

LEGISLATIVE HISTORY OF R.S. 34:13A-1 et seq
(Labor Mediation Act)

COPY NO. 2

Previous bills introduced:

1938 - A553 (copy enclosed)
Introduced by Wilensky.
Passed Assembly.
Died in Senate Committee.

1939 - A64
Introduced by Wilensky.
Passed Assembly.
Died in Senate Committee.

1940 - A. 26
Introduced by Friedland.
Died in Assembly Committee.

1940 - A. 58
Introduced by Hanna.
Passed Assembly.
Died in Senate Committee.

L. 1941, Chapter 100 - A43
Introduced January 27 by Mr. Hanna.
Statement:

The object of this act is expressed in the title.
(copy of original bill enclosed).

March 10 - Passed Assembly amended.
April 21 - Passed Senate amended.
April 23 - Senate Amendment passed Assembly.
April 30 - Approved.

No hearings or reports on this legislation were located.

L. 1941, Chapter 299 - A550
Corrects name in Sect. 3)a).

For general background on enactment of this legislation see:

J331 Newman, Philip C.
155.5 The labor legislation of New Jersey.
Chap. VI "Mediation and arbitration of
industrial disputes".

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ASSEMBLY, No. 43

STATE OF NEW JERSEY

INTRODUCED JANUARY 27, 1941

By Mr. HANNA

Referred to Committee on Labor and Industries

AN Act to promote the mediation, conciliation and arbitration of labor disputes and the creation of a board of mediation for the promotion thereof.

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

1 1. Short title. This act shall be known and may be cited as the "New
2 Jersey Labor Mediation Act."

1 2. Declaration of policy. It is hereby declared as the public policy of
2 this State that the best interests of the people of the State are served by
3 the prevention or prompt settlement of labor disputes; that strikes and
4 lockouts and other forms of industrial strife, regardless where the merits
5 of the controversy lie, are forces productive ultimately of economic waste;
6 that the interests and rights of the consumers and the people of the State,
7 while not direct parties thereto, should always be considered, respected and
8 protected; and that the voluntary mediation of such disputes under the
9 guidance and supervision of a governmental agency will tend to promote
10 permanent industrial peace and the health, welfare, comfort and safety of
11 the people of the State. To carry out such policy, the necessity for the
12 enactment of the provisions of this act is hereby declared as a matter of
13 legislative determination.

1 3. Definitions. When used in this act:

2 (a) The term "board" shall mean New Jersey Labor Mediation Board.

3 (b) The term "employer" includes an employer and any person acting,
4 directly or indirectly, on behalf of or in the interest of an employer with
5 the employer's knowledge or ratification, but a labor organization, or any
6 officer or agent thereof, shall be considered an employer only with respect
7 to individuals employed by such organization.

8 (c) The term "employee" shall include any employee, and shall not
9 be limited to the employees of a particular employer unless this act explicitly
10 states otherwise, and shall include any individual whose work has ceased as
11 a consequence of or in connection with any current labor dispute or because
12 of any unfair labor practice and who has not obtained any other regular
13 and substantially equivalent employment. This term, however, shall not
14 include any individual taking the place of any employee whose work has
15 ceased as aforesaid, nor shall it include any individual employed by his
16 parent or spouse, or in the domestic service of any person in the home of
17 the employer, or employed by any company owning or operating a railroad or
17½ railway express subject to the provisions of the Railway Labor Act.

18 (d) The term "representative" is not limited to individuals but shall
19 include labor organizations, and individual representatives need not them-
20 selves be employed by, and the labor organization serving as a representa-
21 tive need not be limited in membership to the employees of, the employer
22 whose employees are represented.

1 4. State Board of Mediation; establishment; membership. There is
2 hereby established in the Department of Labor a board to be known as the
3 New Jersey State Board of Mediation. The membership of such board shall
4 consist of five persons to be appointed by the Governor, by and with the ad-
5 vice and consent of the Senate. Of the members first appointed, one shall be
6 appointed for a term of one year; two for a term of two years and two for a
7 term of three years. Their successors shall be appointed for terms of three
8 years. The Governor shall designate one member to serve as chairman of the
9 board. A vacancy occurring in the membership of the board for any cause

10 shall be filled by the Governor and the person so appointed shall hold office
11 for the unexpired term of the member whose office has become vacant.

1 5. Objective. It shall be the objective of the board hereby established
2 to take such steps as will most effectively and expeditiously carry out the
3 policy declared in section two of this act and the powers and duties conferred
4 and imposed upon the board by this act or by law shall at all times be per-
5 formed and discharged with the accomplishment of such objective as the ulti-
6 mate goal.

1 6. Powers and duties. (1) Upon its own motion, in an existing, imminent
2 or threatened labor dispute, the board may, and, upon the request of the
3 parties or either party to the dispute, the board must take such steps as it
4 may deem expedient to effect a voluntary, amicable and expeditious adjust-
5 ment and settlement of the differences and issues between employer and em-
6 ployees which have precipitated or culminated in or threaten to precipitate
7 or culminate in such labor dispute. To this end, it shall be the duty of the
8 board: (a) to arrange for, hold, adjourn or reconvene a conference or con-
9 ferences between the disputants or one or more of their representatives or
9½ any of them; (b) to invite the disputants or their representatives or any of
10 them to attend such conference and submit, either orally or in writing, the
11 grievances of and differences between the disputants; (c) to discuss such
12 grievances and differences with the disputants and their representatives; and
13 (d) to assist in negotiating and drafting agreements for the adjustment in
14 settlement of such grievances and differences and for the termination or
15 avoidance, as the case may be, of the existing or threatened labor dispute.
16 In carrying out any of its work under this act, the board may designate one
17 of its members or an officer of the board to act in its behalf and may dele-
18 gate to such designee one or more of its duties hereunder and, for such pur-
19 pose, such designee shall have all of the powers hereby conferred upon the
20 board in connection with the discharge of the duty or duties so delegated.

21 (2) The board may also appoint and designate other persons or groups
22 of persons to act for and on its behalf and may delegate to such persons or
23 groups of persons any and all of the powers conferred upon it by this chapter

24 so far as it is reasonably necessary to effectuate the purposes of this act.
25 Such persons shall serve without compensation but shall be reimbursed for
26 any necessary expenses.

1 7. Arbitration. Whenever a controversy shall arise between an employer
2 and his employees which is not settled either in conference between repre-
3 sentatives of the parties or through mediation in the manner provided by
4 this act, such controversy may, by agreement of the parties, be submitted to
5 arbitration, one person to be selected by the employer, one person to be se-
6 lected by the employees, and a third selected by the representatives of the
7 employer and employees, and in the event of any such appointment or selec-
8 tion not being made upon the request of the parties in the controversy, the
9 department may select the third person to arbitrate the matter submitted;
10 *provided, however,* that the failure or refusal of either party to submit a con-
11 troversy to arbitration shall not be construed as a violation of the policy or
12 purpose of this act, or of any provision thereof, nor shall failure or refusal
13 to arbitrate constitute a basis for any action at law or suit in equity.

1 8. Strikes. Nothing in this act shall be construed to interfere with, im-
2 pede or diminish in any way the right of employees to strike or engage in
3 other lawful concerted activities.

1 9. Personnel; compensation. (1) For the performance of its work, under
2 this act, the board may request and shall avail itself of and utilize the services
3 of any officer or employee of the Department of Labor who shall render such
4 assistance as the board may require without additional compensation. The
5 board may, within the amount available therefor by appropriation, appoint a
6 secretary and such other assistants and employees as it may require for the
7 consummation of its work, prescribe their duties and fix their compensation.

8 (2) Each member of the board shall be entitled to be reimbursed for his
9 traveling and other expenses actually and necessarily incurred by him in the
10 performance of his duties, and, in addition, shall receive a per diem allow-
11 ance of twenty-five dollars (\$25.00) for each day, or part thereof, spent in the
12 rendition of service to or for the board under this act.

1 10. Disqualifications. No member or officer of the board having any finan-
2 cial or other interest in a trade, business, industry or occupation in which a
3 labor dispute exists or is threatened and of which the board has taken cog-
4 nizance, shall be qualified to participate in any way in the acts or efforts of
5 the board in connection with the settlement or avoidance thereof.

1 11. Rules. The board shall have power to adopt, alter, amend or repeal
2 such rules in connection with the voluntary mediation of labor disputes as
3 may be necessary for the proper administration and enforcement of the pro-
4 visions of this act.

1 12. Construction. Nothing contained in this act shall be construed as in-
2 terfering with, impeding or diminishing in any way any right guaranteed by
3 law or by the Constitution of the State or of the United States.

1 13. Separability of provisions. If any clause, sentence, paragraph or part
2 of this act, or the application thereof to any person or circumstances, shall
3 for any reason be adjudged by a court of competent jurisdiction to be in-
4 valid, such judgment shall not affect, impair or invalidate the remainder of
5 this act, and the application of such provisions to other persons or circum-
6 stances, but shall be confined in its operation to the clause, sentence, para-
7 graph, or part thereof, directly involved in the controversy in which such
8 judgment shall have been rendered and to the person or circumstances in-
9 volved. It is hereby declared to be the legislative intent that this act would
10 have been adopted had such invalid provisions not been included herein.

1 14. This act shall take effect immediately.