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MEMORANDUM

TO: ~~Mr. E. A. Tamm, Supreme Court~~
FROM: Mrs. Herta Prager, Legislative Research Librarian
DATE: January 15, 1958
SUBJECT: Legislative History of 1% Law in Workmen's Compensation

The 1% Compensation Fund was first enacted in 1923.

L. 1923, Ch. 81, Senate 236 by Mr. Richards

The bill and statement are enclosed in photostat.

There are no hearings or reports on this bill.

The law had the following amendments:

L. 1931, Ch. 108, Senate 255 by Mr. Abell

Statement

The object of this bill is to provide for the transfer of the collection of the tax on workmen's compensation from the Commissioner of Labor to the State Tax Commissioner as recommended by the State Audit and Finance Commissioner.

L. 1933, Ch. 456, Senate 517 by Mr. Ely

This act added the wording:

"The fund mentioned in this act may also be used, upon the order, in writing, of the Governor, to pay shortages occasioned by any defalcation occurring in the Workmen's Compensation Bureau of the Department of Labor."

Statement

The design of the above act is to permit the use of the above fund to pay the shortage occasioned by the defalcation of the officer in the Workmen's Compensation Bureau of the Labor Department.

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January 15, 1958

L. 1936, Chapter 55, A 169

The original bill with statement and the Assembly Committee Amendment are enclosed in photostat. (Amendments are underlined.)

L. 1938, Chapter 198, A 22, Mr. Paul

The bill with statement and the amendments underlined are enclosed.

L. 1940, Chapter 133, A 284, Mr. Ferster

The bill with statement and the amendments underlined are enclosed.

L. 1945, Chapter 10, Senate 28 by Mr. Littell

Eliminated in sec. 34:15-94 the paragraph from:

"When the total amount of all such payments into the fund ... together with accumulated interest thereon."

Statement

The principal purpose of this bill is to remove the "ceiling" from the so-called one per centum, or second injury fund. As explained in Governor Edge's First Annual Message, the fund is used to pay workmen's compensation for permanent total disability which occurs following an industrial injury where partial disability already existed from some other cause. The employer remains liable for compensation with respect to the subsequent injury. The effect of this fund, with the removal of the ceiling, is to increase the desirability of employing disabled veterans.

Since the present \$200,000.00 maximum has already been reached, the Commissioner of Labor will not be able to accept or require payments due February 15, 1945, if the ceiling on the fund is not removed.

However, by Assembly Amendment the paragraph was reinserted and instead of eliminating the ceiling, it was raised from \$200,000.00 to \$1,500,000.00.

L. 1945, Chapter 74, S 87, Van Alstyne

This bill was introduced as a general revision of the workmen's compensation law and as first introduced did not affect the 1% fund. The changes concerning the fund were introduced by the Senate Judiciary Committee. (Photostat enclosed.)

See 34:15-10 et al for further history

January 15, 1958

L. 1950, Chapter 89, A 354, Mr. Jones

Bill with statement enclosed in photostat.

L. 1952, Chapter 80, A 386, Mr. Duffy

Bill enclosed.

L. 1954, Chapter 191, A 377, Mr. C. W. Haines

Bill enclosed.

The bills and statements and the amendments is all the material we could find. None of the reports or hearings deal with the 1% Fund. We have marked on the bills the changes as they occurred.

HP:JK
encls.

STATEMENT

The purpose of this act is to eliminate double bookkeeping in that the State Tax Commissioner receives the assessment. The Commissioner of Labor is charged with the responsibility of the administration of the act and the moneys should be paid to him direct.

The other purpose is to clarify the expression "some other cause" as unrelated to industrial operation.

Since this act was amended in 1936, Chapter 55, several claimants have filed claims and have been retroactive to 1911 whereas it was the intention that the benefits accrue as of the passage of the amendment of 1936.

This fund is collected for the benefit of workmen injured by industry and it is the purpose of this bill to so protect the fund for that purpose.

A22 (1938)

ASSEMBLY, No. 284

STATE OF NEW JERSEY

INTRODUCED MARCH 4, 1940.

By Mr. FERSTER

Referred to Committee on Municipalities

AN ACT concerning the disposition and payment of the funds collected under the provisions of section 34:15-94 of the Revised Statutes for the completion of compensation payments, and amending section 34:15-95 of the Revised Statutes as amended by chapter one hundred and ninety-eight of the laws of one thousand nine hundred and thirty-eight and amending sections two and three of an act entitled "An act concerning workmen's compensation by providing for a method of procedure by defining the period and extent of payments and by permitting the Rehabilitation Commission to use some of the moneys, all under the one per centum (1%) fund, and amending sections 34:15-94 and 34:15-95 of the Revised Statutes," approved May eighteenth, one thousand nine hundred and thirty-eight, being chapter one hundred ninety-eight of the laws of one thousand nine hundred and thirty-eight.

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

1 1. Section 34:15-95 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:15-95. The sums collected under section 34:15-94 of this Title shall
4 constitute a fund out of which a sum shall be set aside each year by the
5 Commissioner of Labor from which compensation payments in accordance
6 with the provisions of paragraph (b) of section 34:15-12 of this Title shall

7 be made to persons totally disabled, as a result of experiencing a subsequent
8 permanent injury under conditions entitling such persons to compensation
9 therefor, when such persons had previously been permanently and partially
10 disabled from some other cause 【.】 ; provided, that the extension of compen-
11 sation payments beyond four hundred weeks as set forth in paragraph (b) of
12 section 34:15-12 of this Title shall apply to any accident occurring since
13 June twenty-seventh, one thousand nine hundred and twenty-three; provided,
14 however, that no person shall be eligible to receive the benefits provided for
15 herein, if:

16 a. The disability resulting from his last compensable accident in itself
17 and irrespective of his previous condition or disability, constitutes total and
18 permanent disability within the meaning of this Title; or

19 b. The last compensable accident aggravates or accelerates the previous
20 condition or disability and results in total and permanent disability within
21 the meaning of this Title; or

22 c. The disability existing prior to the last compensable accident is not
23 aggravated or accelerated but is in itself progressive and by reason of such
24 progression subsequent to the time of fixing of permanent disability for the
25 last compensable accident renders him totally disabled within the meaning of
26 this Title; or

27 d. The disability due to some other cause, resulting from physical de-
28 terioration due to natural causes or pre-existing disease, except occupa-
29 tional disease, together with the permanent disability resulting from the last
30 compensable accident, results in total and permanent disability within the
31 meaning of this Title;

32 Provided, however, the provisions of sections a, b, c and d shall not apply
33 to a person who has been previously disabled by reason of one hundred per
34 centum (100%) permanent disability of a hand or arm or foot or leg or eye,
35 or to a person whose total disability is the result of two or more accidents,
36 each causing a percentage of total disability and the combined disabilities

37 constituting total and permanent disability within the meaning of this Title
 38 or to a person now receiving or who has received the benefits under this
 39 fund.

40 **[In such cases]** Upon the approval of an application for benefits, the
 41 compensation payable from such fund shall [cover that portion of the period
 42 for which the employer is not legally responsible due to the permanent and
 43 partial disability suffered or possessed by the employee at the time
 44 that the employee sustained the injury as a result of which the em-
 45 ployee became totally and permanently disabled.] be made from the
 46 date that the application for benefits is filed with the Commis-
 47 sioner of Labor of the State of New Jersey, as set forth in this
 48 act; provided, that a person who has received compensation payments
 49 from said fund and who is reinstated or ordered placed on said fund shall
 50 receive payments from the date of last payment from said fund. Payments to
 51 such totally disabled employees shall be made from said fund by the State
 52 Treasurer upon warrants of the Commissioner of Labor. This section shall
 53 be applicable to any accident occurring since July fourth, one thousand nine
 54 hundred and nineteen, insofar as the eligibility of and benefits payable to
 55 such employee of this class is concerned: provided, however, that nothing
 56 contained herein shall [affect] limit or deprive those persons now receiving
 57 or who have received the benefits under this section [or proceedings now
 58 pending on appeal.] from participating in said fund. All payments from the
 59 fund herein created shall be made by semimonthly installment payments.
 60 The Rehabilitation Commission may use a sum not to exceed fifteen thousand
 61 dollars (\$15,000.00) in any one fiscal year from the sums collected under this
 62 section for rehabilitation of persons who are handicapped as a result of a
 63 compensable industrial accident.

1 2. Section three of chapter one hundred ninety-eight of the laws of one
 2 thousand nine hundred and thirty-eight is hereby amended to read as fol-
 3 lows:

4 3. Applications for benefits under this act shall be made by a verified
 5 petition filed in duplicate within two years after the date of the last pay-
 6 ment of compensation by the employer or the insurance carrier addressed
 7 to the Commissioner of Labor of the State of New Jersey who shall refer it
 8 to a Deputy Commissioner of Workmen's Compensation to hear testimony
 9 and for an advisory report as to findings [.] ; provided, however, that the
 10 limitation herein shall not apply to those persons now receiving or who have
 11 received compensation payments from said fund and whose accident occurred
 12 since June twenty-seventh, one thousand nine hundred and twenty-three. The
 13 decision, however, as to whether the petitioner shall or shall not be admitted
 14 to the benefits shall be rendered by the said Commissioner of Labor. Review
 15 of said decision shall be in accordance with section 34:15-66 of the Revised
 16 Statutes. In all proceedings affecting the fund under this act the Commis-
 17 sioner of Labor shall be a necessary party.

1 3. This act shall take effect immediately.

_____ A284 (1940)

STATEMENT

The purpose of this act is to eliminate any inconsistencies which exist in the so-called State One Percent Fund by its reference to Revised Statutes 34:15-12 (b) of the Workmen's Compensation Act and to clarify the requirements of persons to become beneficiaries of this fund by the use of definite words herein.

The passage of this act will enable a totally blind man to receive the benefits under this act which have been denied him under the previous act because of technical language and will protect those persons who are now receiving the benefits under this act.

This fund is created by the payment by the insurance companies and self-insurers of one per centum (1%) of the compensation for the preceding year, and is for the benefit of workmen injured in industry who are totally disabled, and is not made up of moneys from taxation.

[OFFICIAL COPY REPRINT]
COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 284

STATE OF NEW JERSEY

ADOPTED MARCH 18, 1940

AN ACT concerning the disposition and payment of the funds collected under the provisions of section 34:15-94 of the Revised Statutes for the completion of compensation payments, and amending section 34:15-95 of the Revised Statutes as amended by chapter one hundred and ninety-eight, of the laws of one thousand nine hundred and thirty-eight, and amending sections two and three of an act entitled "An act concerning workmen's compensation by providing for a method of procedure, by defining the period and extent of payments all under the one per centum fund, and amending sections 34:15-94 and 34:15-95 of the Revised Statutes," approved May eighteenth, one thousand nine hundred and thirty-eight, being chapter one hundred ninety-eight of the laws of one thousand nine hundred and thirty-eight.

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

1 1. Section 34:15-95 of the Revised Statutes is amended to read as
2 follows:

3 34:15-95. The sums collected under section 34:15-94 of this Title shall
4 constitute a fund out of which a sum shall be set aside each year by the
5 Commissioner of Labor from which compensation payments in accordance
6 with the provisions of paragraph (b) of section 34:15-12 of this Title shall
7 be made to persons totally disabled, as a result of experiencing a subsequent
8 permanent injury under conditions entitling such persons to compensation
9 therefor, when such persons had previously been permanently and partially
10 disabled from some other cause; *provided, however, that, notwithstanding*

11 ing the time limit fixed therein, the provisions of paragraph (b) of said sec-
12 tion 34:15-12 relative to extension of compensation payments beyond four
13 hundred weeks shall, with respect to payments from the fund constituted
14 pursuant to the provisions of this section, apply to any accident occurring
15 since June twenty-seventh, one thousand nine hundred and twenty-three.

16 *Provided further, however,* that no person shall be eligible to receive
17 payments from such fund:

18 (a) If the disability resulting from the injury caused by his last com-
19 pensable accident in itself and irrespective of any previous condition or
20 disability, constitutes total and permanent disability within the meaning
21 of this Title.

22 (b) If permanent total disability results from the aggravation, acti-
23 vation or acceleration, by the last compensable injury, of a pre-existing
24 noncompensable disease or condition.

25 (c) If the disease or condition existing prior to the last compensable
26 accident is not aggravated or accelerated but is in itself progressive and
27 by reason of such progression subsequent to the last compensable acci-
28 dent renders him totally disabled within the meaning of this Title.

29 (d) If a person who is rendered permanently partially disabled by
30 the last compensable injury subsequently becomes permanently totally
31 disabled by reason of progressive physical deterioration or pre-existing
32 condition or disease.

33 Nothing in the provisions of said paragraphs a, b, c and d, however,
34 shall be construed to deny the benefits provided by this section to any per-
35 son who has been previously disabled by reason of total loss of, or total and
36 permanent loss of use of, a hand or arm or foot or leg or eye, when the total
37 disability is due to the total loss of, or total and permanent loss of use of,
38 two or more of said major members of the body, or to any person who in
39 successive accidents has suffered compensable injuries, each of which,
40 severally, causes permanent partial disability, but which in conjunction
41 result in permanent total disability. Nor shall anything in paragraphs a,

42 b, c and d. aforesaid apply to the case of any person who is now receiving or
43 who has heretofore received payments from such fund.

44 Upon the approval of an application for benefits, the compensation pay-
45 able from such fund shall be made from the date when the final payment of
46 compensation by the employer is or was payable for the injury or injuries
47 sustained in the employment wherein the employee became totally and per-
48 manently disabled; *provided*, that no payment from such fund shall be
49 made for any period prior to the date of filing of application
50 therefor; *provided, however*, that a person who has received com-
51 pensation payments from said fund and who is reinstated or or-
52-55 dered placed on said fund shall receive payments from the date of last
56 payment from said fund, save only in the case of a person to whom pay-
57 ments have been made and then discontinued or suspended because of the
58 rehabilitation of such person in accordance with the provisions of para-
59 graph (b) of section 34:15-12 of this Title, in which case payments from
60 said fund shall be made from the date of filing application for reinstatement.
61 Payments to such totally disabled employees shall be made from said fund by
62 the State Treasurer upon warrants of the Commissioner of Labor. This section
63 shall be applicable to any accident occurring since July fourth, one thousand
64 nine hundred and nineteen, insofar as the eligibility of and benefits payable
65 to such employee of this class is concerned; *provided, however*, that nothing
66 contained herein shall limit or deprive those persons now receiving
67 or who have received the benefits under this section from participating in
68 said fund. All payments from the fund herein created shall be made by
69 semimonthly installment payments.

1 2. Section three of chapter one hundred ninety-eight of the laws of one
2 thousand nine hundred and thirty-eight is hereby amended to read as fol-
3 lows:

4 3. Applications for benefits under this act shall be made by a verified
5 petition filed in duplicate within two years after the date of the last payment
6 of compensation by the employer or the insurance carrier addressed to the

7 Commissioner of Labor of the State of New Jersey who shall refer it to a
8 Deputy Commissioner of Workmen's Compensation to hear testimony and
9 for an advisory report as to findings; *provided, however,* that the
10 limitation herein shall not apply to those persons now receiving or who have
11 received compensation payments from said fund and whose accident occurred
12 since June twenty-seventh, one thousand nine hundred and twenty-three.
13 The decision, however, as to whether the petitioner shall or shall not be
14 admitted to the benefits shall be rendered by the said Commissioner of
15 Labor. Review of said decision shall be in accordance with section 34:15-66
16 of the Revised Statutes. In all proceedings affecting the fund under this act
17 the Commissioner of Labor shall be a necessary party.

1 3. This act shall take effect immediately.