZ Cleaning Service instead, XYZ Cleaning Service will be mandated to assume ABC Cleaning Service's employees for 60 days. As evident by this example, successor employers would be mandated to assume another vendor's employees regardless of whether the original vendor had other work assignments for those employees, if the successor employer had their own employees to bring on to the job, or if the covered location contracting for service work was dissatisfied with the job being done by the previous vendor's employees. This provision unnecessarily entangles three separate business entities into contracts and makes it impractical to ever change service contracts, stifling competition, efficiency as well as consumer health and safety.

This legislation so broadly defines service employees and covered locations to capture a significant number of businesses in our state, negatively impacting large swaths of our economy. Employers and facilities captured under this legislation include multi-family residential buildings with more than 50 units, commercial or office buildings that are more than 100,000 square feet, primary, secondary and tertiary schools, as well as cultural centers such as museums, convention centers, arenas, performance halls, industrial sites, pharmaceutical labs, airports, train stations, hospitals, nursing care facilities, senior care centers and other healthcare provider locations, state courts and warehouse and distribution centers.

Under the legislation, service employees include any non-managerial or professional employee who works 16 or more hours per week in connection with the care or maintenance of a building or property. These types of employees include, ***but are not limited to***, security, front desk, maintenance, grounds maintenance, stationary fireman, elevator operators, window cleaners and janitorial service staff. At airports, it includes passenger-related security services, cargo related and ramp services, in-terminal and passenger handling and cleaning services. In schools, the bill includes food service workers.

Even as amended, this legislation remains the broadest iteration of employee retention mandates to date. The Legislature must seriously consider the need for these mandates and the harmful message they send to the business community.

We implore the committee not to advance this legislation without removing vendor to vendor contract changes from the definition of successor employer in the bill. With this change, the Legislature can still provide additional protection to employees following the sale of a business employing service workers or the termination of a contract that would make service workers direct employees of a business. As a result, this legislation would be consistent with current laws mandating employee retention following the sale of healthcare entities and hotels.

For these reasons, we urge you to vote NO on A-4682. If you have any questions or concerns, I can be reached at abailey@njbja.org.