

ASSEMBLY, No. 95

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 21, 1944

By Messrs. CONKLIN and HUHNS

Referred to Committee on Unemployment Compensation

AN ACT concerning unemployment compensation, and amending section 13:21-14 of the Revised Statutes.

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

1 1. Section 43:21-14 of the Revised Statutes is amended to read as fol-
2 lows:

3 43:21-14. (a) In addition to such reports as the executive director may
4 require under the provisions of subsection (g) of section 43:21-11 of this
5 Title, every employer shall file with the commission periodical contribution
6 reports on such forms and at such times as the executive director, with the
7 approval of the commission, shall prescribe, to disclose the employer's liabil-
8 ity for contributions under the provisions of this chapter, and at the time of
9 filing each contribution report shall pay the contributions required by this
10 chapter for the period covered by such report. The commission may require
11 that such reports shall be under oath of the employer. Any employer who
12 shall fail to file any report, required by the commission or the executive
13 director, on or before the last day for the filing thereof shall pay a penalty
14 of one dollar (\$1.00) for each day of delinquency until and including the
15 tenth day following such last day and, for any period of delinquency after
16 such tenth day, a penalty of one dollar (\$1.00) a day or twenty per centum
17 (20%) of the amount of the contributions due and payable by the employer

18 for the period covered by the report, whichever is the lesser. If there be
19 no liability for contributions for the period covered by any contribution re-
20 port or in the case of any report other than a contribution report, the em-
21 ployer or employing unit shall pay a penalty of one dollar (\$1.00) a day for
22 each day of delinquency in filing or fifteen dollars (\$15.00), whichever is the
23 lesser. Any employer who shall fail to pay the contributions due for any
24 period on or before the date they are required by the commission to be paid,
25 shall pay interest at the rate of one per centum (1%) a month on the amount
26 thereof from such date until the date of payment thereof. Upon the written
27 request of any employer or employing unit, filed with the commission on or
28 before the due date of any report or contribution payment, the commission,
29 for good cause shown, may grant, in writing, an extension of time for the
30 filing of such report or the paying of such contribution with interest at the
31 rate of one per centum (1%) a month on the amount thereof; *provided*,
32 no such extension shall exceed thirty days and that no such extension
33 shall postpone payment of any contribution for any period beyond the day
34 preceding the last day for filing tax returns under Title IX of the Federal
35 Social Security Act for the year in which period occurs.

36 (b) The contributions, penalties, and interest due from any employer un-
37 der the provisions of this chapter, from the time they shall be due, shall be
38 a personal debt of the employer to the State of New Jersey, recoverable in
39 any court of competent jurisdiction in an action at law in the name of the
40 State of New Jersey.

41 (c) If any employer shall fail to make any report as required by the
42 rules and regulations of the commission pursuant to the provisions of this
43 chapter, the commission may make an estimate of the liability of such em-
44 ployer from any information it may obtain and, according to such estimate
45 so made, assess such employer for the contributions, penalties, and interest
46 due the State from him, give notice of such assessment to the employer, and
47 make demand upon him for payment.

48 (d) After a report is filed under the provisions of this chapter and the

49 rules and regulations of the commission, the commission shall cause the re-
50 port to be examined and shall make such further audit and investigation as
51 it may deem necessary, and if therefrom there shall be determined that there
52 is a deficiency with respect to the payment of the contributions due from
53 such employer, the commission shall assess the additional contributions, pen-
54 alties, and interest due the State from such employer, give notice of such
55 assessment to the employer, and make demand upon him for payment.

56 (c) As an additional remedy, the commission may issue to the clerk of
57 the Supreme Court of New Jersey a certificate stating the amount of the
58 employer's indebtedness under this chapter and describing the liability, and
59 thereupon the clerk shall immediately enter upon his record of docketed
60 judgments such certificates or an abstract thereof and duly index the same.
61 Such certificate or abstract from the time of such docketing shall have the
62 same force and effect as a judgment obtained in the Supreme Court of New
63 Jersey, and the commission shall have all the remedies and may take all the
64 proceedings for the collection thereof which may be had or taken upon the
65 recovery of such a judgment in an action at law upon contract in said court.
66 Such debt, from the time of the docketing thereof, shall be a lien on and
67 bind the lands, tenements, and hereditaments of the debtor.

68 The clerk of the Supreme Court shall be entitled to receive for docket-
69 ing such certificate fifty cents (\$.50), and for a certified transcript of such
70 docket fifty cents (\$.50). If the amount set forth in said certificate as a debt
71 shall be modified or reversed by any court, the clerk of the Supreme Court
72 shall, when an order of modification or reversal is filed, enter in the margin
73 of the docket opposite the entry of the judgment the word "modified" or
74 "reversed," as the case may be, and the date of such modification or rever-
75 sal.

76 The employer, or any other person having an interest in the property
77 upon which the debt is a lien, may deposit the amount claimed in the certi-
78 ficate with the clerk of the Supreme Court of New Jersey, together with
79 fifty dollars (\$50.00) to cover interest and the costs of court, or in lieu of

80 depositing the amount in cash, may give a bond to the State of New Jersey
81 in double the amount claimed in the certificate, and file the same with the
82 clerk of the Supreme Court. Said bond shall have such surety and shall be
83 approved in the manner now required by section 2:27-369 of the Revised
84 Statutes.

85 After the deposit of said money or the filing of said bond, the employer
86 or any other person having an interest in the said property, may review
87 the legality or validity of the indebtedness or the amount thereof by cer-
88 tiorari, and the said deposit of cash shall be as security for and the bond
89 shall be conditioned to prosecute the certiorari with effect and to pay and
90 satisfy, if the debt be sustained, the amount adjudged by the court and all
91 interest and costs.

92 Upon the deposit of said money or the filing of the said bond with the
93 clerk of the Supreme Court, all proceedings on such judgment shall be
94 stayed until the final determination of the cause, and moneys so de-
95 posited shall be subject to the lien of the indebtedness and costs and
96 interest thereon, and the lands, tenements, and hereditaments of said debtor
97 shall forthwith be discharged from the lien of the State of New Jersey
98 and no execution shall issue against the same by virtue of said judge-
99 ment.

100 (f) If not later than one year after the date on which any contribu-
101 tions or interest thereon became due, an employer who has paid such con-
102 tributions or interest thereon shall make application for an adjustment
103 [thereof] of his own contribution in connection with subsequent contribu-
104 tion payments, or for a refund [thereof] of his own contribution because
105 such adjustment cannot be made, and the commission or executive director
106 shall determine that such contributions or interest or any portion thereof
107 was erroneously collected, such employer shall be allowed to make an adjust-
108 ment thereof, without interest, in connection with subsequent contribution
109 payments by him, or if such adjustment cannot be made the said amount
110 shall be refunded, without interest, from the fund. For like cause and within

111 the same period, adjustment or refund may be so made on the initiative
112 of the commission through the executive director.

113 If not later than two years after the calendar year in which the wages
114 were paid with respect to which refund of contribution is claimed by the
115 employee, the employee shall make application, establishing his right thereto,
116 after the calendar year in which the employment was performed with re-
117 spect to which refund of contribution is claimed, and the commission or execu-
118 tive director shall determine that such contribution or any portion thereof
119 was erroneously collected, the contribution or portion erroneously collected
120 shall be refunded, without interest, from the fund.

121 (g) All interest and penalties collected pursuant to this section shall be
122 paid into the unemployment compensation fund.

1 2. This act shall take effect immediately.

STATEMENT

This amendment to the Unemployment Compensation Law sets up the authority for the refund of erroneous collections of contributions from the employee. It is a companion bill to the act permitting application for a refund by the employee.

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7 approval of the commission, shall prescribe, to disclose the employer's liabil-
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9 filing each contribution report shall pay the contributions required by this
10 chapter for the period covered by such report. The commission may require
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12 shall fail to file any report, required by the commission or the executive
13 director, on or before the last day for the filing thereof shall pay a penalty
14 of one dollar (\$1.00) for each day of delinquency until and including the
15 tenth day following such last day and, for any period of delinquency after
16 such tenth day, a penalty of one dollar (\$1.00) a day or twenty per centum
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18 for the period covered by the report, whichever is the lesser. If there be
19 no liability for contributions for the period covered by any contribution re-
20 port or in the case of any report other than a contribution report, the em-
21 ployer or employing unit shall pay a penalty of one dollar (\$1.00) a day for
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23 lesser. Any employer who shall fail to pay the contributions due for any
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26 thereof from such date until the date of payment thereof. Upon the written
27 request of any employer or employing unit, filed with the commission on or
28 before the due date of any report or contribution payment, the commission,
29 for good cause shown, may grant, in writing, an extension of time for the
30 filing of such report or the paying of such contribution with interest at the
31 rate of one per centum (1%) a month on the amount thereof; *provided*,
32 no such extension shall exceed thirty days and that no such extension
33 shall postpone payment of any contribution for any period beyond the day
34 preceding the last day for filing tax returns under Title IX of the Federal
35 Social Security Act for the year in which period occurs.

36 (b) The contributions, penalties, and interest due from any employer un-
37 der the provisions of this chapter, from the time they shall be due, shall be
38 a personal debt of the employer to the State of New Jersey, recoverable in
39 any court of competent jurisdiction in an action at law in the name of the
40 State of New Jersey.

41 (c) If any employer shall fail to make any report as required by the
42 rules and regulations of the commission pursuant to the provisions of this
43 chapter, the commission may make an estimate of the liability of such em-
44 ployer from any information it may obtain and, according to such estimate
45 so made, assess such employer for the contributions, penalties, and interest
46 due the State from him, give notice of such assessment to the employer, and
47 make demand upon him for payment.

48 (d) After a report is filed under the provisions of this chapter and the
49 rules and regulations of the commission, the commission shall cause the re-
50 port to be examined and shall make such further audit and investigation as
51 it may deem necessary, and if therefrom there shall be determined that there
52 is a deficiency with respect to the payment of the contributions due from
53 such employer, the commission shall assess the additional contributions, pen-
54 alties, and interest due the State from such employer, give notice of such
55 assessment to the employer, and make demand upon him for payment.

56 (e) As an additional remedy, the commission may issue to the clerk of
57 the Supreme Court of New Jersey a certificate stating the amount of the
58 employer's indebtedness under this chapter and describing the liability, and
59 thereupon the clerk shall immediately enter upon his record of docketed
60 judgments such certificates or an abstract thereof and duly index the same.
61 Such certificate or abstract from the time of such docketing shall have the
62 same force and effect as a judgment obtained in the Supreme Court of New
63 Jersey, and the commission shall have all the remedies and may take all the
64 proceedings for the collection thereof which may be had or taken upon the
65 recovery of such a judgment in an action at law upon contract in said court.
66 Such debt, from the time of the docketing thereof, shall be a lien on and
67 bind the lands, tenements, and hereditaments of the debtor.

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90 satisfy, if the debt be sustained, the amount adjudged by the court and all
91 interest and costs.

92 Upon the deposit of said money or the filing of the said bond with the
93 clerk of the Supreme Court, all proceedings on such judgment shall be
94 stayed until the final determination of the cause, and moneys so de-
95 posited shall be subject to the lien of the indebtedness and costs and
96 interest thereon, and the lands, tenements, and hereditaments of said debtor
97 shall nevertheless be discharged from the lien of the State of New Jersey
98 and no execution shall issue against the same by virtue of said judge-
99 ment.

100 (f) If not later than one year after the date on which any contribu-
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102 tributions or interest thereon shall make application for an adjustment
103 of his own contribution in connection with subsequent contribution
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105 justment cannot be made, and the commission or executive director
106 shall determine that such contributions or interest or any portion thereof
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