

48:2-21.4 to 48:2-21.9

LEGISLATIVE HISTORY CHECKLIST

NJSA: 48:2-21.4 to 48:2-21.9

(Public Utility Accident Fault  
Determination Act

LAWS OF: 1983

CHAPTER: 94

Bill No: A717

Sponsor(s): Bennett and others

Date Introduced: Feb. 8, 1982

Committee: Assembly: Agriculture and Environment

Senate: Energy and Environment

Amended during passage: Yes // Amendments during passage  
denoted by asterisks

Date of Passage: Assembly: Aug. 5, 1982

Senate: Dec. 20, 1982

Date of Approval: March 11, 1983

Following statements are attached if available:

Sponsor statement: Yes //

Committee statement: Assembly Yes //

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: Yes //

Following were printed:

Reports: /// No

Hearings: /// No

See newspaper clipping file in New Jersey Reference Section  
"NJ - Atomic energy - 1983"

Delivered to the Secretary

1 3. Upon any request by a utility for a rate increase to recover  
 2 costs attributable to an accident at a nuclear generating facility  
 3 in which it has a full or part interest, the board shall conduct a  
 4 hearing or series of hearings to investigate all circumstances  
 5 related to the accident, and to make a finding of fault pursuant  
 6 thereto. For the purposes of this determination, fault shall be  
 7 assigned to any party whose actions or omissions either contributed  
 8 substantially to causing the accident, or failed to mitigate its  
 9 severity.

1 4. In fixing just and reasonable rates pursuant to R. S. 48:2-21,  
 2 the board shall not authorize a utility determined to be at fault  
 3 pursuant to section 3 of this act to recover from its ratepayers  
 4 and repair, decontamination, power replacement, or damage costs  
 5 resulting from an accident at a nuclear generating facility, except  
 6 such interim relief as may be necessary to enable the utility to  
 7 continue to provide safe and adequate service. This interim relief,  
 8 however, shall be credited as an offset to rates over a period of time  
 9 to be determined by the board.

1 5. The board shall not authorize a utility to include as an operat-  
 2 ing expense any greater percentage of the repair, decontamination,  
 3 or damage costs resulting from an accident at a nuclear generating  
 4 facility than its percentage of ownership in the facility.

1 6. This act shall take effect immediately.

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#### STATEMENT

As a result of the accident at the Three Mile Island 2 facility, Jersey Central Power and Light ratepayers have borne, and continue to bear, an onerous financial burden, notwithstanding the fact that they had no responsibility for the accident.

This bill would prohibit any utility whose actions or omissions have been found by the board to have contributed substantially to causing, or failing to mitigate the severity of an accident at a nuclear generating facility in repair, decontamination, power replacement, or damage costs from its ratepayers. Accordingly, it provides for a special fault determination hearing to be undertaken by the board upon any request for a rate increase to recover such costs.

This bill further prohibits the utility from including as an operating expense a greater percentage of the repair, decontamination, or damage costs resulting from an accident at a nuclear generating facility than its percentage of ownership in the facility.

A 717 (1982)

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 717

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1982

By Assemblyman BENNETT, Assemblywoman MUHLER, Assemblymen VILLANE, PALAIA, WEIDEL, ZIMMER, WOLF, Assemblywoman BROWN, Assemblymen FLYNN, FRANKS, Assemblywomen OGDEN, WRIGHT, Assemblymen KOSCO, SCHUBER, VAN WAGNER and DOYLE

Referred to Committee on Agriculture and Environment

AN ACT concerning financial responsibility for certain **\*[nuclear]\*** *\*public utility\** accidents, and supplementing Title 48 of the Revised Statutes.

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

1 1. This act shall be known and may be cited as the "**\*[Nuclear]\***  
2 *\*Public Utility\** Accident Fault Determination Act."

1 2. The Legislature finds and declares that the Board of Public  
2 Utilities has the statutory responsibility to fix just and reasonable  
3 electric utility rates; that the board, in carrying out this respon-  
4 sibility, must balance the interests of the public utilities, their  
5 stockholders, and the consuming public; that an accident at **\*[a**  
6 **nuclear]\*** *\*an electric\** generating *\*or transmission\** facility, as  
7 recent experience indicates, may, by reason of the extraordinary  
8 costs involved in the **\*\*[decontamination]\*\*** *\*\*cleanup\*\** and re-  
9 pair of the facility, in purchasing replacement power, and in pay-  
10 ing any damages, seriously affect the financial condition of any  
11 utility that has a full or part interest in any such disabled facility;  
12 and that to insure maximum protection for, and **\*[equity]\*** *\*an*  
13 *equitable sharing of costs\** among, the utility, its ratepayers, and  
14 its stockholders, it is necessary to establish a special hearing pro-  
15 cedure to determine the party or parties at fault, if any, and to

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Assembly committee amendments adopted July 1, 1982.

\*\*—Senate committee amendments adopted December 6, 1982.

25B **b.** *Once fault has been determined, and the costs related to that*  
 25C *fault which the utility may not recover from its ratepayers have*  
 25D *been established, the board shall consider whether, and if so to what*  
 25E *extent, to permit the utility to mitigate denied fault costs through*  
 25F *the following:\*\**

26 (1) *The undertaking of a program under utility sponsorship to*  
 27 *assist consumers in realizing the maximum feasible benefits of*  
 28 *energy conservation, which shall include at a minimum:*

29 (a) *direct utility investment in renewable energy, energy*  
 30 *conservation, and energy efficiency improvement programs;*

31 (b) *the lending of funds without interest for at least five*  
 32 *years to customers for their investment in renewable energy,*  
 33 *energy conservation and energy efficiency improvement meas-*  
 34 *ures;*

35 (c) *assistance to consumers whose homes are heated by elec-*  
 36 *tric resistance heating systems to convert to alternate systems;*

37 *\*\*or\*\**

38 (d) *some combination of the above; or*

39 *\*\*[(e) other]\*\* (2) Other\*\* mitigating measures as ap-*  
 40 *proved by the board.*

41 *\*\*[(2)]\*\* In determining the appropriate **penalties and**\*\**  
 42 *mitigation measures which, taken together, shall constitute the ap-*  
 43 *propriate remedy, the board shall **consider any recommendations***  
 44 *of the Department of Energy concerning the cost-effectiveness,*  
 45 *practicality and value of programs, whether traditional, innovative*  
 46 *or demonstrational, designed to promote renewable energy, energy*  
 47 *conservation, or energy efficiency]\*\* **not authorize a utility to***  
 48 *mitigate costs, in whole or in part, by sponsoring any energy con-*  
 49 *servation program which has not been approved by the State agency*  
 50 *or department which the Governor, within 60 days of the effective*  
 51 *date of this act, designates as appropriate\*\*.\**

52 **c.** *The board shall not approve any mitigating measures which*  
 53 *would jeopardize the utility's ability to provide safe, adequate, and*  
 54 *proper service. The board may authorize the utility to recover as*  
 55 *an operating expense that portion of the cost of the mitigating*  
 56 *measures that the board determines to be necessary to the utility's*  
 57 *ability to provide safe, adequate, and proper service; the board shall*  
 58 *support a determination with a written report containing findings*  
 59 *of fact and conclusions of law and a concise and explicit statement*  
 60 *of the underlying facts supporting the determination.*

61 *d.* *Nothing in this section, however, shall impair the board's*  
 62 *power to authorize interim relief necessary to enable the utility to*  
 63 *continue to provide safe, adequate, and proper service. Interim*

ASSEMBLY AGRICULTURE AND ENVIRONMENT  
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 717

**STATE OF NEW JERSEY**

DATED: JULY 1, 1982

This bill, together with the suggested amendments, would provide for a special fault determination hearing to be undertaken by the board upon any request by a utility for a rate increase to recover costs in excess of \$10 million attributable to an accident at an electric generating or transmission facility. The bill further provides that, upon a finding of fault, the board shall impose penalties which may include a reduction in its rate of return, or disallowances of expenses as operating expenses, commensurate with the degree of culpability and the costs associated with the accident. The bill also allows the board to accept, in lieu of all or a portion of those penalties, affirmative measures to promote the development of renewable energy resources, energy conservation, and energy efficiency, including any conversion of biomass to energy, or any other mitigating measures approved by the board.

Finally, the amendments preempt any potential conflicts between the actions and liabilities imposed by this act and those that may be imposed by any prospective legislation passed by the United States Congress to provide for a sharing of costs resulting from a nuclear accident among affected states and utilities.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 717**

[OFFICIAL COPY REPRINT]

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: DECEMBER 6, 1982

Assembly Bill No. 717 OCR establishes a procedure for determining fault for accidents at electric generation and transmission facilities, and the apportionment of financial responsibilities for such accidents.

Assembly Bill No. 717 OCR also provides that upon any request by a utility to recover more than \$10 million in costs attributable to an accident, the Board of Public Utilities would conduct a fault determination hearing to determine responsibility for the accident. If a utility is found to be at fault for the accident, the board is prohibited from authorizing the utility to recover from its ratepayers any repair, decontamination, power replacement or damage costs related to the accident. Assembly Bill No. 717 OCR also authorizes the board to impose penalties on a utility found to be at fault including a reduction in the utilities allowed rate of return as well as disallowing as an operating expense the costs associated with the accident.

The board would be allowed to grant the utility interim financial relief if such relief is necessary to insure that the utility is able to provide safe and adequate service.

Assembly Bill No. 717 OCR also allows the board to allow a utility to mitigate its cost burden resulting from an accident by undertaking an energy conservation program. In addition, Assembly Bill No. 717 OCR directs the board to allow a utility to charge its ratepayers the cost of the utility's participation in a congressionally enacted national cost sharing plan for utility accidents.

The committee made the following substantive amendments to Assembly Bill No. 717 OCR:

1. A utility would be allowed to apply for a rate increase unrelated to an accident during the fault determination hearings on the accident.
2. Any accident costs which the board disallows a utility from recovering must be fault related costs.
3. The specific financial penalties which the board may impose upon a determination of fault are deleted.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATELY

CONTACT: PAUL WOLCOTT

FRIDAY, MARCH 11, 1983

Governor Thomas H. Kean has signed the following bills:

A-717, sponsored by Assemblyman John O. Bennett, (R-Monmouth), the Public Utility Accident Fault Determination Act, which establishes a procedure for allocating the cost of accidents or other mishaps at electric power facilities. The bill requires the Board of Public Utilities to conduct a fault investigation to determine the causes and responsibilities for any accident at an electric generating or transmission facility for which a utility has made a rate increase request in excess of \$10 million. The bill provides that a utility found at fault may not recover the costs of remedying the accident from ratepayers. It also provides that the Board may authorize as expenses, without regard to fault, costs that are certified by the Board as an appropriate contribution to a national cost sharing formula. This provision will allow a clean-up at Three Mile Island under the plan proposed by Pennsylvania Governor Dick Thornburgh.

A-1619, sponsored by Assemblyman Dean A. Gallo, (R-Morris), which revises statutes governing the practice of veterinary medicine.

A-770, sponsored by Assemblyman Richard VanWagner, (D-Monmouth), which exempts utilities from paying gross receipts and franchise taxes on payments for electricity which was originally produced through cogeneration and resold to the cogenerator.

A-384, sponsored by Assemblyman Harry A. McEnroe, (D-Essex), which requires all solid waste disposal facilities to install and utilize scales to determine the weight of all vehicles disposing of solid waste at these facilities.

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