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.

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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.