

43:21-14

LEGISLATIVE HISTORY CHECKLIST

NJSA: 43:21-14

(Student loans-- delinquents-- Dept. of Labor to give quarterly wage reports)

CHAPTER 191

Laws Of: 1986

Bill No: S1779

Sponsor(s): Dalton

Date Introduced: February 27, 1986

Committee: Assembly: Higher Education

Senate: Education

Amended during passage:

No

Date of Passage:

Assembly:

July 31, 1986

Senate:

November 10, 1986

Date of Approval: December 17, 1986

Following statements are attached if available:

Sponsor statement:

Yes

Committee statement:

Assembly

Yes

Senate

Yes

Fiscal Note:

No

Veto Message:

No

Message on Signing:

No

Following were printed:

Reports:

No

Hearings:

No

SENATE, No: 1779

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1986

By Senator DALTON

Referred to Committee on Education

AN ACT concerning the reporting of wages and amending R. S. 43:21-14.

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

1 1. R. S. 43:21-14 is amended to read as follows:
2 43:21-14. (a) (1) In addition to such reports as may be required
3 under the provisions of subsection (g) of section 43:21-11 of this
4 chapter (R. S. 43:21-1 et seq.), every employer shall file with the
5 controller periodical contribution reports on such forms and at
6 such times as the controller shall prescribe, to disclose the em-
7 ployer's liability for contributions under the provisions of this
8 chapter (R. S. 43:21-1 et seq.), and at the time of filing each con-
9 tribution report shall pay the contributions required by this chapter
10 (R. S. 43:21-1 et seq.), for the period covered by such report. The
11 controller may require that such reports shall be under oath of the
12 employer. Any employer who shall fail to file any report, required
13 by the controller, on or before the last day for the filing thereof
14 shall pay a penalty of \$5.00 for each day of delinquency until and
15 including the fifth day following such last day and for any period
16 of delinquency after such fifth day, a penalty of \$5.00 a day or
17 20% of the amount of the contributions due and payable by the
18 employer for the period covered by the report, whichever is the
19 lesser; if there be no liability for contributions for the period
20 covered by any contribution report or in the case of any report
21 other than a contribution report, the employer or employing unit
22 shall pay a penalty of \$5.00 a day for each day of delinquency in

Matter printed in italics has been added.

23 filing or \$25.00, whichever is the lesser; provided, however, that
24 when it is shown to the satisfaction of the controller that the failure
25 to file any such report was not the result of fraud or an intentional
26 disregard of this chapter (R. S. 43:21-1 et seq.), or the regulations
27 promulgated hereunder the controller, in his discretion, may remit
28 or abate any unpaid penalties heretofore or hereafter imposed
29 under this section. On or before October 1 of each year, the con-
30 troller shall submit to the Commissioner of Labor a report covering
31 the 12-month period ending on the preceding June 30, and showing
32 the names and addresses of all employers for whom the controller
33 remitted or abated any penalties, or ratified any remission or
34 abatement of penalties, and the amount of such penalties with
35 respect to each employer. Any employer who shall fail to pay the
36 contributions due for any period, on or before the date they are
37 required by the controller to be paid, shall pay interest on the
38 amount thereof from such date until the date of payment thereof
39 at the rate of 1% a month through June 30, 1981 and at the rate
40 of 1¼% a month after June 30, 1981. Upon the written request
41 of any employer or employing unit, filed with the controller on or
42 before the due date of any report or contribution payment, the
43 controller, for good cause shown, may grant, in writing, an exten-
44 sion of time for the filing of such report or the paying of such
45 contribution with interest at the applicable rate; provided no such
46 extension shall exceed 30 days and that no such extension shall
47 postpone payment of any contribution for any period beyond the
48 day preceding the last day for filing tax returns under Title IX
49 of the Federal Social Security Act for the year in which said
50 period occurs.

51 (2) (A) For the calendar quarter commencing July 1, 1984 and
52 each successive quarter thereafter, each employer shall file a report
53 with the controller within 30 days after the end of each quarter
54 in a form and manner prescribed by the controller, listing the name,
55 social security number and wages paid to each employee and the
56 number of base weeks (as defined in subsection (t) of R. S.
57 43:21-19) worked by the employee during the calendar quarter.

58 (B) Any employer who fails without reasonable cause to comply
59 with the reporting requirements of this paragraph (2) shall be
60 liable for a penalty in the following amount for each employee with
61 respect to whom the employer is required to file a report but who is
62 not included in the report or for whom the required information is
63 not accurately reported for each employee required to be included,
64 whether or not the employee is included:

65 (i) For the first failure for one quarter in any eight con-
66 secutive quarters, \$5.00 for each employee;

67 (ii) For the second failure for any quarter in any eight
68 consecutive quarters, \$10.00 for each employee; and

69 (iii) For the third failure for any quarter in any eight con-
70 secutive quarters, and for any failure in any eight consecutive
71 quarters, which failure is subsequent to the third failure, \$25.00
72 for each employee.

73 (C) Information reported by employers as requested by this
74 paragraph (2) shall be used by the Department of Labor for the
75 purpose of determining eligibility for benefits of individuals in
76 accordance with the provisions of R. S. 43:21-1 et seq. Notwith-
77 standing the provisions of subsection (g) of R. S. 43:21-11, the
78 Department of Labor is hereby authorized to provide the Depart-
79 ment of Human Services and the Higher Education Assistance
80 Authority with information reported by employers as required by
81 this paragraph (2). For each fiscal year, the Director of the
82 Division of Budget and Accounting of the Department of the Trea-
83 sury shall charge the appropriate account of the Department of
84 Human Services and the Higher Education Assistance Authority
85 in amounts sufficient to reimburse the Department of Labor for
86 the cost of providing information under this subparagraph (C).

87 (D) For the purpose of administering the provisions of this
88 paragraph (2), all appropriations, files, books, papers, records,
89 equipment and other property, and employees currently assigned
90 to the Division of Taxation for the implementation of the "Wage
91 Reporting Act," P. L. 1980, c. 48 (C. 54:1-55 et seq.) shall be
92 transferred to the Department of Labor as of September 1, 1984
93 in accordance with the provisions of the "State Agency Transfer
94 Act," P. L. 1971, c. 375 (C. 52:14D-1 et seq.).

95 (b) The contributions, penalties, and interest due from any
96 employer under the provisions of this chapter (R. S. 43:21-1
97 et seq.), from the time they shall be due, shall be a personal debt
98 of the employer to the State of New Jersey, recoverable in any
99 court of competent jurisdiction in a civil action in the name of
100 the State of New Jersey; provided, however, that except in the
101 event of fraud, no employer shall be liable for contributions or
102 penalties unless contribution reports have been filed or assessments
103 have been made in accordance with subsection (c) or (d) of this
104 section before four years have elapsed from the last day of the
105 calendar year with respect to which any contributions become pay-
106 able under this chapter (R. S. 43:21-1 et seq.), nor shall any em-
107 ployer be required to pay interest on any such contribution unless
108 contribution reports were filed or assessments made within such
109 four-year period; provided further that if such contribution reports
110 were filed or assessments made within the four-year period, no civil

111 action shall be instituted, nor shall any certificate be issued to the
112 Clerk of the Superior Court under subsection (e) of this section,
113 except in the event of fraud, after six years have elapsed from the
114 last day of the calendar year with respect to which any contribu-
115 tions become payable under this chapter (R. S. 43:21-1 et seq.), or
116 July 1, 1958, whichever is later. Payments received from an em-
117 ployer on account of any debt incurred under the provisions of
118 this chapter (R. S. 43:21-1 et seq.) may be applied by the controller
119 on account of the contribution liability of the employer and then
120 to interest and penalties, and any balance remaining shall be re-
121 coverable by the controller from the employer. Upon application
122 therefor, the controller shall furnish interested persons and entities
123 certificates of indebtedness covering employers, employing units
124 and others for contributions, penalties and interest, for each of
125 which certificates the controller shall charge and collect a fee of
126 \$2.00 per name, no such certificate to be issued, however, for a fee
127 of less than \$10.00. All fees so collected shall be paid into the
128 unemployment compensation administration fund.

129 (c) If any employer shall fail to make any report as required
130 by the rules and regulations of the division pursuant to the pro-
131 visions of this chapter (R. S. 43:21-1 et seq.), the controller may
132 make an estimate of the liability of such employer from any in-
133 formation it may obtain, and, according to such estimate so made,
134 assess such employer for the contributions, penalties, and interest
135 due the State from him, give notice of such assessment to the
136 employer, and make demand upon him for payment.

137 (d) After a report is filed under the provisions of this chapter
138 (R. S. 43:21-1 et seq.) and the rules and regulations thereof, the
139 controller shall cause the report to be examined and shall make
140 such further audit and investigation as it may deem necessary, and
141 if therefrom there shall be determined that there is a deficiency
142 with respect to the payment of the contributions due from such
143 employer, the controller shall assess the additional contributions,
144 penalties, and interest due the State from such employer, give
145 notice of such assessment to the employer, and make demand upon
146 him for payment.

147 (e) As an additional remedy, the controller may issue to the
148 Clerk of the Superior Court of New Jersey a certificate stating
149 the amount of the employer's indebtedness under this chapter
150 (R. S. 43:21-1 et seq.) and describing the liability, and thereupon
151 the clerk shall immediately enter upon his record of docketed
152 judgments such certificate or an abstract thereof and duly index
153 the same. Any such certificate or abstract heretofore or here-
154 after docketed, from the time of docketing shall have the same force

155 and effect as a judgment obtained in the Superior Court of New
156 Jersey, and the controller shall have all the remedies and may take
157 all the proceedings for the collection thereof which may be had or
158 taken upon the recovery of such a judgment in a civil action upon
159 contract in said court. Such debt, from the time of docketing
160 thereof, shall be a lien on and bind the lands, tenements and heredit-
161 aments of the debtor.

162 The Clerk of the Superior Court shall be entitled to receive for
163 docketing such certificate \$0.50, and for a certified transcript of
164 such docket, \$0.50. If the amount set forth in said certificate as a
165 debt shall be modified or reversed upon review, as hereinafter
166 provided, the Clerk of the Superior Court shall, when an order
167 of modification or reversal is filed, enter in the margin of the docket
168 opposite the entry of the judgment, the word "modified" or "re-
169 versed," as the case may be, and the date of such modification or
170 reversal.

171 The employer, or any other party having an interest in the
172 property upon which the debt is a lien, may deposit the amount
173 claimed in the certificate with the Clerk of the Superior Court of
174 New Jersey, together with an additional 10% of the amount thereof,
175 or \$100.00, whichever amount is the greater, to cover interest and
176 the costs of court, or in lieu of depositing the amount in cash, may
177 give a bond to the State of New Jersey in double the amount
178 claimed in the certificate, and file the same with the Clerk of the
179 Superior Court. Said bond shall have such surety and shall be ap-
180 proved in the manner required by the Rules of the Supreme Court.

181 After the deposit of said money or the filing of said bond, the
182 employer or any other party having an interest in the said prop-
183 erty, may, after exhausting all administrative remedies, secure
184 judicial review of the legality or validity of the indebtedness or the
185 amount thereof, and the said deposit of cash shall be as security
186 for and the bond shall be conditioned to prosecute the judicial
187 review with effect.

188 Upon the deposit of said money or the filing of the said bond
189 with the Clerk of the Superior Court, all proceedings on such judg-
190 ment shall be stayed until the final determination of the cause,
191 and the moneys so deposited shall be subject to the lien of the
192 indebtedness and costs and interest thereon, and the lands, tene-
193 ments, and hereditaments of said debtor shall forthwith be dis-
194 charged from the lien of the State of New Jersey and no execution
195 shall issue against the same by virtue of said judgment.

196 Notwithstanding the provisions of subsections (a) through (c)
197 of this section, the Department of Labor may with the concurrence
198 of the State Treasurer, when all reasonable efforts to collect

199 amounts owed have been exhausted, or to avoid litigation, reduce
200 any liability for contributions, penalties and interest, provided no
201 portion of those amounts represents contributions made by an
202 employee pursuant to subsection (d) of R. S. 43:21-7.

203 (f) If, not later than two years after the calendar year in which
204 any moneys were erroneously paid to or collected by the controller,
205 whether such payments were voluntarily or involuntarily made or
206 made under mistake of law or of fact, an employer, employing
207 unit, or employee who has paid such moneys shall make application
208 for an adjustment thereof, the said moneys shall, upon order of
209 the controller, be either credited or refunded, without interest,
210 from the appropriate fund. For like cause and within the same
211 period, credit or refund may be so made on the initiative of the
212 controller.

213 (g) All interest and penalties collected pursuant to this section
214 shall be paid into a special fund to be known as the unemployment
215 compensation auxiliary fund; all moneys in this special fund shall
216 be deposited, administered and disbursed in the same manner and
217 under the same conditions and requirements as is provided by law
218 for other special funds in the State Treasury, and shall be ex-
219 pended, under legislative appropriation, for the purpose of aiding
220 in defraying the cost of the administration of this chapter (R. S.
221 43:21-1 et seq.); for the repayment of any interest bearing ad-
222 vances made from the federal unemployment account pursuant
223 to the provisions of section 1202 (b) of the Social Security Act,
224 42 U. S. C. 1322, and for essential and necessary expenditures in
225 connection with programs designed to stimulate employment, as
226 determined by the Commissioner of Labor. The Treasurer of the
227 State shall be ex officio the treasurer and custodian of this special
228 fund and, subject to legislative appropriation, shall administer
229 the fund in accordance with the directions of the controller. Any
230 balances in this fund shall not lapse at any time, but shall be con-
231 tinuously available, subject to legislative appropriation, to the
232 controller for expenditure. The State Treasurer shall give a sepa-
233 rate and additional bond conditioned upon the faithful performance
234 of his duties in connection with the unemployment compensation
235 auxiliary fund in an amount to be fixed by the division, the pre-
236 miums for such bond to be paid from the moneys in the said special
237 fund.

1 2. This act shall take effect immediately.

STATEMENT

This bill authorizes the State Department of Labor to furnish the Higher Education Assistance Authority with quarterly wage reports to help locate those individuals who are delinquent in repaying their guaranteed student loans.

All of the State's employers are currently mandated under R. S. 45:21-14 to file quarterly reports with the Department of Labor indicating the name, social security number, the wages paid to each employee and the number of base weeks worked by the employee during the quarter. By making information on the wages of workers throughout the State available to the Higher Education Assistance Authority, this bill will enhance the authority's efforts to locate those who are in arrears on student loan payments.

HIGHER EDUCATION—COLLEGES, UNIVERSITIES

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51779 (1986)

**ASSEMBLY HIGHER EDUCATION AND
REGULATED PROFESSIONS COMMITTEE**

Statement to

SENATE BILL No. 1779

DATED: October 27, 1986

The Assembly Higher Education and Regulated Professions Committee favorably reports Senate Bill No. 1779.

This bill amends R.S. 43:21-14 to authorize the Department of Labor to provide the Higher Education Assistance Authority with quarterly wage reports to assist the authority in locating individuals who are delinquent in repaying their guaranteed student loans.

Background

All of the State's employers are required to file quarterly reports with the Department of Labor, indicating the name, social security number and wages paid to each employee and the number of base weeks worked by the employee during the calendar quarter (R.S. 43:21-14). These reports are used by the Department of Labor to determine eligibility for unemployment compensation, but are currently provided to the Department of Human Services to assist the Department in verifying eligibility for welfare, food stamps and other public assistance. This bill will provide these same reports to the Higher Education Assistance Authority.

SENATE EDUCATION COMMITTEE
STATEMENT TO
SENATE, No. 1779
STATE OF NEW JERSEY

DATED: JUNE 16, 1986

The Senate Education Committee favorably reports Senate Bill No. 1779 without amendment.

This bill amends the Wage Reporting Act, P. L. 1980, c. 48 (C. 54:1-56) to authorize the Department of Labor to furnish the Higher Education Assistance Authority with quarterly wage reports to help the authority locate individuals who are delinquent in repaying their guaranteed student loans.

BACKGROUND:

All of the State's employers are required to file quarterly reports with the Department of Labor, indicating the name, social security number and wages paid to each employee and the number of base weeks worked by the employee during the calendar quarter (R. S. 43:21-14). These reports are used not only by the Department of Labor to determine eligibility for unemployment compensation, but are currently provided to the Department of Human Services in order to verify eligibility for welfare, food stamps and other public assistance programs.

The Department of the Treasury is already authorized to take certain actions in order to collect overdue payments on any student loans which are in arrears. Pursuant to P. L. 1982, c. 117 (C. 18A:72-23), the department may make deductions from the wages of New Jersey State employees who are more than 60 days in arrears on student loan payments, to be applied against the outstanding debt. Also, the Department may apply any refund of taxes due on the State income tax (N. J. S. 54A:1-1) or any homestead rebate entitlement (N. J. S. A. 54:4-3.80) to any outstanding indebtedness to any agency or institution of State Government.

In addition, recently enacted legislation (P. L. 1986, c. 12) would provide the authority to deduct payments from employees of local government units if they were delinquent in student loan payments.