34:15-94 et seq. N.J. Legislative

For materials see Copy 2

Copy 1

MEMORANDUM

TO: [redacted]

FROM: Mrs. Herta Prager, Legislative Research Librarian

DATE: January 15, 1958

SUBJECT: Legislative History of 1% Law in Workmans' Compensation.

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The 1% Compensation Fund was first enacted in 1923.

L. 1923, Ch. 61, 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.

34:15-94 et seq.

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

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.

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

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

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

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

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

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

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

d. The disability due to some other cause, resulting from physical deterioration due to natural causes or pre-existing disease, except occupational disease, together with the permanent disability resulting from the last compensable accident, results in total and permanent disability within the meaning of this Title;

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

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

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

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

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

3. This act shall take effect immediately.

A284 (1940)

STATEMENT

The purpose of this act is to eliminate any inconsistencies which exist in the socalled 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.

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

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

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

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

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

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

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

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

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

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

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

Upon the approval of an application for benefits, the compensation payable from such fund shall be made from the date when the final payment of compensation by the employer is or was payable for the injury or injuries sustained in the employment wherein the employee became totally and permanently disabled; *provided*, that no payment from such fund shall be made for any period prior to the date of filing of application therefor; *provided, however,* that a person who has received compensation payments from said fund and who is reinstated or ordered placed on said fund shall receive payments from the date of last payment from said fund, save only in the case of a person to whom payments have been made and then discontinued or suspended because of the rehabilitation of such person in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title, in which case payments from said fund shall be made from the date of filing application for reinstatement. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor. This section shall be applicable to any accident occurring since July fourth, one thousand nine hundred and nineteen, insofar as the eligibility of and benefits payable to such employee of this class is concerned; *provided, however,* that nothing contained herein shall limit or deprive those persons now receiving or who have received the benefits under this section from participating in said fund. All payments from the fund herein created shall be made by semimonthly installment payments.

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

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

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

3. This act shall take effect immediately.

R.S. 34:15-95

July 11, 1968

LEGISLATIVE HISTORY OF N.J. R.S.34:15-95
(One per cent fund-Payment for susequent permanent injuries)

The 1% Compensation Fund was first enacted in 1923.

L. 1923 - Chapter 81 - Section 2 - S236.
Introduced February 5 by Mr. Richards.
Not amended during passage.
Bill had statement (copy enclosed).
Amended by

L. 1933 - Chapter 456 - Section 1 - S517.
Introduced November 14 by Mr. Ely.
Not amended during passage.
Bill had statement (copy enclosed).

L. 1936 - Chapter 55 - Section 3 and 4 - A169.
Introduced February 3 by Mr. Paul.
Original bill had statement (copy enclosed).
March 16 - Committee Substitute passed Assembly (copy enclosed).

L. 1938 - Chapter 198 - Section 2 - A22.
Introduced January 17 by Mr. Paul.
Original bill had statement (copy enclosed).
March 28 - Committee Substitute passed Assembly.
Committee Substitute had statement (copy enclosed).
Also amended by Assembly (copy enclosed).
May 3 - Amended by Senate (copy enclosed).

L. 1940 - Chapter 133 - Section 1 - A284.
Introduced March 4 by Mr. Ferster.
Original bill had statement (copy enclosed).
March 25 - Committee Substitute p.A (copy enclosed).
Also amended in A.
June 10 - Amended by Senate (copy enclosed).

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L. 1945 - Chapter 10 - Section 2 - S28.
Introduced January 22 by Senator Littell.
Original bill had statement (copy enclosed).
January 29 - Passed Senate.
February 6 - Amended by Assembly (copy enclosed).
February 8 - Approved.

Statement refers to:
New Jersey Governor (Edge)
First annual message.

L. 1945 - Chapter 74 - Section 19 - S87.
Introduced January 29 by Senator Van Alstyne.
Original bill had statement (copy enclosed).
The original bill did not seek to amend N.J.R.S. 34:15-95.
March 12 - Reported with Senate Committee amendments.
March 16 - Amended by Senate (Enclosed are Section 18 of the O.C.R. and Section 19 of the 3rd O.C.R. You may wish to compare the texts for changes).
March 23 - Passed Senate.
March 23 - Passed Assembly.
April 2 - Approved.

L. 1950 - Chapter 89 - A354.
Introduced March 6 by Mr. Jones.
Bill had statement (copy enclosed).
Not amended during passage.

L. 1965 - Chapter 124 - Section 1 - A557.
Introduced March 15 by Crabiel and Bateman.
Bill had statement (copy enclosed).
Not amended during passage.

No hearings or reports on these bills were located.

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For history of this legislation in New Jersey, see:

J33.18 B51 — Berkowitz, Monroe.
Workmen's compensation; the New Jersey experience. Rutgers, 1960. (Chapter 9. Second injuries and the employment of the handicapped.) (enclosed).

J368.41 S614 — Seward, Joseph N.
New Jersey's One Per Cent Fund.
Rutgers University, Master's Essay, 1957.
~~(Rutgers is Xeroxing a copy for us and we will forward it to you when received).~~
Have only one copy; must be used here.

See also:

L16.3: 190 — U.S. Bureau of Labor Standards.
Second injury funds; standards and patterns in state legislation. 1957.
(Its Bulletin 190).

Not enclosed; let us know if you want this and we can send it.

RSL/mau

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SENATE, No. 236

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1923.

By Mr. RICHARDS.

Referred to Committee on Labor, Industries, and Social Welfare.

AN ACT to provide for the collection, from mutual associations and stock companies writing workmen's compensation or employers' liability insurance in this State, and self-insurer, of funds from which to complete compensation payments to persons totally disabled as the result of two separate accidents, and to assist in carrying out the purposes of an act entitled "An act to create a commission for the rehabilitation of physically handicapped persons and to define its duties and powers," approved April tenth, one thousand nine hundred and nineteen.

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

1. In order to carry out the purposes set forth in the title of this act, each mutual association or stock company writing compensation or employers' liability insurance in this State, and each self-insurer, shall annually, on or before the fifteenth day of February of each year, pay to the Commissioner of Labor a sum equal to one per centum of the total compensation paid out by such mutual association, stock company or self-insurer during the calendar year next preceding the due date of such payment. Such sum shall be paid by the Commissioner of Labor to the State Treasurer.

2. The sums collected under the terms of this clause shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor from

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which compensation payments in accordance with the provisions of paragraph eleven (b) of the Workmen's Compensation Act, shall be made to persons totally disabled, as a result of experiencing a permanent injury under conditions entitling such person to compensation therefor, when such person had previously been permanently and partially disabled from some other cause. In such cases the compensation payable from said fund shall cover that portion of the period for which compensation is payable in ordinary cases of total disability arising under this act, not covered by compensation due for the two disabilities separately, as above set forth above. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor. This act shall be retroactive as touching any accident occurring since the amending of chapter 95, Laws of 1911, by amendment of clause eleven (v), by chapter 93, Laws of 1919, approved April eleventh, one thousand nine hundred and nineteen, insofar as paying of compensation for total disabilities of this class is concerned. The balance of the amount of money received shall be credited to the account of the rehabilitation commission for physically handicapped persons, to be used in carrying out the purposes of the act creating the above-named commission, approved April tenth, one thousand nine hundred and nineteen.

3. This act shall take effect immediately.

STATEMENT.

The purpose of this act is to provide means for paying total disability compensation to persons becoming totally disabled as a result of two accidents while working for different employers, and to secure funds to assist in rehabilitating physically handicapped persons.

SENATE, No. 517

(*Chap.* 81, *P. L.* 1923, *Page* 162)

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 14, 1933

By Mr. ELY

Referred to Committee on Judiciary

AN ACT to amend an act entitled "An act to provide for the collection, from mutual associations and stock companies writing workmen's compensation or employers' liability insurance in this State, and self-insurer, of funds from which to complete compensation payments to persons totally disabled as the result of two separate accidents, and to assist in carrying out the purposes of an act entitled 'An act to create a commission for the rehabilitation of physically handicapped persons and to define its duties and powers,' approved April tenth, one thousand nine hundred and nineteen," approved March seventeenth, one thousand nine hundred and twenty-three.

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

1. Section two of the act of which this act is amendatory be and the same is hereby amended to read as follows:

2. The sums collected under the terms of this clause shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor from which compensation payments in accordance with the provisions of paragraph eleven (b) of the workmen's compensation act, shall be made to persons totally disabled, as a result of experiencing a permanent injury under conditions entitling such person to compensation therefor, when such person had previously been permanently and partially disabled from some other cause. In such cases the compensation payable from

said fund shall cover that portion of the period for which compensation is payable in ordinary cases of total disability arising under this act, not covered by compensation due for the two disabilities separately, as above set forth. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor. This act shall be retroactive as touching any accident occurring since the amending of chapter ninety-five, laws of one thousand nine hundred and eleven, by amendment of clause eleven (v), by chapter ninety-three, laws of one thousand nine hundred and nineteen, approved April eleventh, one thousand nine hundred and nineteen, insofar as paying of compensation for total disabilities of this class is concerned. The balance of the amount of money received shall be credited to the account of the rehabilitation commission for physically handicapped persons, to be used in carrying out the purposes of the act creating the above-named commission, approved April tenth, one thousand nine hundred and nineteen. 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.

2. This act shall take effect immediately.

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.

ASSEMBLY, No. 169

(*P. L.* 1923 *Chap.* 81)

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 10, 1936

By Mr. PAUL

Referred to Committee on Labor, Industry and Social Welfare

AN ACT to amend the title and body of an act entitled "An act to provide for the collection from mutual associations and stock companies writing workmen's compensation or employer's liability insurance in this State, and self-insurer, of funds from which to complete compensation payments to persons totally disabled as the result of two separate accidents, and to assist in carrying out the purposes of an act entitled 'An act to create a commission for the rehabilitation of physically handicapped persons and to define its duties and powers,'' approved April tenth, one thousand nine hundred and nineteen,'' which act was approved March seventeenth, one thousand nine hundred and twenty-three.

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

1. The title of the act of which this act is amendatory be and the same is hereby amended so that henceforth it shall read as follows:

An act to provide for the collection from mutual associations and stock companies writing workmen's compensation or employer's liability insurance in this State, and self-insurer, of funds from which to complete compensation payments to persons totally disabled as the result of two separate accidents, or becoming blind as the result of an industrial compensable accident to their one remaining eye, the other eye having been previously blind

through some other cause [and to assist in carrying out the purposes of an act entitled "An act to create a commission for the rehabilitation of physically handicapped persons and to define its duties and powers," approved April tenth, one thousand nine hundred and nineteen.]

2. Paragraph one of the act to which this act is amendatory be and the same is hereby amended so that henceforth it shall read as follows:

(1) In order to carry out the purposes set forth in the title of this act, each mutual association or stock company writing compensation or employers' liability insurance in this State, and each self-insurer, shall annually, on or before the fifteenth day of February of each year, pay to the State Tax Commissioner a sum equal to one per centum of the total compensation paid out by such mutual association, stock company or self-insurer during the calendar year next preceding the due date of such payment. Such sum shall be paid by the State Tax Commissioner to the State Treasurer. When the total amount of all such payments into the fund, together with the accumulated interest thereon, equals two hundred thousand dollars ($200,000.00), no further contributions to said fund shall be required to be made; *provided, however,* that whenever, thereafter, the amount of said sum shall be reduced below the said two hundred thousand dollars ($200,000.00) by reason of payments out of said fund under section two hereof, then such contributions to said fund shall be resumed forthwith, and shall continue until said sum shall again amount to two hundred thousand dollars ($200,000.00), together with accumulated interest thereon.

3. Paragraph two of the act of which this act is amendatory be and the same is hereby amended so that henceforth it shall read as follows:

(2) The sums collected under the terms of this clause shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor from which compensation payments in accordance with the provisions of paragraph eleven (b) of the workmen's compensation act shall be made to persons totally disabled, as a result of experiencing a permanent injury under conditions entitling such persons to compensation therefor,

when such persons had previously been permanently and partially disabled [from some other cause] as a result of experiencing a permanent injury under conditions entitling such person to compensation therefore. Loss of sight of the remaining eye due to an industrial compensable accident after loss of sight in one eye from any cause whatsoever whereby a person is rendered totally blind shall entitle such person to share in this fund. In such cases the compensation payable from said fund shall cover that portion of the period for which compensation is payable in ordinary cases of total disability arising under this act, not covered by compensation due for the two disabilities separately, as above set forth. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor. This act shall be retroactive as touching any accident occurring since the amending of chapter ninety-five, laws of one thousand nine hundred and eleven, by amendment of clause eleven (v), by chapter ninety-three, laws of one thousand nine hundred and nineteen, approved April eleventh, one thousand nine hundred and nineteen, insofar as paying of compensation for total disabilities of this class is concerned. [The balance of the amount of money received shall be credited to the account of the rehabilitation commission for physically handicapped persons, to be used in carrying out the purposes of the act creating the above named commission, approved April tenth, one thousand nine hundred and nineteen.] The fund mentioned in this act may also be used, upon the order, in writing of the Governor to pay shortage occasioned by any defalcation occurring in the Workmen's Compensation Bureau of the Department of Labor.

STATEMENT

The purpose of the amendment to the title is to permit a man who has one good eye lost in industry by accident and then becomes totally blind to come under the benefits of the act as originally intended. The act was for the purpose of a blind man and to give him a means whereby he could live, but the upper

court in the case of Addotta vs. Blunt held that where there were two accidents, both had to be compensable industrial accidents otherwise the injured may did not come within the benefits of the act and as the result several blind men in the State were taken off of the list of beneficiaries.

The original act was ambiguous in that the title had different provisions than the body of the act and the upper court in the same case above cited held that the title of the act govern.

The amendment to section two conforms to the upper court decision.

The title and body of the act are also amended to remove the Rehabilitation Commission from appropriating this fund for nonindustrial cases. The testimony of Commissioner Toohey before the Advisory Budget Commission shows that $688,000 was taken from this fund for the rehabilitation of all types of cases which is a distinct burden on industry and was not within the contemplation of the framers of the original act. Since last year, Mr. Toohey, the commissioner has not permitted any appropriations from this fund.

The amendment of paragraph one has similar provisions to the act of 1935 known as the Workmen's Compensation Security Fund, chapter 133, laws of 1935 and provides that where the principal amount of the fund is $200,000, the carriers and self-insurers will cease paying, but when the fund gets below that amount they will begin paying.

COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 169

STATE OF NEW JERSEY

ADOPTED MARCH 9, 1936

AN ACT to amend the title and body of an act entitled "An act to provide for the collection from mutual associations and stock companies writing workmen's compensation or employer's liability insurance in this State, and self-insurer, of funds from which to complete compensation payments to persons totally disabled as the result of two separate accidents, and to assist in carrying out the purposes of an act entitled 'An act to create a commission for the rehabilitation of physically handicapped persons and to define its duties and powers,' approved April tenth, one thousand nine hundred and nineteen," which act was approved March seventeenth, one thousand nine hundred and twenty-three.

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

1. The title of the act of which this act is amendatory be and the same is hereby amended so that henceforth it shall read as follows:

An act to provide for the collection from mutual associations and stock companies writing workmen's compensation or employer's liability insurance in this State, and self-insurer, of funds from which to complete compensation payments to persons totally disabled as the result of [two separate accidents] experiencing a permanent disability under conditions entitling such persons to compensation therefor when such persons had previously been permanently and partially disabled from some other cause. [and to assist in carrying out the purposes of an act entitled "An act to create a commission for the rehabilitation of physically handicapped persons and to

define its duties and powers," approved April tenth, one thousand nine hundred and nineteen.]

2. Paragraph one of the act to which this act is amendatory be and the same is hereby amended so that henceforth it shall read as follows:

(1) In order to carry out the purposes set forth in the title of this act, each mutual association or stock company writing compensation or employers' liability insurance in this State, and each self-insurer, shall annually, on or before the fifteenth day of February of each year, pay to the State Tax Commissioner a sum equal to one per centum of the total compensation paid out by such mutual association, stock company or self-insurer during the calendar year next preceding the due date of such payment. Such sum shall be paid by the State Tax Commissioner to the State Treasurer. When the total amount of all such payments into the fund, together with the accumulated interest thereon, equals or exceeds two hundred thousand dollars ($200,000.00), no further contributions to said fund shall be required to be made; *provided, however,* that whenever, thereafter, the amount of said sum shall be reduced below the said two hundred thousand dollars ($200,000.00) by reason of payments out of said funds pursuant to paragraph two hereof, then such contributions to said fund shall be resumed forthwith, and shall continue until said sum shall again amount to two hundred thousand dollars ($200,000.00), together with accumulated interest thereon.

3. Paragraph two of the act of which this act is amendatory be and the same is hereby amended so that henceforth it shall read as follows:

(2) The sums collected under the terms of this [clause] act shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor from which compensation payments in accordance with the provisions of paragraph eleven (b) of the workmen's compensation act shall be made to persons totally disabled, as a result of experiencing a permenent injury under conditions entitling such persons to compensation therefor, when such person had previously been permanently and partially disabled from some other cause. In such cases the compensation payable from said

fund shall cover that portion of the period for which [compensation is payable in ordinary cases of total disability arising under this act, not covered by compensation due for the two disabilities separately, as above set forth above,] the employer is not legally responsible due to the permanent and partial disability suffered or possessed by the employee at the time that the employee sustained the injury as a result of which the employee became totally and permanently disabled. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor. This act shall be retroactive as touching any accident occurring since the amending of chapter ninety-five, laws of one thousand nine hundred and eleven, by amendment of clause eleven (v), by chapter ninety-three, laws of one thousand nine hundred and nineteen, approved April eleventh, one thousand nine hundred and nineteen, insofar as paying of compensation for total disabilities of this class is concerned. [The balance of the amount of money received shall be credited to the account of the rehabilitation commission for physically handicapped persons, to be used in carrying out the purposes of the act creating the above named commission, approved April tenth, one thousand nine hundred and nineteen.] [The fund mentioned in this act may also be used, upon the order, in writing of the Governor to pay shortage occasioned by any defalcation occurring in the Workmen's Compensation Bureau of the Department of Labor.]

4. No person shall be deemed to acquire or to have acquired any rights, vested or otherwise, under the provisions of this act.

5. This act shall take effect immediately.

ASSEMBLY, No. 22

STATE OF NEW JERSEY

INTRODUCED JANUARY 17, 1938

By Mr. PAUL

Referred to Committee on Taxation

AN ACT concerning workmen's compensation, and amending sections 34:15–94; 34:15–95 of the Revised Statutes.

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

1. Section 34:15–94 of the Revised Statutes is hereby amended to read as follows:

34:15–94. Each mutual association or stock company writing compensation or employers' liability insurance in this State, and each self-insurer, shall annually, on or before the February fifteenth of each year, pay to the [State Tax Commissioner] Commissioner of Labor a sum equal to one per cent of the total compensation paid out by such mutual association, stock company or self-insurer during the calendar year next preceding the due date of such payment. Such sum shall be paid by the [State Tax Commissioner] Commissioner of Labor to the State Treasurer.

When the total amount of all such payments into the fund, together with the accumulated interest thereon, equals or exceeds two hundred thousand dollars ($200,000.00), no further contributions to said fund shall be required to be made; but whenever, thereafter, the amount of such sum shall be reduced below two hundred thousand dollars ($200,000.00) by reason of payments out of such funds pursuant to section 34:15–95 of this Title, then such contributions to such fund shall be resumed forthwith, and shall con-

tinue until such sum shall again amount to two hundred thousand dollars ($200,000.00), together with accumulated interest thereon.

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

34:15–95. The sums collected under section 34:15–94 of this Title shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor from which compensation payments in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title shall be made to persons totally disabled, as a result of experiencing a permanent injury under conditions entitling such persons to compensation therefor, when such persons had previously been permanently and partially disabled from some other cause but said cause shall not include physical deterioration due to natural causes or pre-existing disease. Loss of sight of the remaining eye due to an industrial compensable accident after loss of sight in one eye from any cause whatsoever whereby a person is rendered totally blind shall entitle such person to share in this fund. In such cases the compensation payable from such fund shall cover that portion of the period for which the employer is not legally responsible due to the permanent and partial disability suffered or possessed by the employee at the time that the employee sustained the injury as a result of which the employee became totally and permanently disabled. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor. This section shall be applicable to any accident occurring since July fourth, one thousand nine hundred and nineteen, insofar as payment of compensation for total disabilities of this class is concerned; *provided, however,* that all payments from the fund herein created shall be made by semimonthly installment payments, to begin upon the passage of this act, whether applications for such payments be made before or after the passage of this act.

3. This act shall take effect immediately.

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.

COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 22

STATE OF NEW JERSEY

ADOPTED JANUARY 24, 1938

AN ACT concerning workmen's compensation by providing for a method of procedure, by clarifying "some other cause," by permitting the Rehabilitation Commission to use some of the moneys, all under the one per centum fund, and amending sections 34:15–94 and 34:15–95 of the Revised Statutes.

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

1. Section 34:15–94 of the Revised Statutes is hereby amended to read as follows:

1. 34:15–94. Each mutual association or stock company writing compensation or employers' liability insurance in this State, and each self-insurer, shall annually, on or before the February fifteenth of each year, pay to the [State Tax Commissioner] Commissioner of Labor a sum equal to one per cent of the total compensation paid out by such mutual association, stock company or self-insurer during the calendar year next preceding the due date of such payment. Such sum shall be paid by the [State Tax Commissioner] Commissioner of Labor to the State Treasurer.

When the total amount of all such payments into the fund, together with the accumulated interest thereon, equals or exceeds two hundred thousand dollars ($200,000.00), no further contributions to said fund shall be required to be made; but whenever, thereafter, the amount of such sum shall be reduced below two hundred thousand dollars ($200,000.00) by reason of payments out of such funds pursuant to section 34:15–95 of this Title, then such contributions to such fund shall be resumed forthwith, and shall con-

tinue until such sum shall again amount to two hundred thousand dollars ($200,000.00), together with accumulated interest thereon.

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

2. 34:15–95. The sums collected under section 34:15–94 of this Title shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor from which compensation payments in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title shall be made to persons totally disabled, as a result of experiencing a permanent injury under conditions entitling such persons to compensation therefor, when such persons had previously been permanently and partially disabled from some other cause, but said cause shall not include physical deterioration due to natural causes or pre-existing disease. Loss of sight of the remaining eye due to an industrial compensable accident after loss of sight in one eye from any cause whatsoever whereby a person is rendered totally blind shall entitle such person to share in this fund. In such cases the compensation payable from such fund shall cover that portion of the period for which the employer is not legally responsible due to the permanent and partial disability suffered or possessed by the employee at the time that the employee sustained the injury as a result of which the employee became totally and permanently disabled. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor. [This section shall be applicable to any accident occurring since July fourth, one thousand nine hundred and nineteen, insofar as payment of compensation for total disabilities of this class is concerned;] All payments from the fund herein created shall be made by semimonthly installment payments, to begin upon the passage of this act, whether applications for such payments be made before or after the passage of this act. The Rehabilitation Commission may use a sum not to exceed fifteen thousand dollars ($15,000.00) in any one fiscal year from the sums collected under this section for rehabilitation of persons who are handicapped as a result of a compensable industrial accident.

3. A new section is hereby added to read as follows:

3. Application for benefits under this act shall be made by a verified petition addressed to the Commissioner of Labor of the State of New Jersey who shall refer it to a Deputy Commissioner of Workmen's Compensation to hear testimony and for an advisory report as to findings. The decision, however, as to whether the petitioner shall or shall not be admitted to the benefits shall be rendered by the said Commissioner of Labor. Review of said decision shall be by Writ of Certiorari. In all proceedings affecting the fund under this act the Commissioner of Labor of the State of New Jersey shall be a necessary party.

4. This act shall take effect immediately.

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 and provide a method of procedure.

Since this act was amended in 1936, chapter 55, several claimants have filed claims and have been retroactive in 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 with the exception of $15,000.00 per year which may be used by the Rehabilitation Commission for persons handicapped by an industrial accident.

[SECOND OFFICIAL COPY REPRINT]

COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 22

STATE OF NEW JERSEY

ADOPTED JANUARY 24, 1938

AN ACT concerning workmen's compensation by providing for a method of procedure, by clarifying "some other cause," by permitting the Rehabilitation Commission to use some of the moneys, all under the one per centum fund, and amending sections 34:15–94 and 34:15–95 of the Revised Statutes.

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

1. Section 34:15–94 of the Revised Statutes is hereby amended to read as follows:

1. 34:15–94. Each mutual association or stock company writing compensation or employers' liability insurance in this State, and each self-insurer, shall annually, on or before the February fifteenth of each year, pay to the Commissioner of Labor a sum equal to one per cent of the total compensation paid out by such mutual association, stock company or self-insurer during the calendar year next preceding the due date of such payment. Such sum shall be paid by the Commissioner of Labor to the State Treasurer.

When the total amount of all such payments into the fund, together with the accumulated interest thereon, equals or exceeds two hundred thousand dollars ($200,000.00), no further contributions to said fund shall be required to be made; but whenever, thereafter, the amount of such sum shall be reduced below two hundred thousand dollars ($200,000.00) by reason of payments out of such funds pursuant to section 34:15–95 of this Title, then such contributions to such fund shall be resumed forthwith, and shall continue until such sum shall again amount to two hundred thousand dollars ($200,000.00), together with accumulated interest thereon.

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

2. 34:15-95. The sums collected under section 34:15-94 of this Title shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor from which compensation payments in accordance with the provisions of paragraph (b) of section 34:15-12 of this Title shall be made to persons totally disabled, as a result of experiencing a subsequent permanent injury under conditions entitling such persons to compensation therefor, when such persons had previously been permanently and partially disabled from some other cause. In such cases the compensation payable from such fund shall cover that portion of the period for which the employer is not legally responsible due to the permanent and partial disability suffered or possessed by the employee at the time that the employee sustained the injury as a result of which the employee became totally and permanently disabled. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor. All payments from the fund herein created shall be made by semimonthly installment payments, to begin upon the passage of this act, whether applications for such payments be made before or after the passage of this act. The Rehabilitation Commission may use a sum not to exceed fifteen thousand dollars ($15,000.00) in any one fiscal year from the sums collected under this section for rehabilitation of persons who are handicapped as a result of a compensable industrial accident.

3. A new section is hereby added to read as follows:

3. Application for benefits under this act shall be made by a verified petition filed in duplicate within two years after the date of the last payment of compensation by the employer or the insurance carrier addressed to the Commissioner of Labor of the State of New Jersey who shall refer it to a Deputy Commissioner of Workmen's Compensation to hear testimony and for an advisory report as to findings. The decision, however, as to whether the petitioner shall or shall not be admitted to the benefits shall

be rendered by the said Commissioner of Labor. Review of said decision shall be in accordance with section 34:15-66 of the Revised Statutes. In all proceedings affecting the fund under this act the Commissioner of Labor shall be a necessary party.

4. This act shall take effect immediately.

[THIRD OFFICIAL COPY REPRINT]

COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 22

STATE OF NEW JERSEY

ADOPTED JANUARY 24, 1938

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 fund, and amending sections 34:15–94 and 34:15–95 of the Revised Statutes.

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

1. Section 34:15–94 of the Revised Statutes is hereby amended to read as follows:

1. 34:15–94. Each mutual association or stock company writing compensation or employers' liability insurance in this State, and each self-insurer, shall annually, on or before the February fifteenth of each year, pay to the Commissioner of Labor a sum equal to one per cent of the total compensation paid out by such mutual association, stock company or self-insurer during the calendar year next preceding the due date of such payment. Such sum shall be paid by the Commissioner of Labor to the State Treasurer.

When the total amount of all such payments into the fund, together with the accumulated interest thereon, equals or exceeds two hundred thousand dollars ($200,000.00), no further contributions to said fund shall be required to be made; but whenever, thereafter, the amount of such sum shall be reduced below two hundred thousand dollars ($200,000.00) by reason of payments out of such funds pursuant to section 34:15–95 of this Title, then such contributions to such fund shall be resumed forthwith, and shall con-

tinue until such sum shall again amount to two hundred thousand dollars ($200,000.00), together with accumulated interest thereon.

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

2. 34:15–95. The sums collected under section 34:15–94 of this Title shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor from which compensation payments in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title shall be made to persons totally disabled, as a result of experiencing a subsequent permanent injury under conditions entitling such persons to compensation therefor, when such persons had previously been permanently and partially disabled from some other cause. In such cases the compensation payable from such fund shall cover that portion of the period for which the employer is not legally responsible due to the permanent and partial disability suffered or possessed by the employee at the time that the employee sustained the injury as a result of which the employee became totally and permanently disabled. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor. This section shall be applicable to any accident occurring since July fourth, one thousand nine hundred and twenty-three, insofar as the eligibility of such employee of this class is concerned; *provided, however,* that nothing contained herein shall affect those persons now receiving the benefits under this section or proceedings now pending on appeal. All payments from the fund herein created shall be made by semi-monthly installment payments. The Rehabilitation Commission may use a sum not to exceed fifteen thousand dollars ($15,000.00) in any one fiscal year from the sums collected under this section for rehabilitation of persons who are handicapped as a result of a compensable industrial accident.

3. A new section is hereby added to read as follows:

3. Application for benefits under this act shall be made by a verified petition filed in duplicate within two years after the date of the last pay-

ment of compensation by the employer or the insurance carrier addressed to the Commissioner of Labor of the State of New Jersey who shall refer it to a Deputy Commissioner of Workmen's Compensation to hear testimony and for an advisory report as to findings. The decision, however, as to whether the petitioner shall or shall not be admitted to the benefits shall be rendered by the said Commissioner of Labor. Review of said decision shall be in accordance with section 34:15–66 of the Revised Statutes. In all proceedings affecting the fund under this act the Commissioner of Labor shall be a necessary party.

4. This act shall take effect immediately.

[FOURTH OFFICIAL COPY REPRINT]

COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 22

STATE OF NEW JERSEY

ADOPTED JANUARY 24, 1938

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 fund, and amending sections 34:15–94 and 34:15–95 of the Revised Statutes.

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

1. Section 34:15–94 of the Revised Statutes is hereby amended to read as follows:

1. 34:15–94. Each mutual association or stock company writing compensation or employers' liability insurance in this State, and each self-insurer, shall annually, on or before the February fifteenth of each year, pay to the Commissioner of Labor a sum equal to one per cent of the total compensation paid out by such mutual association, stock company or self-insurer during the calendar year next preceding the due date of such payment. Such sum shall be paid by the Commissioner of Labor to the State Treasurer.

When the total amount of all such payments into the fund, together with the accumulated interest thereon, equals or exceeds two hundred thousand dollars ($200,000.00), no further contributions to said fund shall be required to be made; but whenever, thereafter, the amount of such sum shall be reduced below two hundred thousand dollars ($200,000.00) by reason of payments out of such funds pursuant to section 34:15–95 of this Title, then such contributions to such fund shall be resumed forthwith, and shall con-

tinue until such sum shall again amount to two hundred thousand dollars ($200,000.00), together with accumulated interest thereon.

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

2. 34:15-95. The sums collected under section 34:15-94 of this Title shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor from which compensation payments in accordance with the provisions of paragraph (b) of section 34:15-12 of this Title shall be made to persons totally disabled, as a result of experiencing a subsequent permanent injury under conditions entitling such persons to compensation therefor, when such persons had previously been permanently and partially disabled from some other cause. In such cases the compensation payable from such fund shall cover that portion of the period for which the employer is not legally responsible due to the permanent and partial disability suffered or possessed by the employee at the time that the employee sustained the injury as a result of which the employee became totally and permanently disabled. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor. This section shall be applicable to any accident occurring since July fourth, one thousand nine hundred and nineteen, insofar as the eligibility of such employee of this class is concerned; *provided, however,* that nothing contained herein shall affect those persons now receiving the benefits under this section or proceedings now pending on appeal. All payments from the fund herein created shall be made by semi-monthly installment payments. The Rehabilitation Commission may use a sum not to exceed fifteen thousand dollars ($15,000.00) in any one fiscal year from the sums collected under this section for rehabilitation of persons who are handicapped as a result of a compensable industrial accident.

3. A new section is hereby added to read as follows:

3. Application for benefits under this act shall be made by a verified petition filed in duplicate within two years after the date of the last pay-

ment of compensation by the employer or the insurance carrier addressed to the Commissioner of Labor of the State of New Jersey who shall refer it to a Deputy Commissioner of Workmen's Compensation to hear testimony and for an advisory report as to findings. The decision, however, as to whether the petitioner shall or shall not be admitted to the benefits shall be rendered by the said Commissioner of Labor. Review of said decision shall be in accordance with section 34:15-66 of the Revised Statutes. In all proceedings affecting the fund under this act the Commissioner of Labor shall be a necessary party.

4. This act shall take effect immediately.

[FIFTH OFFICIAL COPY REPRINT]

COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 22

STATE OF NEW JERSEY

ADOPTED JANUARY 24, 1938

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 fund, and amending sections 34:15–94 and 34:15–95 of the Revised Statutes.

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

1. Section 34:15–94 of the Revised Statutes is hereby amended to read as follows:

1. 34:15–94. Each mutual association or stock company writing compensation or employers' liability insurance in this State, and each self-insurer, shall annually, on or before the February fifteenth of each year, pay to the Commissioner of Labor a sum equal to one per cent of the total compensation paid out by such mutual association, stock company or self-insurer during the calendar year next preceding the due date of such payment. Such sum shall be paid by the Commissioner of Labor to the State Treasurer.

When the total amount of all such payments into the fund, together with the accumulated interest thereon, equals or exceeds two hundred thousand dollars ($200,000.00), no further contributions to said fund shall be required to be made; but whenever, thereafter, the amount of such sum shall be reduced below two hundred thousand dollars ($200,000.00) by reason of payments out of such funds pursuant to section 34:15–95 of this Title, then such contributions to such fund shall be resumed forthwith, and shall con-

tinue until such sum shall again amount to two hundred thousand dollars ($200,000.00), together with accumulated interest thereon.

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

2. 34:15–95. The sums collected under section 34:15–94 of this Title shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor from which compensation payments in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title shall be made to persons totally disabled, as a result of experiencing a subsequent permanent injury under conditions entitling such persons to compensation therefor, when such persons had previously been permanently and partially disabled from some other cause. In such cases the compensation payable from such fund shall cover that portion of the period for which the employer is not legally responsible due to the permanent and partial disability suffered or possessed by the employee at the time that the employee sustained the injury as a result of which the employee became totally and permanently disabled. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor. This section shall be applicable to any accident occurring since July fourth, one thousand nine hundred and nineteen, insofar as the eligibility of such employee of this class is concerned; *provided, however,* that nothing contained herein shall affect those persons now receiving or who have received the benefits under this section or proceedings now pending on appeal. All payments from the fund herein created shall be made by semimonthly installment payments. The Rehabilitation Commission may use a sum not to exceed fifteen thousand dollars ($15,000.00) in any one fiscal year from the sums collected under this section for rehabilitation of persons who are handicapped as a result of a compensable industrial accident.

3. A new section is hereby added to read as follows:

3. Application for benefits under this act shall be made by a verified petition filed in duplicate within two years after the date of the last payment of compensation by the employer or the insurance carrier addressed to the Commissioner of Labor of the State of New Jersey who shall refer it to a Deputy Commissioner of Workmen's Compensation to hear testimony and for an advisory report as to findings. The decision, however, as to whether the petitioner shall or shall not be admitted to the benefits shall be rendered by the said Commissioner of Labor. Review of said decision shall be in accordance with section 34:15-66 of the Revised Statutes. In all proceedings affecting the fund under this act the Commissioner of Labor shall be a necessary party.

4. This act shall take effect immediately.

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.

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

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

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

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

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

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

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

d. The disability due to some other cause, resulting from physical deterioration due to natural causes or pre-existing disease, except occupational disease, together with the permanent disability resulting from the last compensable accident, results in total and permanent disability within the meaning of this Title;

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

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

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

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

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

3. This act shall take effect immediately.

STATEMENT

The purpose of this act is to eliminate any inconsistencies which exist in the socalled 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.

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

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

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

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

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

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

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

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

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

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

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

Upon the approval of an application for benefits, the compensation payable from such fund shall be made from the date when the final payment of compensation by the employer is or was payable for the injury or injuries sustained in the employment wherein the employee became totally and permanently disabled; *provided,* that no payment from such fund shall be made for any period prior to the date of filing of application therefor; *provided, however,* that a person who has received compensation payments from said fund and who is reinstated or ordered placed on said fund shall receive payments from the date of last payment from said fund, save only in the case of a person to whom payments have been made and then discontinued or suspended because of the rehabilitation of such person in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title, in which case payments from said fund shall be made from the date of filing application for reinstatement. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor. This section shall be applicable to any accident occurring since July fourth, one thousand nine hundred and nineteen, insofar as the eligibility of and benefits payable to such employee of this class is concerned; *provided, however,* that nothing contained herein shall limit or deprive those persons now receiving or who have received the benefits under this section from participating in said fund. All payments from the fund herein created shall be made by semimonthly installment payments.

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

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

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

3. This act shall take effect immediately.

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SENATE AMENDMENTS TO
COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 284

STATE OF NEW JERSEY

ADOPTED JUNE 3, 1940

On page 3, line 63, following the word "since" eliminate the following: "July fourth, one thousand nine hundred and nineteen," and insert "June twenty-seventh, one thousand nine hundred and twenty-three,"

On page 4, following line 17, insert a new paragraph as follows: 3. "No person shall be deemed to acquire or to have acquired any vested rights, under the provisions of this section."

On page 4, line 1, following line 17, change the number "3" to read "4".

SENATE, No. 28

STATE OF NEW JERSEY

INTRODUCED JANUARY 22, 1945

By Mr. LITTELL

(Without Reference)

AN ACT relating to workmen's compensation, amending sections 34:15–94 and 34:15–95, and supplementing chapter fifteen of Title 34 of the Revised Statutes.

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

1. Section 34:15–94 of the Revised Statutes is amended to read as follows:

34:15–94. Each mutual association or stock company writing compensation or employers' liability insurance in this State, and each self-insurer, shall annually, on or before [the February fifteenth of] March first in each year, pay to the Commissioner of Labor a sum equal to one per centum (1%) of the total compensation paid out by such mutual association, stock company or self-insurer during the calendar year next preceding the due date of such payment. Such sum shall be paid by the Commissioner of Labor to the State Treasurer.

[When the total amount of all such payments into the fund, together with the accumulated interest thereon, equals or exceeds two hundred thousand dollars ($200,000.00), no further contributions to said fund shall be required to be made; but whenever, thereafter, the amount of such sum shall be reduced below two hundred thousand dollars ($200,000.00) by reason of payments out of such funds pursuant to section 34:15–95 of this Title,

then such contributions to such fund shall be resumed forthwith, and shall continue until such sum shall again amount to two hundred thousand dollars ($200,000.00), together with accumulated interest thereon.]

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

34:15–95. The sums collected under section 34:15–94 of this Title shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor from which compensation payments in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title shall be made to persons totally disabled, as a result of experiencing a subsequent permanent injury under conditions entitling such persons to compensation therefor, when such persons had previously been permanently and partially disabled from some other cause; *provided, however,* that, notwithstanding the time limit fixed therein, the provisions of paragraph (b) of said section 34:15–12 relative to extension of compensation payments beyond four hundred weeks shall, with respect to payments from the fund constituted pursuant to the provisions of this section, apply to any accident occurring since June twenty-seventh, one thousand nine hundred and twenty-three; *provided further, however,* that no person shall be eligible to receive payments from such fund:

(a) If the disability resulting from the injury caused by his last compensable accident in itself and irrespective of any previous condition or disability constitutes total and permanent disability within the meaning of this Title.

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

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

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

Nothing in the provisions of said paragraphs a, b, c and d, however, shall be construed to deny the benefits provided by this section to any person who has been previously disabled by reason of total loss of, or total and permanent loss of use of, a hand or arm or foot or leg or eye, when the total disability is due to the total loss of, or total and permanent loss of use of, two or more of said major members of the body, or to any person who in successive accidents has suffered compensable injuries, each of which, severally, causes permanent partial disability, but which in conjunction result in permanent total disability. Nor shall anything in paragraphs a, b, c and d, aforesaid apply to the case of any person who is now receiving or who has heretofore received payments from such fund.

Upon the approval of an application for benefits, the compensation payable from such fund shall be made from the date when the final payment of compensation by the employer is or was payable for the injury or injuries sustained in the employment wherein the employee became totally and permanently disabled; *provided,* that no payment from such fund shall be made for any period prior to the date of filing of application therefor; *provided, however,* that a person who has received compensation payments from said fund and who is reinstated or ordered placed on said fund shall receive payments from the date of last payment from said fund, save only in the case of a person to whom payments have been made and then discontinued or suspended because of the rehabilitation of such person in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title, in which case payments from said fund shall be made from the date of filing application for reinstatement. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor. This section shall be applicable to any accident occur-

ring since June twenty-seventh, one thousand nine hundred and twenty-three, insofar as the eligibility of and benefits payable to such employee of this class is concerned; *provided, however,* that nothing contained herein shall limit or deprive those persons now receiving or who have received the benefits under this section from participating in said fund. All payments from the fund herein created shall be made by semimonthly installment payments. From the [sums collected under this section] fund herein created the Commissioner of Labor may use in any one fiscal year a sum not to exceed the sum of [five thousand dollars ($5,000.00)] twelve thousand five hundred dollars ($12,500.00) for the cost of administration of the fund including personnel, printing, professional fees, and [other] expenses incurred by the Commissioner of Labor in the prosecution of defenses in the bureau, and of appeals and proceedings for review of decisions on applications for benefits from said fund. No costs or counsel fee for the applicant shall be allowed against the fund.

The Commissioner of Labor shall annually submit an accounting of the fund to the State Comptroller.

3. All payments into the fund established by section 34:15–95 of the Revised Statutes which may have heretofore been made or required at any time or times are hereby validated and confirmed, notwithstanding that at the time of such payment or payments the fund may have equalled or exceeded the sum of two hundred thousand dollars ($200,000.00).

4. This act shall take effect immediately.

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.

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ASSEMBLY COMMITTEE AMENDMENT TO

SENATE, No. 28

STATE OF NEW JERSEY

ADOPTED FEBRUARY 6, 1945

Amend page 1, section 1, by adding the following paragraph after line 9:

"When the total amount of all such payments into the fund, together with the accumulated interest thereon, equals or exceeds one and one-half million dollars ($1,500,000.00), no further contributions to said fund shall be required to be made; but whenever, thereafter, the amount of such sum shall be reduced below one and one-half million dollars ($1,500,000.00) by reason of payments out of such funds pursuant to section 34:15–95 of this Title, then such contributions to such fund shall be resumed forthwith, and shall continue until such sum shall again amount to one and one-half million dollars ($1,500,000.00), together with accumulated interest thereon."

N. J. Governor (Edge)
First Annual Message, Jan 9, 1945

I differ with those who view every proposal for increased benefits as a "raid" on the unemployment trust fund. It appears self-evident that the working people of this State, as well as all employers interested in New Jersey's economic well-being, are entitled to the best type and amount of unemployment insurance that their contributions will provide. Wages have risen and the cost of living has risen since the present formula was adopted, but the present "ceiling" on weekly benefit payments will prevent many workers from realizing upon their greater earning power in the event of involuntary unemployment.

Present limitations on the duration of weekly benefit payments appear to present a particularly unsatisfactory record in the light of the tax contribution made by New Jersey employees—a contribution which is now paralleled only in Alabama, California, and Rhode Island. It is clear that some measure of liberalization of benefits will be required.

Workmen's Compensation

The second problem before the Post-War Commission is Workmen's Compensation. The workmen's compensation law has not been revised in many years and there are various aspects of the law which demand attention at this time. Of first importance is that part of the law which may apply to our wounded veterans—particularly disabled veterans.

It is unnecessary for me to emphasize our obligations to eliminate from the statute every obstruction to the welfare or employment of disabled veterans. To this end, I am recommending immediate legislation to remove the present statutory limit of $200,000 on the amount of the one per cent or "second injury" fund. This fund is used to compensate workers who become totally disabled from the effects of industrial injury following a previous disability. The fund is maintained by contributions from insurance carriers and these carriers are both willing and able to continue their contributions. Repeal of the statutory limit will clear the way for them to do so and also will assure protection to those whom we wish most to aid.

The principal measure of the adequacy of our workmen's compensation act, of course, is the scale of benefits which it provides. Our present benefits were established when the cost of living was considerably less than at present, and they appear to be lower in amount than those of comparable States. Adjustments of this kind are of a highly technical nature and I must await the forthcoming study of the Post-War Commission on this subject before advising you further.

There are also many improvements in the procedure of workmen's compensation which should be made for the benefit of covered workers. The Department of Labor is making recommendations to this end; and such measures as are found necessary to eliminate delays, needless expense and inequities will be submitted to you in due course.

Migrant Workers

The third problem before the Post-War Commission is that of the migrant worker in New Jersey. Workers from many parts of the country have been coming to this State for several years to work on farms at harvest time and more recently to work in canning and processing factories at the peak of seasonal employment.

There are, at the height of the season, perhaps 15,000 such workers; and while their services are urgently required, our responsibilities in this connection have been neglected. Without permanent residence and living in rural areas, the migrant workers—men, women and children—must live in whatever camps or settlements employers are able to provide.

The health, sanitary and welfare conditions under which many of these people live, have become deplorable. Not only have they become a health menace to many communities, but both potential and actual disorders have added additional hazards to the peace of our rural areas. The State is morally bound to end this condition—not only in the interest of the migrant workers themselves, but in the interest of maintaining this important labor supply, of in-

S89 of 1945 – Original bill

In case the respondent, in said appeal, is unable to pay counsel, the judge of the court of common pleas shall assign counsel to represent him. Any appeal may be dismissed by the judge if the transcript of the record and testimony is not transmitted, or if the appeal is not prosecuted in accordance with the provisions of this chapter. Nothing herein contained shall be construed as limiting the jurisdiction of the Supreme Court to review questions of law and fact by certiorari. Appeals to the Court of Errors and Appeals may be taken from a judgment of the Supreme Court only as limited by section 2:27–350 of the Revised Statutes.

14. This act shall take effect immediately.

STATEMENT

This act is in effect a revision of the workmen's compensation law, by specific amendments to recognized sections and a small amount of supplemental matter. The bill is intended principally to liberalize workmen's compensation benefits in accordance with the program outlined by Governor Edge in his First Annual Message to the Legislature (January 9, 1945). This is accomplished by raising the maximum weekly benefit to twenty-five dollars ($25.00) and increasing the duration of weekly benefit payments for various injuries by, roughly, 25 to 35 per centum, following the recommendations contained in the Second Report of the Commission on Post-War Economic Welfare, submitted January 29, 1945. In addition, more detailed amendments are included to increase benefit payments in given instances.

A few changes relate to administration, and are designed to enable the workmen's compensation bureau to administer the law more effectively. A provision designed to eliminate delays on appeals to the courts of common pleas is also added.

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proceedings thereon shall only be for the recovery of moneys thereby determined to be due. Costs may be awarded by the judge in his discretion, and when so awarded the same costs shall be allowed, taxed and collected as are allowed, taxed and collected for like services in the common pleas courts. In case the respondent, in said appeal, is unable to pay counsel, the judge of the court of common pleas shall assign counsel to represent him. Any appeal may be dismissed by the judge if the transcript of the record and testimony is not transmitted, or if the appeal is not prosecuted in accordance with the provisions of this chapter. Nothing herein contained shall be construed as limiting the jurisdiction of the Supreme Court to review questions of law and fact by certiorari. Appeals to the Court of Errors and Appeals may be taken from a judgment of the Supreme Court only as limited by section 2:27–350 of the Revised Statutes.

17. Section 34:15–75 of the Revised Statutes is amended to read as follows:

34:15–75. Compensation for injury and death, either or both, of any volunteer fireman or of any forest fire warden or forest fire fighter employed by the State of New Jersey, shall be based upon the weekly salary or compensation received by such person in his private employment. Any such person whose income is derived from any source other than wages or salaries shall be entitled to receive the maximum compensation by this chapter authorized. Compensation shall in no case exceed the sum of twenty-five dollars per week, and where the fireman, forest fire warden or forest fire fighter was not employed at the time of injury or death, compensation shall be ascertained and paid upon the basis of the weekly compensation last received by him when so employed.

18. Section 34:15–95 of the Revised Statutes is amended to read as follows:

34:15–95. The sums collected under section 34:15–94 of this Title shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor from which compensation payments in accordance

with the provisions of paragraph (b) of section 34:15–12 of this Title shall be made to persons totally disabled, as a result of experiencing a subsequent permanent injury under conditions entitling such persons to compensation therefor, when such persons had previously been permanently and partially disabled from some other cause; *provided, however,* that, notwithstanding the time limit fixed therein, the provisions of paragraph (b) of said section 34:15–12 relative to extension of compensation payments beyond four hundred and fifty weeks shall, with respect to payments from the fund constituted pursuant to the provisions of this section, apply to any accident occurring since June twenty-seventh, one thousand nine hundred and twenty-three; *provided further, however,* that no person shall be eligible to receive payments from such fund:

(a) If the disability resulting from the injury caused by his last compensable accident in itself and irrespective of any previous condition or disability constitutes total and permanent disability within the meaning of this Title.

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

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

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

Nothing in the provisions of said paragraphs a, b, c and d, however, shall be construed to deny the benefits provided by this section to any person who has been previously disabled by reason of total loss of, or total and permanent loss of use of, a hand or arm or foot or leg or eye, when the total dis-

ability is due to the total loss of, or total and permanent loss of use of, two or more of said major members of the body, or to any person who in successive accidents has suffered compensable injuries, each of which, severally, causes permanent partial disability, but which in conjunction result in permanent total disability. Nor shall anything in paragraphs a, b, c and d, aforesaid apply to the case of any person who is now receiving or who has heretofore received payments from such fund.

Upon the approval of an application for benefits, the compensation payable from such fund shall be made from the date when the final payment of compensation by the employer is or was payable for the injury or injuries sustained in the employment wherein the employee became totally and permanently disabled; provided, that no payment from such fund shall be made for any period prior to the date of filing of application therefor; *provided, however,* that a person who has received compensation payments from said fund and who is reinstated or ordered placed on said fund shall receive payments from the date of last payment from said fund, save only in the case of a person to whom payments have been made and then discontinued or suspended because of the rehabilitation of such person in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title, in which case payments from said fund shall be made from the date of filing application for reinstatement. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor. This section shall be applicable to any accident occurring since June twenty-seventh, one thousand nine hundred and twenty-three, insofar as the eligibility of and benefits payable to such employee of this class is concerned; *provided, however,* that nothing contained herein shall limit or deprive those persons now receiving or who have received the benefits under this section from participating in said fund. All payments from the fund herein created shall be made by semimonthly installment payments. From the fund herein created the Commissioner of Labor may use in any one fiscal year a sum not to exceed the sum of twelve thousand five hundred

dollars ($12,500.00) for the cost of administration of the fund including personnel, printing, professional fees, and expenses incurred by the Commissioner of Labor in the prosecution of defenses in the bureau, and of appeals and proceedings for review of decisions on applications for benefits from said fund. No costs or counsel fee for the applicant shall be allowed against the fund.

The Commissioner of Labor shall annually submit an accounting of the fund to the State Comptroller.

All payments into the fund established by section 34:15–95 of the Revised Statutes which may have heretofore been made or required at any time or times are hereby validated and confirmed, notwithstanding that at the time of such payment or payments the fund may have equalled or exceeded the sum of two hundred thousand dollars ($200,000.00).

19. This act shall take effect immediately; *provided, however,* that the amendments to sections 34:15–12, 34:15–13, 34:15–36, and 34:15–75 of the Revised Statutes shall apply to any accident or compensable occupational disease occurring on or after January first, one thousand nine hundred and forty-six.

provisions of this chapter. Nothing herein contained shall be construed as limiting the jurisdiction of the Supreme Court to review questions of law and fact by certiorari. Appeals to the Court of Errors and Appeals may be taken from a judgment of the Supreme Court only as limited by section 2:27–350 of the Revised Statutes.

18. Section 34:15–75 of the Revised Statutes is amended to read as follows:

34:15–75. Compensation for injury and death, either or both, of any volunteer fireman or of any forest fire warden or forest fire fighter employed by the State of New Jersey, shall be based upon the weekly salary or compensation received by such person in his private employment. Any such person whose income is derived from any source other than wages or salaries shall be entitled to receive the maximum compensation by this chapter authorized. Compensation shall in no case exceed the sum of twenty-five dollars per week, and where the fireman, forest fire warden or forest fire fighter was not employed at the time of injury or death, compensation shall be ascertained and paid upon the basis of the weekly compensation last received by him when so employed.

19. Section 34:15–95 of the Revised Statutes is amended to read as follows:

34:15–95. The sums collected under section 34:15–94 of this Title shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor from which compensation payments in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title shall be made to persons totally disabled, as a result of experiencing a subsequent permanent injury under conditions entitling such persons to compensation therefor, when such persons had previously been permanently and partially disabled from some other cause; *provided, however,* that, notwithstanding the time limit fixed therein, the provisions of paragraph (b) of said section 34:15–12 relative to extension of compensation payments beyond four hundred and fifty weeks shall, with respect to payments from the fund consti-

tuted pursuant to the provisions of this section, apply to any accident occurring since June twenty-seventh, one thousand nine hundred and twenty-three; *provided further, however,* that no person shall be eligible to receive payments from such fund:

(a) If the disability resulting from the injury caused by his last compensable accident in itself and irrespective of any previous condition or disability constitutes total and permanent disability within the meaning of this Title.

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

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

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

Nothing in the provisions of said paragraphs a, b, c and d, however, shall be construed to deny the benefits provided by this section to any person who has been previously disabled by reason of total loss of, or total and permanent loss of use of, a hand or arm or foot or leg or eye, when the total disability is due to the total loss of, or total and permanent loss of use of, two or more of said major members of the body, or to any person who in successive accidents has suffered compensable injuries, each of which, severally, causes permanent partial disability, but which in conjunction result in permanent total disability. Nor shall anything in paragraphs a, b, c and d, aforesaid apply to the case of any person who is now receiving or who has heretofore received payments from such fund.

Upon the approval of an application for benefits, the compensation payable from such fund shall be made from the date when the final payment of compensation by the employer is or was payable for the injury or injuries sustained in the employment wherein the employee became totally and permanently disabled; provided, that no payment from such fund shall be made for any period prior to the date of filing of application therefor; *provided, however,* that a person who has received compensation payments from said fund and who is reinstated or ordered placed on said fund shall receive payments from the date of last payment from said fund, save only in the case of a person to whom payments have been made and then discontinued or suspended because of the rehabilitation of such person in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title, in which case payments from said fund shall be made from the date of filing application for reinstatement. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor. This section shall be applicable to any accident occurring since June twenty-seventh, one thousand nine hundred and twenty-three, insofar as the eligibility of and benefits payable to such employee of this class is concerned; *provided, however,* that nothing contained herein shall limit or deprive those persons now receiving or who have received the benefits under this section from participating in said fund. All payments from the fund herein created shall be made by semimonthly installment payments. From the fund herein created the Commissioner of Labor may use in any one fiscal year a sum not to exceed the sum of twelve thousand five hundred dollars ($12,500.00) for the cost of administration of the fund including personnel, printing, professional fees, and expenses incurred by the Commissioner of Labor in the prosecution of defenses in the bureau, and of appeals and proceedings for review of decisions on applications for benefits from said fund. No costs or counsel fee for the applicant shall be allowed against the fund.

The Commissioner of Labor shall annually submit an accounting of the fund to the State Comptroller.

All payments into the fund established by section 34:15–95 of the Revised Statutes which may have heretofore been made or required at any time or times are hereby validated and confirmed, notwithstanding that at the time of such payment or payments the fund may have equalled or exceeded the sum of two hundred thousand dollars ($200,000.00).

20. This act shall take effect immediately; *provided, however,* that the amendments to section 34:15–12, 34:15–13, 34:15–36, 34:15–37, and 34:15–75 of the Revised Statutes shall apply to any accident or compensable occupational disease occurring on or after January first, one thousand nine hundred and forty-six.

ASSEMBLY, No. 354

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1950

By Mr. JONES

Referred to Committee on Labor and Industries

AN ACT relating to workmen's compensation, and amending sections 34:15–94 and 34:15–95 of the Revised Statutes.

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

1. Section 34:15–94 of the Revised Statutes is amended to read as follows:

34:15–94. Each mutual association or stock company writing compensation or employers' liability insurance in this State, and each self-insurer, shall annually, on or before March first in each year, pay to the Commissioner of Labor and Industry a sum equal to one per centum (1%) of the total compensation paid out by such mutual association, stock company or self-insurer during the calendar year next preceding the due date of such payment. Such sum shall be paid by the Commissioner of Labor and Industry to the State Treasurer.

When the total amount of all such payments into the fund, together with the accumulated interest thereon, equals or exceeds one and one-half million dollars ($1,500,000.00), no further contributions to said fund shall be required to be made; but whenever, thereafter, the amount of such sum shall be reduced below one and one-half million dollars ($1,500,000.00) by reason of payments out of such funds pursuant to section 34:15–95 of this Title, then such contributions to such fund shall be resumed forthwith, and shall

continue until such sum shall again amount to one and one-half million dollars ($1,500,000.00), together with accumulated interest thereon.

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

34:15–95. The sums collected under section 34:15–94 of this Title shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor and Industry from which compensation payments in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title shall be made to persons totally disabled, as a result of experiencing a subsequent permanent injury under conditions entitling such persons to compensation therefor, when such persons had previously been permanently and partially disabled from some other cause; *provided, however,* that, notwithstanding the time limit fixed therein, the provisions of paragraph (b) of said section 34:15–12 relative to extension of compensation payments beyond four hundred or four hundred and fifty weeks, as the case may be, shall, with respect to payments from the fund constituted pursuant to the provisions of this section, apply to any accident occurring since June twenty-seventh, one thousand nine hundred and twenty-three [;], and in no case shall be less than five dollars ($5.00) per week; *provided further, however,* that no person shall be eligible to receive payments from such fund:

(a) If the disability resulting from the injury caused by his last compensable accident in itself and irrespective of any previous condition or disability constitutes total and permanent disability within the meaning of this Title.

(b) If permanent total disability results from the aggravation, activation or acceleration, by the last compensable injury, of a preexisting noncompensable disease or condition.

(c) If the disease or condition existing prior to the last compensable accident is not aggravated or accelerated but is in itself progressive and by reason of such progression subsequent to the last com-

pensable accident renders him totally disabled within the meaning of this Title.

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

Nothing in the provisions of said paragraphs a, b, c and d, however, shall be construed to deny the benefits provided by this section to any person who has been previously disabled by reason of total loss of, or total and permanent loss of use of, a hand or arm or foot or leg or eye, when the total disability is due to the total loss of, or total and permanent loss of use of, two or more of said major members of the body, or to any person who in successive accidents has suffered compensable injuries, each of which, severally, causes permanent partial disability, but which in conjunction result in permanent total disability. Nor shall anything in paragraphs a, b, c and d, aforesaid apply to the case of any person who is now receiving or who has heretofore received payments from such fund.

Upon the approval of an application for benefits, the compensation payable from such fund shall be made from the date when the final payment of compensation by the employer is or was payable for the injury or injuries sustained in the employment wherein the employee became totally and permanently disabled; *provided,* that no payment from such fund shall be made for any period prior to the date of filing of application therefor; *provided, however,* that a person who has received compensation payments from said fund and who is reinstated or ordered placed on said fund shall receive payments from the date of last payment from said fund, save only in the case of a person to whom payments have been made and then discontinued or suspended because of the rehabilitation of such person in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title, or actual employment for any reason whatsoever, in which case payments from said fund shall be made from the date of filing application for reinstatement.

Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor[.] and Industry. This section shall be applicable to any accident occurring since June twenty-seventh, one thousand nine hundred and twenty-three, insofar as the eligibility of and benefits payable to such employees of this class is concerned; *provided, however,* that nothing contained herein shall limit or deprive those persons now receiving or who have received the benefits under this section from participating in said fund. All payments from the fund herein created shall be made by semi-monthly installment payments. From the fund herein created the Commissioner of Labor and Industry may use in any one fiscal year a sum not to exceed the sum of twelve thousand five hundred dollars ($12,500.00) for the cost of administration of the fund including personnel, printing, professional fees, and expenses incurred by the Commissioner of Labor and Industry in the prosecution of defenses in the [bureau] Division of Workmen's Compensation, and of appeals and proceedings for review of decisions on applications for benefits from said fund. No costs or counsel fee for the applicant shall be allowed against the fund.

The Commissioner of Labor and Industry shall annually submit an accounting of the fund to the State [Comptroller] Treasurer.

All payments into the fund established by section 34:15–95 of the Revised Statutes which may have heretofore been made or required at any time or times are hereby validated and confirmed, notwithstanding that at the time of such payment or payments the fund may have equalled or exceeded the sum of two hundred thousand dollars ($200,000.00).

3. This act shall take effect immediately.

Assembly bill 354 of 1950

STATEMENT

The purpose of this bill is to permit the payment of additional One Per Cent Fund benefits to persons who qualify for benefits from such fund and who have rehabilitated themselves or who are or have been employed to the extent that they have wages or earnings equal or almost equal to or in excess of those received at the time of the accident. The enactment of this proposed legislation will permit the payment of $5.00 per week so that the statute of limitations will not intervene and refers to certain accidents occurring prior to January 1, 1946. The present law has the same effect as to accidents occurring subsequent to January 1, 1946.

Certain technical changes to conform with the reorganization set-up are also made in this bill.

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 354

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1950

By Mr. JONES

Referred to Committee on Labor and Industries

AN ACT relating to workmen's compensation, and amending sections 34:15–94 and 34:15–95 of the Revised Statutes.

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

1. Section 34:15–94 of the Revised Statutes is amended to read as follows:

34:15–94. Each mutual association or stock company writing compensation or employers' liability insurance in this State, and each self-insurer, shall annually, on or before March first in each year, pay to the Commissioner of Labor and Industry a sum equal to one per centum (1%) of the total compensation paid out by such mutual association, stock company or self-insurer during the calendar year next preceding the due date of such payment. Such sum shall be paid by the Commissioner of Labor and Industry to the State Treasurer.

When the total amount of all such payments into the fund, together with the accumulated interest thereon, equals or exceeds one and one-half million dollars ($1,500,000.00), no further contributions to said fund shall be required to be made; but whenever, thereafter, the amount of such sum shall be reduced below one and one-half million dollars ($1,500,000.00) by reason of payments out of such funds pursuant to section 34:15–95 of this Title, then such contributions to such fund shall be resumed forthwith, and shall

continue until such sum shall again amount to one and one-half million dollars ($1,500,000.00), together with accumulated interest thereon.

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

34:15–95. The sums collected under section 34:15–94 of this Title shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor and Industry from which compensation payments in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title shall be made to persons totally disabled, as a result of experiencing a subsequent permanent injury under conditions entitling such persons to compensation therefor, when such persons had previously been permanently and partially disabled from some other cause; *provided, however,* that, notwithstanding the time limit fixed therein, the provisions of paragraph (b) of said section 34:15–12 relative to extension of compensation payments beyond four hundred or four hundred and fifty weeks, as the case may be, shall, with respect to payments from the fund constituted pursuant to the provisions of this section, apply to any accident occurring since June twenty-seventh, one thousand nine hundred and twenty-three, and in no case shall be less than five dollars ($5.00) per week; *provided further, however,* that no person shall be eligible to receive payments from such fund:

(a) If the disability resulting from the injury caused by his last compensable accident in itself and irrespective of any previous condition or disability constitutes total and permanent disability within the meaning of this Title.

(b) If permanent total disability results from the aggravation, activation or acceleration, by the last compensable injury, of a preexisting noncompensable disease or condition.

(c) If the disease or condition existing prior to the last compensable accident is not aggravated or accelerated but is in itself progressive and by reason of such progression subsequent to the last com-

pensable accident renders him totally disabled within the meaning of this Title.

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

Nothing in the provisions of said paragraphs a, b, c and d, however, shall be construed to deny the benefits provided by this section to any person who has been previously disabled by reason of total loss of, or total and permanent loss of use of, a hand or arm or foot or leg or eye, when the total disability is due to the total loss of, or total and permanent loss of use of, two or more of said major members of the body, or to any person who in successive accidents has suffered compensable injuries, each of which, severally, causes permanent partial disability, but which in conjunction result in permanent total disability. Nor shall anything in paragraphs a, b, c and d, aforesaid apply to the case of any person who is now receiving or who has heretofore received payments from such fund.

Upon the approval of an application for benefits, the compensation payable from such fund shall be made from the date when the final payment of compensation by the employer is or was payable for the injury or injuries sustained in the employment wherein the employee became totally and permanently disabled; *provided,* that no payment from such fund shall be made for any period prior to the date of filing of application therefor; *provided, however,* that a person who has received compensation payments from said fund and who is reinstated or ordered placed on said fund shall receive payments from the date of last payment from said fund, save only in the case of a person to whom payments have been made and then discontinued or suspended because of the rehabilitation of such person in accordance with the provisions of paragraph (b) of section 34:15-12 of this Title, or actual employment for any reason whatsoever, in which case payments from said fund shall be made from the date of filing application for reinstatement.

Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor and Industry. This section shall be applicable to any accident occurring since June twenty-seventh, one thousand nine hundred and twenty-three, insofar as the eligibility of and benefits payable to such employees of this class is concerned; *provided, however,* that nothing contained herein shall limit or deprive those persons now receiving or who have received the benefits under this section from participating in said fund. All payments from the fund herein created shall be made by semimonthly installment payments. From the fund herein created the Commissioner of Labor and Industry may use in any one fiscal year a sum not to exceed the sum of twelve thousand five hundred dollars ($12,500.00) for the cost of administration of the fund including personnel, printing, professional fees, and expenses incurred by the Commissioner of Labor and Industry in the prosecution of defenses in the Division of Workmen's Compensation, and of appeals and proceedings for review of decisions on applications for benefits from said fund. No costs or counsel fee for the applicant shall be allowed against the fund.

The Commissioner of Labor and Industry shall annually submit an accounting of the fund to the State Treasurer.

All payments into the fund established by section 34:15–95 of the Revised Statutes which may have heretofore been made or required at any time or times are hereby validated and confirmed, notwithstanding that at the time of such payment or payments the fund may have equalled or exceeded the sum of two hundred thousand dollars ($200,000.00).

3. This act shall take effect immediately.

ASSEMBLY, No. 557

STATE OF NEW JERSEY

INTRODUCED MARCH 15, 1965

By Assemblymen CRABIEL and BATEMAN

Referred to Committee on Labor and Industrial Relations

AN ACT relating to workman's compensation and amending section 34:15–95 of the Revised Statutes.

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

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

34:15–95. The sums collected under section 34:15–94 of this Title shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor and Industry from which compensation payments in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title shall be made to persons totally disabled, as a result of experiencing a subsequent permanent injury under conditions entitling such persons to compensation therefor, when such persons had previously been permanently and partially disabled from some other cause; provided, however, that, notwithstanding the time limit fixed therein, the provisions of paragraph (b) of said section 34:15–12 relative to extension of compensation payments beyond 400 or 450 weeks, as the case may be, shall, with respect to payments from the fund constituted pursuant to the provisions of this section, apply to any accident occurring since June 27, 1923, and in no case shall be less than $5.00 per week; provided further, however, that no person shall be eligible to receive payments from such fund:

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

(a) If the disability resulting from the injury caused by his last compensable accident in itself and irrespective of any previous condition or disability constitutes total and permanent disability within the meaning of this Title.

(b) If permanent total disability results from the aggravation, activation or acceleration, by the last compensable injury, of a pre-existing non-compensable disease or condition.

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

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

Nothing in the provisions of said paragraphs a, b, c and d, however, shall be construed to deny the benefits provided by this section to any person who has been previously disabled by reason of total loss of, or total and permanent loss of use of, a hand or arm or foot or leg or eye, when the total disability is due to the total loss of, or total and permanent loss of use of, 2 or more of said major members of the body, or to any person who in successive accidents has suffered compensable injuries, each of which, severally, causes permanent partial disability, but which in conjunction result in permanent total disability. Nor shall anything in paragraphs a, b, c and d, aforesaid apply to the case of any person who is now receiving or who has heretofore received payments from such fund.

Upon the approval of an application for benefits, the compensation payable from such fund shall be made from the date when the final payment of compensation by the employer is or was payable for the injury or injuries sustained in the employment wherein the employee became totally and permanently disabled; provided, that no payment from such fund shall be made for any period prior to the date of filing of application therefor; provided,

however, that a person who has received compensation payments from said fund and who is reinstated or ordered placed on said fund shall receive payments from the date of last payment from said fund, save only in the case of a person to whom payments have been made and then discontinued or suspended because of the rehabilitation of such person in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title, or actual employment for any reason whatsoever, in which case payments from said fund shall be made from the date of filing application for reinstatement. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor and Industry. This section shall be applicable to any accident occurring since June 27, 1923, insofar as the eligibility of and benefits payable to such employees of this class is concerned; provided, however, that nothing contained herein shall limit or deprive those persons now receiving or who have received the benefits under this section from participating in said fund. All payments from the fund herein created shall be made by *biweekly* [semimonthly] installment payments. From the fund herein created the Commissioner of Labor and Industry may use in any 1 fiscal year a sum not to exceed the sum of $12,500.00 for the cost of administration of the fund including personnel, printing, professional fees, and expenses incurred by the Commissioner of Labor and Industry in the prosecution of defenses in the Division of Workmen's Compensation, and of appeals and proceedings for review of decisions on applications for benefits from said fund. No costs or counsel fee for the applicant shall be allowed against the fund.

The Commissioner of Labor and Industry shall annually submit an accounting of the fund to the State Treasurer.

All payments into the fund established by section 34:15–95 of the Revised Statutes which may have heretofore been made or required at any time or times are hereby validated and confirmed, notwithstanding that at the time of such payment or payments the fund may have equaled or exceeded the sum of $200,000.00.

2. This act shall take effect immediately.

STATEMENT

This bill would provide for the biweekly payment of benefits from the 1% fund in lieu of the semimonthly payments now prescribed by law. This amendment would permit this payroll to be incorporated into the automated operation of the Treasury Department which is set on a biweekly basis instead of being done manually by the fiscal office of the Department of Labor and Industry.