

LEGISLATIVE HISTORY OF R.S. 34:13B-1 et seq
(Labor disputes in public utilities)

For general background on this legislation see:

- 974.90 N.J. Governor's Committee on Legislation
P976 Relating to Public Utility Labor Disputes.
1954 Report ... 1954.
- J331 France & Lester.
F81 Compulsory arbitration of utility
disputes in New Jersey and Pennsylvania.
1951.
- J331 MacDonald, Lois.
M13 Compulsory arbitration in New Jersey.
1949.

No previous bills were located.

- L. 1946, Chapter 38 - S91
Introduced January 21 by Proctor
Bill had statement. (copy of original bill with statement enclosed)
- March 12 - Replaced by Senate Committee Substitute (copy enclosed).
March 12 - Committee Substitute amended.
March 18 - Reported in Assembly with Committee amendments (copy of
amendments enclosed).
March 25 - Passed Assembly as amended.
March 25 - Assembly amendment passed Senate.

- L. 1947, Chapter 47 - S323
Introduced April 8 by Mr. Summerill.
Not amended during passage.
No statement on bill.

- L. 1947, Chapter 75 - S333
Introduced April 21 by Mr. Summerill.
Not amended during passage.
No statement on bill.

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- L. 1949, Chapter 308 - 1st Spec. Sess. - S4
Introduced June 6 by Mr. Bodine.
Original bill had statement (copy of original bill with statement enclosed.)
Bill which became law was Senate Committee Substitute for S4.

- L. 1950, Chapter 14 - S248
Introduced March 6 by Mr. Bodine.
Not amended during passage.
Statement on bill:

The object of this bill is to expedite determinations of labor disputes in public utilities. The bill would: clarify a provision of the existing law; repeal the existing preliminary requirement for submission of disputes to public hearing panels, prior to arbitration; and repeal section three of P.L. 1949, C. 308, which provides that the mediation and arbitration laws affecting public utilities become inoperative on and after March 31, 1950.

- L. 1953, Chapter 33 - S30
Introduced January 13 by Mr. Clapp.
Not amended during passage.
No statement on bill.

RS/PC

SENATE, No. 91

STATE OF NEW JERSEY

INTRODUCED JANUARY 21, 1946

By Mr. PROCTOR

Referred to Committee on Judiciary

AN ACT concerning labor disputes involving employees of public utilities; enlarging the powers of the Commissioner of Labor, the duties of the State Board of Mediation, providing for a cooling off period, fact finding and seizure and operation of public utilities by the State.

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

DECLARATION OF POLICY

1 1. It is hereby declared to be the policy of the State that heat, light,
2 transportation, communication, and water are life essentials of the people;
3 that the possibility of labor strife in utilities operating under governmental
4 franchise is a threat to the welfare of the people and jeopardizes its health;
5 that utilities operating under such franchise are clothed with public interest,
6 and the State's regulation of the labor relations affecting such public utilities
7 is necessary in the public interest.

ADDITIONAL POWERS TO STATE BOARD OF MEDIATION

1 2. There is hereby included in the functions of the State Board of
2 Mediation the following responsibilities:

3 (A) The expeditious and orderly settlement of all disputes concern-
4 ing wages, hours, and working conditions growing out of grievances or
5 out of the interpretation or application of the contract of employment

6 or from any other cause between a public utility body, and its employees
7 or their representatives.

8 (B) The avoidance of any interruption in the service of public util-
9 ities by reason of any labor dispute.

1 3. Whenever the State Board of Mediation has reason to believe that a
2 labor dispute exists or is imminent which may lead to substantial interference
3 with the operation of a public utility, the board, in addition to attempting
4 to settle the same by conciliation, shall summon the parties to such dispute
5 before it and conduct a public hearing on the merits of the dispute. At such
6 hearing both parties shall be given full notice and opportunity to be heard,
7 but the failure of either party to appear shall not deprive the board of juris-
8 diction to proceed to a hearing and certification.

1 4. Parties may be heard either in person or by counsel as they may elect,
2 and the board shall give due notice of all hearings to the employee or em-
3 ployees and the public utility or utilities involved in any dispute submitted
4 to it.

1 5. Representatives for the purposes of this act shall be designated by
2 the respective parties without interference, influence, or coercion by either
3 party over the designation of representatives by the other. Representatives
4 of employees for the purpose of this act need not be persons in the employ
5 of the utility.

1 6. At the end of fifteen days after it has commenced a hearing in said
2 dispute, the State Mediation Board shall certify to the Governor either that
3 the dispute has been settled and that the operation of the utility will not be
4 interfered with or that the dispute remains unsettled.

COOLING OFF PERIOD

1 7. In order that the public be protected against the serious hazards of
2 labor strife which may threaten to interrupt public utility operation, and in
3 order that employees may have an opportunity to express themselves free
4 from restraint or coercion, the employees of a public utility or their repre-
5 sentatives of the utility shall serve promptly upon the State Board of Media-

tion a written notice of any such labor dispute together with a statement of the issues giving rise thereto. For not less than forty-five days after such notice so given, the utility shall continue its operations and the employees continue in their employment under all the conditions which prevailed when such dispute arose, and the employer shall not change wages or working conditions except as they may be modified by mutual agreement. On the forty-fifth day after notice given by the representative of the employees, unless such dispute has been settled, the State Board of Mediation shall forthwith take a secret ballot of the employees in the utility bargaining units with respect to which the dispute is applicable, on the question whether they intend to strike and interrupt the operations of the utility. The board shall certify the results of such balloting to the Governor.

8. If any employee or employees of such utility engage in any strike, slow-down, or other form of work stoppage during said forty-five day period, he or they shall cease to be considered an employee or employees of the public utility, shall forfeit his employee status and be barred from any claim for reinstatement and/or back pay, and shall be ineligible to receive any unemployment or other benefits under any laws of the State pertaining to employee relief or benefits.

FACT FINDING

9. Whenever the State Board of Mediation finds:

(a) That there is a labor dispute between a utility operating under a franchise granted by the State of New Jersey, by any subdivision or agency thereof or by any municipality of the State or agency thereof on the one hand and any labor union or organization or representative of employees on the other involving any controversy as to hours, wages, or working conditions, the construction or interpretation of any contract of employment or any other matter which may result in any interruption of service of such utility, in which dispute the State Board of Mediation has been unable to bring the parties to agreement and has

11 been unable to induce the parties voluntarily to submit the controversy
12 to arbitration while continuing the operation of the utility, and

13 (b) that a stoppage of work seriously affecting the public interest
14 has resulted or threatens to result from such dispute; the board shall
15 certify such findings to the Governor. Any such certification of the
16 board shall designate the utility by its corporate or other name, in-
17 volved in such dispute, the groups or units of employees involved in such
18 disputes, and the representative or representatives of such employees.
19 The employers, employees, and representatives so designated shall, for
20 the purposes of this act, be regarded as the parties to the dispute.
21 Whenever a question arises concerning the representation of such em-
22 ployees, the board may ascertain by election or in such other manner as
23 it may determine to be just, the names of the representatives of such
24 employees.

1 10. At any time within two days after the date of such certification by
2 the board, the Governor, in his discretion, may appoint a board to investi-
3 gate such labor dispute and to make a report containing its findings of fact
4 and recommendations with respect to such dispute. Such board shall be com-
5 posed of three or more persons, none of whom has any pecuniary or other
6 private interest in the employers or employees who are parties to the dis-
7 pute. The board shall proceed expeditiously to make a thorough investiga-
8 tion of all facts which it deems relevant to the dispute. The board shall
9 give the parties to the dispute a full and fair hearing, which shall include
10 an opportunity to present evidence in support of their claims and an oppor-
11 tunity to present their case in person, by counsel, or by their representa-
12 tives. Within twenty days after the date of its appointment, the board shall
13 submit to the Governor a report containing its findings of fact and such rec-
14 ommendations concerning the dispute as the board deems appropriate. The
15 time for submitting the report of the board may be extended by agreement
16 of the parties, or their representatives, with the approval of the Governor.

1 11. The board shall be empowered to administer oaths or affirmations, to

2 require the attendance of witnesses and the production of such books, papers,
3 contracts, agreements, documents, and records as in its opinion may be
4 deemed material to its investigation of facts in such labor dispute, and to
5 issue subpoenas requiring such attendance or production.

1 12. In the event of the failure of any person, union, or corporation to
2 comply with such subpoena, or in the event of the contumacy of any wit-
3 ness appearing before the board, the board may invoke the aid of the Court
4 of Chancery to compel witnesses to attend and testify and to produce such
5 books, papers, contracts, agreements to the same intent and under the same
6 conditions and penalties as the Court of Chancery may prescribe in case of
7 contumacy or subpoena issued out of said court. The Court of Chancery is
8 hereby authorized to accept jurisdiction in such matters and to act accord-
9 ingly.

1 13. The board may prescribe or adopt such rules and regulations as it
2 deems necessary to govern its procedures and the exercise of its functions.
3 Each of the members of such board shall receive compensation at such
4 rate, not exceeding one hundred dollars (\$100.00) a day, as may be fixed by
5 the Governor, and shall receive his necessary travel and other expenses in-
6 curred in connection with the work of the board. Such compensation and ex-
7 penses are to be paid as directed by the Governor.

1 14. The board shall employ such stenographic, clerical and other as-
2 sistants and such facilities, services, and supplies as may be necessary to
3 enable the board efficiently to perform its functions. Where a board ap-
4 pointed under the act has made its reports, the board shall be dissolved and
5 its records shall be transferred to the State Board of Mediation.

1 15. During the period following the date on which the board makes a
2 certification to the Governor under the provisions of this act with respect to a
3 labor dispute, and, if a board is appointed hereunder to make an investiga-
4 tion concerning such dispute, during the period beginning when such board is
5 appointed and ending five days after the date on which it submits its
6 report—

7 (a) the parties to such dispute shall continue or resume work and
8 operations under the terms and conditions of employment which were in
9 effect immediately prior to the beginning of such dispute, except that
10 such terms and conditions may be changed by agreement between the
11 parties; and

12 (b) it shall be unlawful for any person to coerce, instigate, induce,
13 conspire with, or encourage any person to interfere with or prevent such
14 work or operations by lock-out, strike, work stoppage, slow down, or
15 otherwise, or to aid any such lock-out or strike or other means of
16 interfering with or preventing such work or operations by giving direc-
17 tion or guidance, or by providing funds for the conduct or direction
18 thereof, or for the payment of strike or other benefits to those participat-
19 ing therein.

SEIZURE

1 16. In view of the emergency created by labor strike, whenever the
2 State Board of Mediation is informed or finds after investigation that there
3 is a threatened interruption of the operation of a public utility as a result of,
4 or in connection with, a labor dispute, and that the public interests, health,
5 and welfare so requires, it may petition the Governor to seize the plant and
6 operate such utility.

1 17. The Governor is hereby authorized upon such certification or when
2 he has reason to believe that the operation of a public utility is threatened
3 or has been interrupted, and the public interests, health, and welfare so
4 requires, to take immediate possession of the plant, equipment, or facility
5 for the use and operation by the State of New Jersey in the public interest.
6 Such power and authority may be exercised by the Governor through such
7 department or agency of the government as he may designate and may be
8 exercised after his investigation and proclamation that there is a threatened
9 or actual interruption of the operation of such public utility as a result of a
10 labor dispute, a threatened or actual strike, or other labor disturbance,
11 and that the public interest, health, and welfare are jeopardized, and that

12 the exercise of such authority is necessary to insure the operation of such
 13 public utility; *provided*, that, whenever such public utility, its plant, equip-
 14 ment, or facility has been or is hereafter so taken by reason of a strike,
 15 lock-out, threatened strike, threatened lock-out, work stoppage, or slow-down,
 16 or other cause, such utility, plant, equipment, or facility shall be returned to
 17 the owners thereof as soon as practicable, but in no event more than sixty
 18 days after the restoration of the productive efficiency thereof prevailing
 19 prior to this taking of possession thereof or sixty days after the settlement
 20 of said labor dispute and the restoration of such productive efficiency, which-
 21 ever period is the shorter.

GENERAL

1 18. It is hereby declared to be illegal for any employee to strike against
 2 the Government of the State of New Jersey or to engage in any form of
 3 work stoppage, slow-down, or in any way to hamper the efficiency of any
 4 public utility or service operated or in the possession of the State of New
 5 Jersey for operation. Any person or person so striking or engaging in any
 6 form of work stoppage, slow-down, or in any way hampering the efficiency of
 7 any public utility or service so operated or in the possession of the State,
 8 shall be ineligible to receive any relief or employee benefits under any act
 9 of the State and shall forfeit his employee status and be barred from any
 10 claim to reinstatement and/or back pay. Any person who instigates any
 11 strike, slow-down, lock-out, or any form of work stoppage, shall forfeit his
 12 right to appear in any proceeding involving labor disputes or acting as a
 13 representative of any utility or employee or group of employees, within
 14 the State of New Jersey for a period of one year from the date of such
 15 instigation.

1 19. The Governor is authorized to prescribe the necessary rules and
 2 regulations to carry out the provisions of this act.

1 20. No member of the board shall be permitted to participate in any
 2 decision in which such member has a direct interest, as an officer, stock-
 3 holder, employee, or representative of either party to the dispute.

1 21. No individual employee shall be required to render labor or service
2 without his consent; nor shall anything in this act be construed to make the
3 quitting of his labor or services by an individual employee an illegal act;
4 nor shall any court issue any process to compel the performance by an in-
5 dividual employee of such labor or service without his consent.

DEFINITIONS

1 22. (a) The term "public utility" shall include autobuses; bridge com-
2 panies; canal companies; electric light, heat and power companies; ferries
3 and steamboats; gas companies; pipeline companies; railroads; sewer com-
4 panies; steam and water power companies; street railways; taxicabs, auto-
5 cabs, and jitneys; telegraph and telephone companies; tunnel companies; wa-
6 ter companies.

7 (b) The term "person" means any individual, firm, copartnership, cor-
8 poration, company, association, or joint stock association; and includes any
9 trustee, receiver, assignee, or personal representative thereof.

10 (c) The term "representative" means any person or persons, labor
11 union, organization, or corporation designated either by a utility or group
12 of utilities or by its or their employees to act or do for them.

13 (d) The term "collective bargaining" shall be understood to embody the
14 philosophy of bargaining by employees through representatives of their
15 own choosing, and shall include the right of representatives of employees'
16 units to be consulted and to bargain upon the exceptional as well as the
17 routine wages, hours, rules, and working conditions.

18 (e) The term "labor dispute" shall involve any controversy between
19 employer and employees as to hours, wages, and working conditions. The
20 fact that employees have amicable relations with their employers shall not
21 preclude the existence of a dispute among them concerning their repre-
22 sentative for collective bargaining purposes.

23 (f) The term "employee" shall refer to anyone in the service of an-
24 other, actually engaged in or connected with the operation of any public
25 utility throughout the State.

SEVERABILITY

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

1 24. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to insure the public uninterrupted use of public utilities considered essential to the public welfare.

Senate 91 (1946)
L. 1946, c. 38

[OFFICIAL COPY REPRINT]

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STATE OF NEW JERSEY

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5 out of the interpretation or application of the contract of employment

6 or from any other cause between a public utility body, and its employees
7 or their representatives.

8 (B) The avoidance of any interruption in the service of public util-
9 ities by reason of any labor dispute.

1 3. Whenever the State Board of Mediation has reason to believe that a
2 labor dispute exists or is imminent which may lead to substantial interference
3 with the operation of a public utility, the board, in addition to attempting
4 to settle the same by conciliation, shall summon the parties to such dispute
5 before it and conduct a public hearing on the merits of the dispute. At such
6 hearing both parties shall be given full notice and opportunity to be heard,
7 but the failure of either party to appear shall not deprive the board of juris-
8 diction to proceed to a hearing and certification.

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3 ployees and the public utility or utilities involved in any dispute submitted
4 to it.

1 5. Representatives for the purposes of this act shall be designated by
2 the respective parties without interference, influence, or coercion by either
3 party over the designation of representatives by the other. Representatives
4 of employees for the purpose of this act need not be persons in the employ
5 of the utility.

1 6. At the end of fifteen days after it has commenced a hearing in said
2 dispute, the State Mediation Board shall certify to the Governor either that
3 the dispute has been settled and that the operation of the utility will not be
4 interfered with or that the dispute remains unsettled.

COOLING OFF PERIOD

1 7. In order that the public be protected against the serious hazards of
2 labor strife which may threaten to interrupt public utility operation, and in
3 order that employees may have an opportunity to express themselves free
4 from restraint or coercion, the employees of a public utility or their repre-
5 sentatives of the utility shall serve promptly upon the State Board of Media-

tion a written notice of any such labor dispute together with a statement of the issues giving rise thereto. For not less than forty-five days after such notice so given, the utility shall continue its operations and the employees continue in their employment under all the conditions which prevailed when such dispute arose, and the employer shall not change wages or working conditions except as they may be modified by mutual agreement. On the forty-fifth day after notice given by the representative of the employees, unless such dispute has been settled, the State Board of Mediation shall forthwith take a secret ballot of the employees in the utility bargaining units with respect to which the dispute is applicable, on the question whether they intend to strike and interrupt the operations of the utility. The board shall certify the results of such balloting to the Governor.

8. If any employee or employees of such utility engage in any strike, slow-down, or other form of work stoppage during said forty-five day period, he or they shall cease to be considered an employee or employees of the public utility, shall forfeit his employee status and be barred from any claim for reinstatement and/or back pay, and shall be ineligible to receive any unemployment or other benefits under any laws of the State pertaining to employee relief or benefits.

FACT FINDING

9. Whenever the State Board of Mediation finds:

(a) That there is a labor dispute between a utility operating under a franchise granted by the State of New Jersey, by any subdivision or agency thereof or by any municipality of the State or agency thereof on the one hand and any labor union or organization or representative of employees on the other involving any controversy as to hours, wages, or working conditions, the construction or interpretation of any contract of employment or any other matter which may result in any interruption of service of such utility, in which dispute the State Board of Mediation has been unable to bring the parties to agreement and has

11 been unable to induce the parties voluntarily to submit the controversy
12 to arbitration while continuing the operation of the utility, and

13 (b) that a stoppage of work seriously affecting the public interest
14 has resulted or threatens to result from such dispute; the board shall
15 certify such findings to the Governor. Any such certification of the
16 board shall designate the utility by its corporate or other name, in-
17 volved in such dispute, the groups or units of employees involved in such
18 disputes, and the representative or representatives of such employees.
19 The employers, employees, and representatives so designated shall, for
20 the purposes of this act, be regarded as the parties to the dispute.
21 Whenever a question arises concerning the representation of such em-
22 ployees, the board may ascertain by election or in such other manner as
23 it may determine to be just, the names of the representatives of such
24 employees.

1 10. At any time within two days after the date of such certification by
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3 gate such labor dispute and to make a report containing its findings of fact
4 and recommendations with respect to such dispute. Such board shall be com-
5 posed of three or more persons, none of whom has any pecuniary or other
6 private interest in the employers or employees who are parties to the dis-
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8 tion of all facts which it deems relevant to the dispute. The board shall
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16 of the parties, or their representatives, with the approval of the Governor.

1 11. The board shall be empowered to administer oaths or affirmations, to

2 require the attendance of witnesses and the production of such books, papers,
3 contracts, agreements, documents, and records as in its opinion may be
4 deemed material to its investigation of facts in such labor dispute, and to
5 issue subpoenas requiring such attendance or production.

1 12. In the event of the failure of any person, union, or corporation to
2 comply with such subpoena, or in the event of the contumacy of any wit-
3 ness appearing before the board, the board may invoke the aid of the Court
4 of Chancery to compel witnesses to attend and testify and to produce such
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5 appointed and ending five days after the date on which it submits its
6 report—

7 (a) the parties to such dispute shall continue or resume work and
8 operations under the terms and conditions of employment which were in
9 effect immediately prior to the beginning of such dispute, except that
10 such terms and conditions may be changed by agreement between the
11 parties; and

12 (b) it shall be unlawful for any person to coerce, instigate, induce,
13 conspire with, or encourage any person to interfere with or prevent such
14 work or operations by lock-out, strike, work stoppage, slow down, or
15 otherwise, or to aid any such lock-out or strike or other means of
16 interfering with or preventing such work or operations by giving direc-
17 tion or guidance, or by providing funds for the conduct or direction
18 thereof, or for the payment of strike or other benefits to those participat-
19 ing therein.

SEIZURE

1 16. In view of the emergency created by labor strike, whenever the
2 State Board of Mediation is informed or finds after investigation that there
3 is a threatened interruption of the operation of a public utility as a result of,
4 or in connection with, a labor dispute, and that the public interests, health,
5 and welfare so requires, it may petition the Governor to seize the plant and
6 operate such utility.

1 17. The Governor is hereby authorized upon such certification or when
2 he has reason to believe that the operation of a public utility is threatened
3 or has been interrupted, and the public interests, health, and welfare so
4 requires, to take immediate possession of the plant, equipment, or facility
5 for the use and operation by the State of New Jersey in the public interest.
6 Such power and authority may be exercised by the Governor through such
7 department or agency of the government as he may designate and may be
8 exercised after his investigation and proclamation that there is a threatened
9 or actual interruption of the operation of such public utility as a result of a
10 labor dispute, a threatened or actual strike, or other labor disturbance,
11 and that the public interest, health, and welfare are jeopardized, and that

12 the exercise of such authority is necessary to insure the operation of such
13 public utility; *provided*, that, whenever such public utility, its plant, equip-
14 ment, or facility has been or is hereafter so taken by reason of a strike,
15 lock-out, threatened strike, threatened lock-out, work stoppage, or slow-down,
16 or other cause, such utility, plant, equipment, or facility shall be returned to
17 the owners thereof as soon as practicable, but in no event more than sixty
18 days after the restoration of the productive efficiency thereof prevailing
19 prior to this taking of possession thereof or sixty days after the settlement
20 of said labor dispute and the restoration of such productive efficiency, which-
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GENERAL

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10 claim to reinstatement and/or back pay. Any person who instigates any
11 strike, slow-down, lock-out, or any form of work stoppage, shall forfeit his
12 right to appear in any proceeding involving labor disputes or acting as a
13 representative of any utility or employee or group of employees, within
14 the State of New Jersey for a period of one year from the date of such
15 instigation.

1 19. The Governor is authorized to prescribe the necessary rules and
2 regulations to carry out the provisions of this act.

1 20. No member of the board shall be permitted to participate in any
2 decision in which such member has a direct interest, as an officer, stock-
3 holder, employee, or representative of either party to the dispute.

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2 without his consent; nor shall anything in this act be construed to make the
3 quitting of his labor or services by an individual employee an illegal act;
4 nor shall any court issue any process to compel the performance by an in-
5 dividual employee of such labor or service without his consent.

DEFINITIONS

1 22. (a) The term "public utility" shall include autobuses; bridge com-
2 panies; canal companies; electric light, heat and power companies; ferries
3 and steamboats; gas companies; pipeline companies; railroads; sewer com-
4 panies; steam and water power companies; street railways; taxicabs, auto-
5 cabs, and jitneys; telegraph and telephone companies; tunnel companies; wa-
6 ter companies.

7 (b) The term "person" means any individual, firm, copartnership, cor-
8 poration, company, association, or joint stock association; and includes any
9 trustee, receiver, assignee, or personal representative thereof.

10 (c) The term "representative" means any person or persons, labor
11 union, organization, or corporation designated either by a utility or group
12 of utilities or by its or their employees to act or do for them.

13 (d) The term "collective bargaining" shall be understood to embody the
14 philosophy of bargaining by employees through representatives of their
15 own choosing, and shall include the right of representatives of employees'
16 units to be consulted and to bargain upon the exceptional as well as the
17 routine wages, hours, rules, and working conditions.

18 (e) The term "labor dispute" shall involve any controversy between
19 employer and employees as to hours, wages, and working conditions. The
20 fact that employees have amicable relations with their employers shall not
21 preclude the existence of a dispute among them concerning their repre-
22 sentative for collective bargaining purposes.

23 (f) The term "employee" shall refer to anyone in the service of an-
24 other, actually engaged in or connected with the operation of any public
25 utility throughout the State.

SEVERABILITY

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

1 24. This act shall take effect immediately.

[SECOND OFFICIAL COPY REPRINT]

COMMITTEE SUBSTITUTE FOR

SENATE, No. 91

STATE OF NEW JERSEY

ADOPTED MARCH 11, 1946

AN ACT concerning labor disputes in public utilities; providing for collective bargaining; enlarging the duties of the State Board of Mediation; and providing for seizure and operation of public utilities by the State.

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

DECLARATION OF POLICY

1 1. It is hereby declared to be the policy of the State that heat, light,
2 power, sanitation, transportation, communication, and water are life essen-
3 tials of the people; that the possibility of labor strife in utilities operating
4 under governmental franchise is a threat to the welfare and health of the
5 people; that utilities operating under such franchise are clothed with public
6 interest, and the State's regulation of the labor relations affecting such pub-
7 lic utilities is necessary in the public interest.

COLLECTIVE BARGAINING

1 2. Employees shall have the right to organize and bargain collectively
2 through representatives of their own choosing. The majority of any craft
3 or class of employees shall have the right to determine who shall be the
4 representative of the craft or class for the purposes of this act. No public
5 utility, its officers or agents, shall deny or in any way question the right of
6 its employees to join, organize or assist in organizing the labor organization
7 of their choice, and it shall be unlawful for any public utility to interfere in
8 any way with the organization of its employees, or to use the funds of the
9 public utility in maintaining or assisting or contributing to any labor organ-
10 ization, labor representative, or other agency of collective bargaining, or in

11 performing any work therefor, or to influence or coerce employees in an
 12 effort to induce them to join or remain or not to join or remain members
 13 of any labor organization; *provided, however*, that it shall not be unlawful
 14 to require as a condition of employment, membership in any labor organ-
 15 ization, not initiated, created or existing as a result of practices declared
 16 unlawful hereby; *provided*, that nothing in this act shall be construed to
 17 prohibit a public utility from permitting an employee, individually, or local
 18 representatives of employees from conferring with management during work-
 19 ing hours without loss of time, or to prohibit a public utility from furnish-
 20 ing free transportation to its employees while engaged in the business of a
 21 labor organization. In the event of a controversy as to who are the repre-
 22 sentatives of any given craft or class of employees of a utility for the pur-
 23 pose of collective bargaining or of a controversy as to which employees of
 24 a utility constitute or are members of a given craft or class and entitled to
 25 vote in an election for the choice of representatives for purposes of collective
 26 bargaining, the State Board of Mediation shall determine such question or
 27 questions and certify its findings to the employees and to the utility. Such
 28 finding of the State Board of Mediation shall be conclusive.

ADDITIONAL POWERS TO STATE BOARD OF MEDIATION

1 3. There is hereby included in the functions of the State Board of
 2 Mediation the following responsibility:

3 (A) The determination of who are the representatives of any given craft
 4 or class of employees of a utility; which employees of a utility constitute or
 5 are members of a given craft or class and entitled to vote in an election for
 6 choice of representatives of such craft or class for purposes of collective
 7 bargaining. It shall be the duty of the State Board of Mediation to recognize
 8 as an appropriate bargaining unit, any craft, group, or class of employees
 9 of a utility, the majority of whom desire to be represented as such class,
 10 craft or group.

CONTRACTS BETWEEN A UTILITY AND ITS EMPLOYEES

1 4. All labor agreements hereafter entered into between the management
2 of a utility and its employees or any craft or class of employees shall be
3 reduced to writing and continue for a period of not less than one year from the
4 date of the actual execution of the agreement. Such agreement shall be pre-
5 sumed to continue in force and effect from year to year after the date fixed
6 for its original termination unless either or both parties thereto inform the
7 other, in writing, of the specific changes desired to be made therein and
8 shall also file a copy of such demands with the State Board of Mediation, at
9 least sixty days before the original termination date or sixty days before the
10 end of any yearly renewal period. The State Board of Mediation shall im-
11 mediately upon receipt of a copy of such demand cause the same to be re-
12 leased to the public press.

1 5. In the case of all existing labor contracts, agreements or under-
2 standings which do not provide for at least a sixty-day notice of desired
3 changes and which contracts, agreements or understandings terminate after
4 seventy days following the effective date of this act, the parties thereto shall
5 nevertheless inform, in writing, the other party or parties of any specific
6 changes desired to be made in said contract, agreement or understanding
7 and file a copy of such desired changes with the State Board of Mediation
8 at least sixty days before the date fixed for the termination of said contract,
9 agreement or understanding, and the State Board of Mediation shall im-
10 mediately upon receipt thereof cause the same to be released to the public
11 press. In the case of labor contracts, agreements or understandings
12 terminating within seventy days after this act shall become effective, the
13 parties thereto shall forthwith, or not later than ten days after the effective
14 date of this act, inform the other party, in writing, of the specific changes
15 desired to be made in said contract, agreement or understanding and
16 promptly file a copy of such demands with the State Board of Mediation,
17 which board shall immediately release the same to the public press.

1 6. Whenever at the time of the passage of this act a labor contract be-
2 tween a utility and its employees has existed and has expired, and where serv-
3 ices are still being performed by the said employees under the terms of said ex-
4 pired contract, the said employees, through their duly elected representatives,
5 if they desire to enter into a contract with the utility or if they desire to seek
6 changes in the terms of wages, hours or working conditions, or if the utility
7 shall desire in any way to effect the terms of wages, working conditions,
8 et cetera, under which employment is now being carried on then and in that
9 case the party desiring such changes shall within ten days after the effective
10 date of this act inform the other party in writing of the specific changes
11 desired to be made in said terms of employment either by contract, in writ-
12 ing, or otherwise, and shall promptly file a copy of such demands with the
13 State Board of Mediation, which board shall immediately release the same to
14 the public press.

1 7. Whenever, after the passage of this act, a situation exists in any util-
2 ity whereby employees are rendering services under terms and conditions
3 which were not at the time of the passage of this act and which have not
4 heretofore been the subject of the contract, and said employees desire to
5 effectuate a change in the terms of employment or a utility desires to effec-
6 tuate a change in said terms of employment then and in that event, it shall
7 be the duty of the party desiring such change to, within ten days after the
8 effective date of this act, inform the other party in writing of the specific
9 changes so desired in the manner in which they are desired, either by writ-
10 ten contract or otherwise and to file a copy of such terms with the State
11 Board of Mediation, which board shall immediately release the same to the
12 public press.

PUBLIC HEARINGS

1 8. In the event that management of a utility and the representatives
2 for collective bargaining purposes of any craft or group of employees of
3 such utility shall not have reached and executed a final agreement in writ-
4 ing as to all conditions of employment affecting such employees on or be-

fore the termination date of any existing contract, agreement or understanding or any renewal thereof, the management of such utility and the representatives of such employees shall, within five days after such termination date, each designate, in writing, a disinterested and impartial person as a Public Hearing Panel member and file such designation with the State Board of Mediation; the two persons so designated shall choose a third disinterested and impartial person and these three shall compose and act as a panel. The panel shall promptly proceed and within fifteen days following their designation hold and complete public hearings on the specific changes so requested, to the contract, agreement or understanding. The panel shall give to each party full notice and opportunity to be heard, but the failure of either party to appear before the panel at the time and place fixed by it shall not deprive the panel of jurisdiction to proceed to a hearing and to make report thereon as herein provided.

9. Parties may be heard either in person or by counsel as they may elect, and the panel shall give due notice of all hearings to the employee or employees or their representatives and the public utility or utilities involved in the labor dispute.

10. Representatives for the purposes of this act shall be designated by the respective parties without interference, influence or coercion by either party over the designation of representatives by the other. Representatives of employees for the purpose of this act need not be persons in the employ of the utility.

11. Within five days after closing such hearings the panel shall file with the Governor, in writing, a report setting forth a statement of the controversy, a resume of the evidence submitted to it and its recommendations based thereon.

12. In the event either management of the utility involved or the representatives of the employees for collective bargaining purposes shall fail or neglect to designate, as hereinbefore provided, such a person to represent it upon the panel or the two so designated shall fail to agree upon the third

5 member of the panel, within ten days after the date fixed for the termina-
6 tion of such contract, agreement or understanding or upon failure to file such
7 designations or any of them with the State Board of Mediation within said
8 ten-day period, the State Board of Mediation shall appoint such person or
9 persons, using the same procedure therefore as it presently uses in the selec-
10 tion of arbitrators. Should both management and the representatives of the
11 employees fail or neglect to designate representatives upon said panel within
12 the time hereinbefore required, then the State Board of Mediation shall ap-
13 point a panel of three disinterested and impartial persons, taken from its reg-
14 ular panel of arbitrators, selected as follows: one to represent management
15 of the utility, giving the management forty-eight hours to select its prefer-
16 ence from a list of five persons submitted by the board to the management be-
17 fore designating such person; one to represent the employees involved, giving
18 their representative forty-eight hours to select their preference from a list of
19 five persons submitted by the board to such representative, before designat-
20 ing such person; and one to act as the impartial third person, selected in ac-
21 cordance with the same procedure as the said board presently uses in the
22 selection of arbitrators.

SEIZURE

1 13. Should either the utility or its employees refuse to accept and abide by
2 the recommendations made pursuant to the provisions of this act and as a re-
3 sult thereof the effective operation of a public utility be threatened or inter-
4 rupted, or should either party in a labor dispute between a utility and its em-
5 ployees, after having given sixty days' notice thereof, or failing to give such
6 notice, engage in any strike, work stoppage or lockout which, in the opinion of
7 the Governor, will result in the failure to continue the operation of the public
8 utility, and threatens the public interest, health and welfare, or in the event that
9 neither side has given notice to the other of an intention to seek a change in
10 working conditions, and there occurs a lockout, strike or work stoppage which,
11 in the opinion of the Governor, threatens to impair the operation of the utility

12 so as to interfere with the public interest, health and welfare. then and in
 13 that case he is authorized to take immediate possession of the plant, equip-
 14 ment or facility for the use and operation by the State of New Jersey in the
 15 public interest. Such power and authority may be exercised by the Governor
 16 through such department or agency of the government as he may designate
 17 and may be exercised after his investigation and proclamation that there is
 18 a threatened or actual interruption of the operation of such public utility as
 19 the result of a labor dispute, a threatened or actual strike, a lockout or other
 20 labor disturbance, and that the public interest, health and welfare are jeop-
 21 ardized, and that the exercise of such authority is necessary to insure the
 22 operation of such public utility; *provided*, that whenever such public utility,
 23 its plant, equipment or facility has been or is hereafter so taken by reason of
 24 a strike, lockout, threatened strike, threatened lockout, work stoppage or
 25 slow-down, or other cause, such utility, plant, equipment or facility shall be
 26 returned to the owners thereof as soon as practicable after the settlement
 27 of said labor dispute.

GENERAL

1 14. The Governor is authorized to prescribe the necessary rules and
 2 regulations to carry out the provisions of this act.

1 15. No employee shall be required to render labor or service without his
 2 consent; nor shall anything in this act be construed to make the quitting of
 3 his labor or services by an individual employee an illegal act; nor shall any
 4 court issue any process to compel the performance by an individual employee
 5 of such labor or service without his consent.

DEFINITIONS

1 16. (a) The term "public utility" shall include autobusses; bridge com-
 2 panies; canal companies; electric light, heat and power companies; ferries
 3 and steamboats; gas companies; pipeline companies; railroads; sewer com-
 4 panies; steam and water power companies; street railways; telegraph and
 5 telephone companies; tunnel companies; water companies.

6 (b) The term "person" means any individual, firm, copartnership, cor-
7 poration, company, association, or joint stock association; and includes any
8 trustee, receiver, assignee, or personal representative thereof.

9 (c) The term "representative" means any person or persons, labor
10 union, organization, or corporation designated either by a utility or group
11 of utilities or by its or their employees to act or do for them.

12 (d) The term "collective bargaining" shall be understood to embody
13 the philosophy of bargaining by employees through representatives of their
14 own choosing, and shall include the right of representatives of employees'
15 units to be consulted and to bargain upon the exceptional as well as the
16 routine wages, hours, rules, and working conditions.

17 (e) The term "labor dispute" shall involve any controversy between
18 employer and employees as to hours, wages, and working conditions. The
19 fact that employees have amicable relations with their employers shall not
20 preclude the existence of a dispute among them concerning their representa-
21 tive for collective bargaining purposes.

22 (f) The term "employee" shall refer to anyone in the service of another,
23 actually engaged in or connected with the operation of any public utility
24 throughout the State.

SEVERABILITY

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

1 18. This act shall take effect immediately.

[OFFICIAL COPY REPRINT]

ASSEMBLY COMMITTEE AMENDMENTS TO
COMMITTEE SUBSTITUTE FOR
SENATE, No. 91

STATE OF NEW JERSEY

ADOPTED MARCH 18, 1946

On page 3, section 4, line 4, strike out the words "the actual execution of the agreement" and substitute the following: "the expiration of the previous agreement entered into between the management of the utility and its employees or if there has been no such previous agreement then for a period of not less than one year from the date of the actual execution of the agreement".

On page 4, section 7, lines 7 and 8, strike out the words "to, then ten days after the effective date of this act" and substitute the following: "not less than sixty days prior to the desired effective date thereof, to".

On page 3, section 4, strike out the last sentence beginning in the middle of line 10.

On page 3, section 5, lines 9, 10 and 11, change the comma after the word "understanding" to a period, and strike out the remainder of the sentence to and including the word "press" in line 11.

On page 3, section 5, change the comma at the end of line 16 to a period and strike out all of line 17.

On page 4, section 6, change the comma in line 13 to a period and strike out the remainder of the section.

On page 4, section 7, change the comma in line 11 to a period and strike out the remainder of the section.

On page 5, section 8, line 6, following the word "thereof" insert the following: "or unless the parties shall have, before said date, agreed to submit any and all disputes between them to arbitration".

On page 5, section 8, line 8, strike out the words "disinterested and impartial".

On page 5, section 8, line 14, before the words "The Panel", insert a new sentence to read as follows: "Said period of fifteen days may be extended by the mutual written consent of the parties".

On page 6, section 12, line 13, strike out the words "disinterested and impartial".

[THIRD OFFICIAL COPY REPRINT]

COMMITTEE SUBSTITUTE FOR

SENATE, No. 91

STATE OF NEW JERSEY

ADOPTED MARCH 11, 1946

AN ACT concerning labor disputes in public utilities; providing for collective bargaining; enlarging the duties of the State Board of Mediation; and providing for seizure and operation of public utilities by the State.

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

DECLARATION OF POLICY

1 1. It is hereby declared to be the policy of the State that heat, light,
2 power, sanitation, transportation, communication, and water are life essen-
3 tials of the people; that the possibility of labor strife in utilities operating
4 under governmental franchise is a threat to the welfare and health of the
5 people; that utilities operating under such franchise are clothed with public
6 interest, and the State's regulation of the labor relations affecting such pub-
7 lic utilities is necessary in the public interest.

COLLECTIVE BARGAINING

1 2. Employees shall have the right to organize and bargain collectively
2 through representatives of their own choosing. The majority of any craft
3 or class of employees shall have the right to determine who shall be the
4 representative of the craft or class for the purposes of this act. No public
5 utility, its officers or agents, shall deny or in any way question the right of
6 its employees to join, organize or assist in organizing the labor organization
7 of their choice, and it shall be unlawful for any public utility to interfere in
8 any way with the organization of its employees, or to use the funds of the
9 public utility in maintaining or assisting or contributing to any labor organ-

10 ization, labor representative, or other agency of collective bargaining, or in
 11 performing any work therefor, or to influence or coerce employees in an
 12 effort to induce them to join or remain or not to join or remain members
 13 of any labor organization; *provided, however*, that it shall not be unlawful
 14 to require as a condition of employment, membership in any labor organ-
 15 ization, not initiated, created or existing as a result of practices declared
 16 unlawful hereby; *provided*, that nothing in this act shall be construed to
 17 prohibit a public utility from permitting an employee, individually, or local
 18 representatives of employees from conferring with management during work-
 19 ing hours without loss of time, or to prohibit a public utility from furnish-
 20 ing free transportation to its employees while engaged in the business of a
 21 labor organization. In the event of a controversy as to who are the repre-
 22 sentatives of any given craft or class of employees of a utility for the pur-
 23 pose of collective bargaining or of a controversy as to which employees of
 24 a utility constitute or are members of a given craft or class and entitled to
 25 vote in an election for the choice of representatives for purposes of collective
 26 bargaining, the State Board of Mediation shall determine such question or
 27 questions and certify its findings to the employees and to the utility. Such
 28 finding of the State Board of Mediation shall be conclusive.

ADDITIONAL POWERS TO STATE BOARD OF MEDIATION

1 3. There is hereby included in the functions of the State Board of
 2 Mediation the following responsibility:

3 (A) The determination of who are the representatives of any given craft
 4 or class of employees of a utility; which employees of a utility constitute or
 5 are members of a given craft or class and entitled to vote in an election for
 6 choice of representatives of such craft or class for purposes of collective
 7 bargaining. It shall be the duty of the State Board of Mediation to recognize
 8 as an appropriate bargaining unit, any craft, group, or class of employees
 9 of a utility, the majority of whom desire to be represented as such class,
 10 craft or group.

CONTRACTS BETWEEN A UTILITY AND ITS EMPLOYEES

1 4. All labor agreements hereafter entered into between the management
2 of a utility and its employees or any craft or class of employees shall be
3 reduced to writing and continue for a period of not less than one year from the
4 date of the expiration of the previous agreement entered into between the
5 management of the utility and its employees or if there has been no such
6 previous agreement then for a period of not less than one year from the
7 date of the actual execution of the agreement. Such agreement shall be pre-
8 sumed to continue in force and effect from year to year after the date fixed
9 for its original termination unless either or both parties thereto inform the
10 other, in writing, of the specific changes desired to be made therein and
11 shall also file a copy of such demands with the State Board of Mediation, at
12 least sixty days before the original termination date or sixty days before the
13 end of any yearly renewal period.

1 5. In the case of all existing labor contracts, agreements or under-
2 standings which do not provide for at least a sixty-day notice of desired
3 changes and which contracts, agreements or understandings terminate after
4 seventy days following the effective date of this act, the parties thereto shall
5 nevertheless inform, in writing, the other party or parties of any specific
6 changes desired to be made in said contract, agreement or understanding
7 and file a copy of such desired changes with the State Board of Mediation
8 at least sixty days before the date fixed for the termination of said contract,
9 agreement or understanding. In the case of labor contracts, agreements or
10 understandings terminating within seventy days after this act shall become
11 effective, the parties thereto shall forthwith, or not later than ten days after
12 the effective date of this act, inform the other party, in writing, of the
13 specific changes desired to be made in said contract, agreement or under-
14 standing and promptly file a copy of such demands with the State Board of
15 Mediation.

1 6. Whenever at the time of the passage of this act a labor contract be-
2 tween a utility and its employees has existed and has expired, and where serv-
3 ices are still being performed by the said employees under the terms of said ex-
4 pired contract, the said employees, through their duly elected representatives,
5 if they desire to enter into a contract with the utility or if they desire to seek
6 changes in the terms of wages, hours or working conditions, or if the utility
7 shall desire in any way to effect the terms of wages, working conditions,
8 et cetera, under which employment is now being carried on then and in that
9 case the party desiring such changes shall within ten days after the effective
10 date of this act inform the other party in writing of the specific changes
11 desired to be made in said terms of employment either by contract, in writ-
12 ing, or otherwise, and shall promptly file a copy of such demands with the
13 State Board of Mediation.

1 7. Whenever, after the passage of this act, a situation exists in any util-
2 ity whereby employees are rendering services under terms and conditions
3 which were not at the time of the passage of this act and which have not
4 heretofore been the subject of the contract, and said employees desire to
5 effectuate a change in the terms of employment or a utility desires to effec-
6 tuate a change in said terms of employment then and in that event, it shall
7 be the duty of the party desiring such change, not less than sixty days prior
8 to the desired effective date thereof, to inform the other party in writing of
9 the specific changes so desired in the manner in which they are desired,
10 either by written contract or otherwise and to file a copy of such terms with
11 the State Board of Mediation.

PUBLIC HEARINGS

1 8. In the event that management of a utility and the representatives
2 for collective bargaining purposes of any craft or group of employees of
3 such utility shall not have reached and executed a final agreement in writ-
4 ing as to all conditions of employment affecting such employees on or be-
5 fore the termination date of any existing contract, agreement or understand-
6 ing or any renewal thereof, or unless the parties shall have, before said

7 date, agreed to submit any and all disputes between them to arbitration, the
8 management of such utility and the representatives of such employees shall,
9 within five days after such termination date, each designate, in writing, a
10 person as a Public Hearing Panel member and file such designation with the
11 State Board of Mediation; the two persons so designated shall choose a third
12 disinterested and impartial person and these three shall compose and act as
13 a panel. The panel shall promptly proceed and within fifteen days following
14 their designation hold and complete public hearings on the specific changes
15 so requested, to the contract, agreement or understanding. Said period of
16 fifteen days may be extended by the mutual written consent of the parties.
17 The panel shall give to each party full notice and opportunity to be heard,
18 but the failure of either party to appear before the panel at the time and
19 place fixed by it shall not deprive the panel of jurisdiction to proceed to a
20 hearing and to make report thereon as herein provided.

1 9. Parties may be heard either in person or by counsel as they may elect,
2 and the panel shall give due notice of all hearings to the employee or em-
3 ployees or their representatives and the public utility or utilities involved
4 in the labor dispute.

1 10. Representatives for the purposes of this act shall be designated by
2 the respective parties without interference, influence or coercion by either
3 party over the designation of representatives by the other. Representatives
4 of employees for the purpose of this act need not be persons in the employ
5 of the utility.

1 11. Within five days after closing such hearings the panel shall file with
2 the Governor, in writing, a report setting forth a statement of the contro-
3 versy, a resume of the evidence submitted to it and its recommendations
4 based thereon.

1 12. In the event either management of the utility involved or the repre-
2 sentatives of the employees for collective bargaining purposes shall fail or
3 neglect to designate, as hereinbefore provided, such a person to represent
4 it upon the panel or the two so designated shall fail to agree upon the third

5 member of the panel, within ten days after the date fixed for the termina-
6 tion of such contract, agreement or understanding or upon failure to file such
7 designations or any of them with the State Board of Mediation within said
8 ten-day period, the State Board of Mediation shall appoint such person or
9 persons, using the same procedure therefore as it presently uses in the selec-
10 tion of arbitrators. Should both management and the representatives of the
11 employees fail or neglect to designate representatives upon said panel within
12 the time hereinbefore required, then the State Board of Mediation shall ap-
13 point a panel of three persons, taken from its regular panel of
14 arbitrators, selected as follows: one to represent management of the
15 utility, giving the management forty-eight hours to select its prefer-
16 ence from a list of five persons submitted by the board to the management be-
17 fore designating such person; one to represent the employees involved, giving
18 their representative forty-eight hours to select their preference from a list of
19 five persons submitted by the board to such representative, before designat-
20 ing such person; and one to act as the impartial third person, selected in ac-
21 cordance with the same procedure as the said board presently uses in the
22 selection of arbitrators.

SEIZURE

1 13. Should either the utility or its employees refuse to accept and abide by
2 the recommendations made pursuant to the provisions of this act and as a re-
3 sult thereof the effective operation of a public utility be threatened or inter-
4 rupted, or should either party in a labor dispute between a utility and its em-
5 ployees, after having given sixty days' notice thereof, or failing to give such
6 notice, engage in any strike, work stoppage or lockout which, in the opinion of
7 the Governor, will result in the failure to continue the operation of the public
8 utility, and threatens the public interest, health and welfare, or in the event that
9 neither side has given notice to the other of an intention to seek a change in
10 working conditions, and there occurs a lockout, strike or work stoppage which,
11 in the opinion of the Governor, threatens to impair the operation of the utility
12 so as to interfere with the public interest, health and welfare, then and in

13 that case he is authorized to take immediate possession of the plant, equip-
 14 ment or facility for the use and operation by the State of New Jersey in the
 15 public interest. Such power and authority may be exercised by the Governor
 16 through such department or agency of the government as he may designate
 17 and may be exercised after his investigation and proclamation that there is
 18 a threatened or actual interruption of the operation of such public utility as
 19 the result of a labor dispute, a threatened or actual strike, a lockout or other
 20 labor disturbance, and that the public interest, health and welfare are jeop-
 21 ardized, and that the exercise of such authority is necessary to insure the
 22 operation of such public utility; *provided*, that whenever such public utility,
 23 its plant, equipment or facility has been or is hereafter so taken by reason of
 24 a strike, lockout, threatened strike, threatened lockout, work stoppage or
 25 slow-down, or other cause, such utility, plant, equipment or facility shall be
 26 returned to the owners thereof as soon as practicable after the settlement
 27 of said labor dispute.

GENERAL

1 14. The Governor is authorized to prescribe the necessary rules and
 2 regulations to carry out the provisions of this act.

1 15. No employee shall be required to render labor or service without his
 2 consent; nor shall anything in this act be construed to make the quitting of
 3 his labor or services by an individual employee an illegal act; nor shall any
 4 court issue any process to compel the performance by an individual employee
 5 of such labor or service without his consent.

DEFINITIONS

1 16. (a) The term "public utility" shall include autobusses; bridge com-
 2 panies; canal companies; electric light, heat and power companies; ferries
 3 and steamboats; gas companies; pipeline companies; railroads; sewer com-
 4 panies; steam and water power companies; street railways; telegraph and
 5 telephone companies; tunnel companies; water companies.

6 (b) The term "person" means any individual, firm, copartnership, cor-
7 poration, company, association, or joint stock association; and includes any
8 trustee, receiver, assignee, or personal representative thereof.

9 (c) The term "representative" means any person or persons, labor
10 union, organization, or corporation designated either by a utility or group
11 of utilities or by its or their employees to act or do for them.

12 (d) The term "collective bargaining" shall be understood to embody
13 the philosophy of bargaining by employees through representatives of their
14 own choosing, and shall include the right of representatives of employees'
15 units to be consulted and to bargain upon the exceptional as well as the
16 routine wages, hours, rules, and working conditions.

17 (e) The term "labor dispute" shall involve any controversy between
18 employer and employees as to hours, wages, and working conditions. The
19 fact that employees have amicable relations with their employers shall not
20 preclude the existence of a dispute among them concerning their representa-
21 tive for collective bargaining purposes.

22 (f) The term "employee" shall refer to anyone in the service of another,
23 actually engaged in or connected with the operation of any public utility
24 throughout the State.

SEVERABILITY

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

1 18. This act shall take effect immediately.

FIRST SPECIAL SESSION

SENATE, No. 4

STATE OF NEW JERSEY

INTRODUCED JUNE 6, 1949

By Mr. BODINE

(Without Reference)

AN ACT to amend "An act to amend the title of 'An act concerning labor disputes in public utilities; providing for collective bargaining; enlarging the duties of the State Board of Mediation; and providing for seizure and operation of public utilities by the State,' approved March twenty-sixth, one thousand nine hundred and forty-six (P. L. 1946, c. 38), so that the same shall read 'An act concerning labor disputes in public utilities; providing for collective bargaining; enlarging the duties of the State Board of Mediation; providing for seizure and operation of public utilities by the State; prohibiting certain acts for the duration of such seizure and operation; providing for compulsory arbitration of labor disputes in public utilities; providing penalties and injunctive relief for the violation thereof; and providing for declaratory and other relief with respect thereto,' and to supplement the body of said act," approved the ninth day of April, one thousand nine hundred and forty-seven (P. L. 1947, c. 47), as said title was amended by chapter seventy-five of the laws of one thousand nine hundred and forty-seven.

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

1 1. Section six of the act of which this act is amendatory is amended to
2 read as follows:

3 6. It shall be the duty of the Board of Arbitration to make written find-
4 ings of fact and to promulgate a written decision and order upon the issue or
5 issues presented in each case. The board shall not render findings of fact,
6 decision or order upon any issue or issues which are not proper subjects for
7 collective bargaining for the reason that they do not pertain to wages, hours
8 or conditions of employment. In making its findings, decision and order, the
9 board shall consider only, and be bound only, by the evidence in the record in
10 the dispute in question, but shall not be bound by the strict rules of evidence
11 applicable in courts of law. When a valid contract is in effect defining the
12 rights, duties and liabilities of the parties with respect to any matter in
13 dispute, the board shall have power only to determine the proper interpreta-
14 tion and application of the contract provisions which are involved. Where
15 there is no contract between the parties, or where there is a contract but the
16 parties have begun negotiations, looking to a new contract or amendment of
17 the existing contract, and wages or other conditions of employment under
18 the proposed new or amended contract are in dispute, the board shall estab-
19 lish rates of pay and conditions of employment for the employees involved
20 in the dispute which, on the basis of the evidence in the record in the
21 dispute, are just and reasonable.

22 In making its findings of fact, decision and order, the board shall con-
23 sider and give weight to:

24 (a) The effect of any proposed finding, decision or order upon the public.

25 (b) The need, in the public interest, of continuing the operation of the

26 public utility. And

27 (c) All factors which are relevant in the determination of wages, hours
28 and working conditions through voluntary collective bargaining or arbitra-
29 tion.

30 Such findings, decision and order shall be made within thirty days after
31 submission of the matters in dispute or within such additional period as may
32 be agreed upon by a majority of the members of such board. The findings,
33 decision and order of such board shall forthwith be filed by such board with
34 the Governor, and a copy of such findings, decision and order shall be sub-
35 mitted to each of the parties to the dispute and another copy thereof filed with
36 the State Board of Mediation.

1 2. This act shall take effect immediately.

STATEMENT

By chapter 38 of the Laws of 1946, it was declared to be the public policy of the State that heat, light, power, sanitation, transportation, communication, and water are life essentials of the people, and that the possibility of labor strife in utilities operating under governmental franchise constitutes a threat to the welfare and health of the people thereby making regulation of labor relations affecting such public utilities necessary in the public interest. By the said Chapter 38 as supplemented by Chapter 47 of the Laws of 1947, a procedure was provided for resolving disputes arising in such utilities.

The Supreme Court of New Jersey upon an opinion delivered by Chief Justice Vanderbilt recently stated that these legislative enactments "concern the rights of substantially every member of the public to a means of communication upon which he has long been accustomed to rely, not to mention various modes of transportation and light, heat and power, which in the industrial, densely populated areas as well as in the rural sectors directly and immediately affect the well-being and life of the individual and the whole of the community." The Supreme Court held however, that the present provisions of the law do not lay down sufficient standards to guide the Board of Arbitration in making its findings and determination.

The present bill amends section 6 of Chapter 47 of the Laws of 1947 so as to provide standards to guide a Board of Arbitration in making a finding or determination under the act. This amendment does not involve any change whatsoever in legislative policy which has recognized the need for machinery for resolving labor disputes in such essential utility fields. The bill provides for certain things which, it had been generally considered, were included in the legislation by necessary implication. It simply provides for a course of conduct and procedure by the Board of Arbitration, which from the very beginning, it was intended to be pursued.

FIRST SPECIAL SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 4

STATE OF NEW JERSEY

ADOPTED JUNE 9, 1949

AN Act concerning labor disputes in public utilities, supplementing "An act concerning labor disputes in public utilities; providing for collective bargaining; enlarging the duties of the State Board of Mediation; providing for seizure and operation of public utilities by the State; prohibiting certain acts for the duration of such seizure and operation; providing for compulsory arbitration of labor disputes in public utilities; providing penalties and injunctive relief for the violation thereof; and providing for declaratory and other relief with respect thereof," approved March twenty-sixth, one thousand nine hundred and forty-six (P. L. 1946, c. 38), as the title of said act was amended by chapter seventy-five of the laws of one thousand nine hundred and forty-seven, and repealing section six of chapter forty-seven of the laws of one thousand nine hundred and forty-seven.

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

1 1. (a) It shall be the duty of each board of arbitration appointed pur-
2 suant to chapter forty-seven of the laws of one thousand nine hundred and
3 forty-seven to make written findings of fact and to promulgate a written
4 decision and order upon the issue or issues presented in each case and on
5 the basis of the evidence in the record; *provided, however,* that such issue
6 or issues shall have been in dispute between the parties; *and provided*
7 *further,* that the board shall not render findings of fact, decision or order
8 upon any issue or issues which are not proper subjects for collective bar-

9 gaining for the reason that they do not pertain to wages, hours or conditions
10 of employment.

11 (b) Where there is no contract between the parties, or where there is a
12 contract but the parties are negotiating a new contract or amendments to the
13 existing contract, and issues arise which are the subject of dispute between
14 the parties in such negotiations, the board shall make a just and reasonable
15 determination of the dispute, and in determining such issues, base its find-
16 ings of fact, decision and order upon the following factors:

17 (1) The interests and welfare of the public.

18 (2) Comparison of the wages, hours and conditions of employment
19 of the employees involved in the arbitration proceedings, and the wages,
20 hours and conditions of employment of employees doing the same, similar
21 or comparable work or work requiring the same, similar or comparable
22 skills and expenditure of energy and effort, giving consideration to such
23 factors as are peculiar to the industry involved.

24 (3) Comparison of wages, hours and conditions of employment as
25 reflected in industries in general and in public utilities in particular
26 throughout the nation and in the State of New Jersey.

27 (4) The security and tenure of employment with due regard for the
28 effect of technological changes thereon as well as the effect of any unique
29 skills and attributes developed in the industry.

30 (5) Such other factors not confined to the foregoing which are
31 normally or traditionally taken into consideration in the determination of
32 wages, hours and conditions of employment through voluntary collective
33 bargaining, arbitration or otherwise between the parties or in the
34 industry.

35 (c) The board shall not be bound by the strict rules of evidence ap-
36 plicable in a court of law.

37 (d) The findings of fact, decision and order of the board shall be made
38 within thirty days after submission of the issues in dispute or within such
39 additional period as may be agreed upon by a majority of the members of

40 such board. The findings of fact, decision and order of such board shall
41 forthwith be filed by such board with the Governor, and a copy of such find-
42 ings of fact, decision and order shall be submitted to each of the parties to
43 the dispute and another copy thereof filed with the State Board of Mediation.

1 2. Secion six of chapter forty-seven of the laws of one thousand nine
2 hundred and forty-seven is repealed.

1 3. The provisions of this act, and the provisions of chapter thirty-eight
2 of the laws of one thousand nine hundred and forty-six, and the provisions
3 of chapters forty-seven and seventy-five of the laws of one thousand
4 nine hundred and forty-seven, shall become inoperative on and after the
5 thirty-first day of March, one thousand nine hundred and fifty.

1 4. This act shall take effect immediately.

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FIRST SPECIAL SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 4

STATE OF NEW JERSEY

ADOPTED JUNE 9, 1949

AN ACT concerning labor disputes in public utilities, supplementing "An act concerning labor disputes in public utilities; providing for collective bargaining; enlarging the duties of the State Board of Mediation; providing for seizure and operation of public utilities by the State; prohibiting certain acts for the duration of such seizure and operation; providing for compulsory arbitration of labor disputes in public utilities; providing penalties and injunctive relief for the violation thereof; and providing for declaratory and other relief with respect thereof," approved March twenty-sixth, one thousand nine hundred and forty-six (P. L. 1946, c. 38), as the title of said act was amended by chapter seventy-five of the laws of one thousand nine hundred and forty-seven, and repealing section six of chapter forty-seven of the laws of one thousand nine hundred and forty-seven.

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

1 1. (a) It shall be the duty of each board of arbitration appointed pur-
2 suant to chapter forty-seven of the laws of one thousand nine hundred and
3 forty-seven to make written findings of fact and to promulgate a written
4 decision and order upon the issue or issues presented in each case and on
5 the basis of the evidence in the record; *provided, however,* that such issue
6 or issues shall have been in dispute between the parties; *and provided*
7 *further,* that the board shall not render findings of fact, decision or order
8 upon any issue or issues which are not proper subjects for collective bar-

9 gaining for the reason that they do not pertain to wages, hours or conditions
10 of employment.

11 (b) Where there is no contract between the parties, or where there is a
12 contract but the parties are negotiating a new contract or amendments to the
13 existing contract, and issues arise which are the subject of dispute between
14 the parties in such negotiations, the board shall make a just and reasonable
15 determination of the dispute, and in determining such issues, base its find-
16 ings of fact, decision and order upon the following factors:

17 (1) The interests and welfare of the public.

18 (2) Comparison of the wages, hours and conditions of employment
19 of the employees involved in the arbitration proceedings, and the wages,
20 hours and conditions of employment of employees doing the same, similar
21 or comparable work or work requiring the same, similar or comparable
22 skills and expenditure of energy and effort, giving consideration to such
23 factors as are peculiar to the industry involved.

24 (3) Comparison of wages, hours and conditions of employment as
25 reflected in industries in general and in public utilities in particular
26 throughout the nation and in the State of New Jersey.

27 (4) The security and tenure of employment with due regard for the
28 effect of technological changes thereon as well as the effect of any unique
29 skills and attributes developed in the industry.

30 (5) Such other factors not confined to the foregoing which are
31 normally or traditionally taken into consideration in the determination of
32 wages, hours and conditions of employment through voluntary collective
33 bargaining, arbitration or otherwise between the parties or in the
34 industry.

35 (c) The board shall not be bound by the strict rules of evidence ap-
36 plicable in a court of law.

37 (d) The findings of fact, decision and order of the board shall be made
38 within thirty days after submission of the issues in dispute or within such
39 additional period as may be agreed upon by a majority of the members of

40 such board. The findings of fact, decision and order of such board shall
41 forthwith be filed by such board with the Governor, and a copy of such find-
42 ings of fact, decision and order shall be submitted to each of the parties to
43 the dispute and another copy thereof filed with the State Board of Mediation.

1 2. Section six of chapter forty-seven of the laws of one thousand nine
2 hundred and forty-seven is repealed.

1 3. The provisions of this act, and the provisions of chapter thirty-eight
2 of the laws of one thousand nine hundred and forty-six, and the provisions
3 of chapters forty-seven and seventy-five of the laws of one thousand
4 nine hundred and forty-seven, shall become inoperative on and after the
5 thirty-first day of March, one thousand nine hundred and fifty.

1 4. This act shall take effect immediately.

SENATE, No. 30

STATE OF NEW JERSEY

INTRODUCED JANUARY 13, 1953

By Mr. CLAPP

Referred to Committee on Revision and Amendment of Laws

AN ACT concerning labor and workmen's compensation, and revising parts of the
statutory law.

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

1 1. Section 34:1-70 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:1-70. Except as otherwise in this Title specifically provided, a proceed-
4 ing for the recovery of a penalty for the violation of any provision of this
5 Title shall be by a civil action in the name of the commissioner, to be
6 instituted in the county district court of the county, or a municipal court of
7 the municipality, where the offense was committed.

8 If a corporation violates the provisions of this Title and if, according
9 to the practice of the court in which the action is brought, service of process
10 cannot be made upon it in the county where the offense was committed, then
11, such service may be made upon the manager, superintendent, foreman or per-
12 son in charge of the business where such offense was committed. If an indi-
13 vidual violating the provisions of this Title is the owner or operator of the
14 business wherein the offense was committed, and if he does not reside in the
15 county where such offense was committed, service of process against him may
16 be made upon the manager, superintendent, foreman or person in charge of
17 the business. If an individual is committed under execution against his
18 body, he shall not be discharged under the insolvent debtors law of the State,

19 but shall only be discharged by the court issuing the execution, or by the
20 Superior Court, when it is satisfied that further confinement will not result
21 in the payment of the judgment and costs.

1 2. Section 34:3-21 of the Revised Statutes is hereby repealed.

1 3. Section 34:3-22 of the Revised Statutes is hereby repealed.

1 4. Section three of chapter two hundred seventy-four of the laws of one
2 thousand nine hundred and forty-nine is amended to read as follows:

3 3. Any person who shall violate any of the provisions of this act shall be
4 liable to a penalty of not less than ten dollars (\$10.00) nor more than two
5 hundred dollars (\$200.00) in the discretion of the court. The penalties herein
6 provided for shall be sued for and recovered by, and in the name of, the
7 Commissioner of Labor and Industry, in summary proceedings pursuant to
8 the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.), in the county district
9 court or municipal court of the county or municipality, where the offense was
10 committed.

1 5. Section 34:4-5 of the Revised Statutes is amended to read as follows:

2 34:4-5. All proceedings brought under the provisions of this chapter
3 shall be by a civil action in the name of the commissioner or building in-
4 spector, to be instituted in any county district court of the county, or munici-
5 pal court of the municipality, where the offense occurs.

1 6. Section 34:4-6 of the Revised Statutes is amended to read as follows:

2 34:4-6. Service shall be made on the owner or owners, person or persons
3 or any of them, owning the place or operating the business wherein the
4 offense is committed, if he or they reside in the county where such offense is
5 committed; and if he or they do not reside therein, then on the superintend-
6 ent, foreman or person in charge of such business or place, or in case of a
7 building, upon the agent in charge of the building, or if there be no such
8 agent, by affixing a copy thereof to the main outer door of such building.

9 If a corporation commits an offense and no officer or director thereof re-
10 sides in the county where such offense is committed, service may be made
11 upon the superintendent, foreman or person in charge of the business or
12 place where the offense was committed.

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7. Section 34:4-7 of the Revised Statutes is hereby repealed.

8. Section 34:4-8 of the Revised Statutes is hereby repealed.

9. Section 34:5-162 of the Revised Statutes is amended to read as follows:

34:5-162. The county district court of the county, and the municipal court in a municipality, where a violation of any of the provisions of this chapter shall be committed, shall have jurisdiction to try and punish the offender.

10. Section 34:5-163 of the Revised Statutes is hereby repealed.

11. Section 34:6-56 of the Revised Statutes is hereby repealed.

12. Section 34:6-57 of the Revised Statutes is hereby repealed.

13. Section 34:6-117 of the Revised Statutes is hereby repealed.

14. Section 34:6-118 of the Revised Statutes is hereby repealed.

15. Section 34:6-119 of the Revised Statutes is amended to read as follows:

34:6-119. Whenever any person shall violate any of the provisions of this article it shall be lawful for the commissioner, either before or after the institution of proceedings for the collection of a penalty, to institute a civil action in the Superior Court in the name of the State, at the relation of the commissioner for injunctive relief to restrain such violation and for such other or further relief in the premises as the court shall deem proper, but the institution of such action, and any of the proceedings thereon, shall not relieve any party to the proceedings from the penalties prescribed for the violation.

16. Section 34:6-136 of the Revised Statutes is amended to read as follows:

34:6-136. Any penalty for a violation of this article shall be recovered in a civil action brought in the name of the commissioner in the County Court or county district court of the county, or municipal court of the municipality, where the offense is committed.

A penalty recovered shall be transmitted by the clerk of the court or the magistrate to the commissioner and by him paid into the treasury of this State.

1 17. Section eighteen of chapter three hundred eight of the laws of one
2 thousand nine hundred and forty-one is amended to read as follows:

3 18. The commissioner shall have the power to institute a civil action in the
4 Superior Court for injunctive relief, and such court shall have the power to
5 restrain any employer from violating any of the provisions of this act. The
6 court may proceed in the action in a summary manner or otherwise.

1 18. Section 34:7-7 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:7-7. Every county district court and municipal court shall have juris-
4 diction of proceedings for the collection and enforcement of a penalty imposed
5 because of the violation of any provision of this article. The proceedings shall
6 be summary and in accordance with the Penalty Enforcement Law (N. J. S.
7 2A:58-1 et seq.) and may be brought in the county or municipality where the
8 offense was committed, or where the offender may be summoned or arrested,
9 or where he resides.

1 19. Section 34:7-8 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:7-8. All proceedings brought for a violation of this article shall be
4 brought in the name of the commissioner as plaintiff. Process shall be
5 either a summons or warrant and shall issue only at the instance of the
6 commissioner, or a member of the bureau of engineers' and firemen's
7 licenses or an employee of the department.

1 20. Section 34:7-9 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:7-9. Any process under the provisions of this article shall be served
4 by the commissioner or a member of the engineers' and firemen's license
5 bureau or by any officer authorized to serve process in county district courts
6 or municipal courts.

1 21. Section 34:7-10 of the Revised Statutes is hereby repealed.

1 22. Section 34:7-11 of the Revised Statutes is hereby repealed.

1 23. Section 34:7-12 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:7-12. If after issuance of execution against any person convicted
4 of violating this article, sufficient goods and chattels be not found to satisfy
5 the execution, the court shall commit the defendant to the common
6 jail of the county where the conviction is had for a period not exceeding
7 thirty days.

1 24. Section 34:7-13 of the Revised Statutes is hereby repealed.

1 25. Section 34:7-26 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:7-26. Except as provided by sections 34:7-23 and 34:7-23.1 of this
4 Title, any owner, lessee or operator of any steam boiler or refrigerating
5 plant who shall use or allow to be used such steam boiler or refrigerating
6 plant in violation of any provision of this article shall be liable to a penalty
7 of not less than fifty dollars (\$50.00) nor more than one hundred dollars
8 (\$100.00), to be collected by a civil action or compromise. All such actions
9 shall be brought by the commissioner as plaintiff, and may be brought before
10 any county district court of the county, or municipal court of the municipal-
11 ity, wherein such violation shall occur.

1 26. Section 34:8-19 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:8-19. Penalties for violation of this chapter committed before Janu-
4 ary first, one thousand nine hundred and fifty-two shall be sued for and
5 recovered by and in the name of the commissioner in summary proceedings
6 pursuant to the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.). Every
7 county district court and municipal court, within the limits of its jurisdiction,
8 shall have jurisdiction over such proceedings. Process shall be either in the
9 nature of a summons or warrant.

1 27. Section 34:8-20 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:8-20. The court shall cause any defendant who refuses or neglects to
4 pay forthwith the amount of a judgment rendered against him with all costs
5 and charges incident thereto, to be committed to the county jail for any
6 period not exceeding one hundred days.

1 28. Section 34:8-21 of the Revised Statutes is hereby repealed.

1 29. Section 34:8-22 of the Revised Statutes is hereby repealed.

1 30. Section 34:8-23 of the Revised Statutes is hereby repealed.

1 31. Section 34:11-7 of the Revised Statutes is amended to read as
2 follows:

3 34:11-7. The county district court of the county, and the municipal court
4 of the municipality, wherein a violation of section 34:11-6 of this Title has
5 occurred, shall have jurisdiction of proceedings for the collection and enforce-
6 ment of the penalty imposed because of the violation. The proceedings shall
7 be summary and in accordance with the Penalty Enforcement Law (N. J. S.
8 2A:58-1 et seq.). They shall be brought at the suit of the Department of
9 Labor and Industry of New Jersey as plaintiff by any person authorized by
10 the commissioner, and process shall be either in the nature of a summons or
11 warrant.

1 32. Section 34:11-8 of the Revised Statutes is hereby repealed.

1 33. Section 34:11-9 of the Revised Statutes is hereby repealed.

1 34. Section 34:11-11 of the Revised Statutes is hereby repealed.

1 35. Section 34:11-12 of the Revised Statutes is hereby repealed.

1 36. Section 34:11-13 of the Revised Statutes is hereby repealed.

1 37. Section 34:11-33 of the Revised Statutes is amended to read as
2 follows:

3 34:11-33. Whenever personal property of a manufacturer, distiller,
4 brewer or producer of manufactured articles shall come into the possession of
5 a receiver, any employee who has bestowed labor or services upon any of such
6 personal property for which there is then due and owing to him wages, may
7

7 apply to the court appointing such receiver for the payment of such wages.
 8 The court may proceed in a summary manner or otherwise, and shall deter-
 9 mine the amount of wages that are due and unpaid, and direct the receiver
 10 forthwith to sell so much of such personal property as may be necessary to
 11 pay such wages to such employees in preference to any other creditors and
 12 without delay.

1 38. Section 34:11-41 of the Revised Statutes is amended to read as
 2 follows:

3 34:11-41. A wage board shall have power to administer oaths and to
 4 require by subpoena the attendance and testimony of witnesses, the production
 5 of all books, records, and other evidence relative to matters under investiga-
 6 tion. Such subpoenas shall be signed and issued by a member of the wage
 7 board and shall be served and have the same effect, and the witnesses shall
 8 be subject to the same fines and penalties, as if the subpoenas were issued out
 9 of the Superior Court. Failure of a person to obey the subpoena or to answer
 10 a proper question shall be punishable by the Superior Court in the same man-
 11 ner as a similar failure is punishable in an action pending in the court. A
 12 wage board shall have power to cause depositions of witnesses residing within
 13 or without the State to be taken in like manner as is prescribed for depositions
 14 in civil actions in the Superior Court.

1 39. Section 34:11-53 of the Revised Statutes is amended to read as
 2 follows:

3 34:11-53. Any ruling or holding included or embodied in any decision
 4 or order of the commissioner or the director made under this article may be
 5 reviewed by the Superior Court by a proceeding in lieu of prerogative writ.

1 40. Section 34:11-58 of the Revised Statutes is amended to read as
 2 follows:

3 34:11-58. The commissioner is authorized and empowered to investigate
 4 and hear any claim for wages due an employee and in such investigation may
 5 summon the defendant, subpoena witnesses, administer oaths, take testimony
 6 and shall upon such hearing make a determination or award where the sum in
 7 controversy, exclusive of costs, does not exceed two hundred dollars (\$200.00).

8 Such determination or award shall be a judgment when a certified copy
9 thereof is filed with the County Court, law division, of the county where de-
10 fendant resides.

11 Such judgment shall be entered in the same manner and have the same
12 effect and be subject to the same proceedings as are judgments rendered in
13 actions duly heard and determined by courts of competent jurisdiction.

1 41. Section 34:11-63 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:11-63. From any judgment which may be obtained in the wage col-
4 lection division, except such as shall be given by confession, either party
5 may, upon filing a notice of appeal with the wage collection division within
6 twenty days after judgment shall be given, appeal to the County Court of
7 the county. The appellant shall give a bond in every case, except where the
8 judgment appealed from is partially in his favor and no set-off against his
9 demand has been allowed by the division, or where the court otherwise
10 orders. The bond shall be secured by one sufficient surety, either a free-
11 holder in the county or a surety company authorized to do business in New
12 Jersey, and shall be in double the amount of such judgment or of any off-
13 set allowed by the division, conditioned that the appellant shall prosecute
14 his appeal in the County Court, stand to and abide the judgment of the
15 court, and pay such costs as shall be taxed against him if the judgment be
16 affirmed. The wage collection division shall then prepare a transcript of the
17 record to be filed in the County Court.

1 42. Section 34:11-64 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:11-64. The County Courts shall hear and determine all such appeals
4 without a jury in a summary manner.

43. Section 34:11-66 of the Revised Statutes is amended to read as follows:

34:11-66. Nothing in this article shall prevent the claimant from instituting an action for his claim in any court of competent jurisdiction or be construed to deny or limit the right of the plaintiff or defendant to a trial by jury. Where either party demands a trial by jury, he shall pay, at least two days before the return date or the adjourned date of hearing of his cause, the statutory jury fee to the wage collection division and thereupon the wage collection division of the department shall file the entire record, in the cause, in a county district court, for trial by jury of the issues presented by the claimant and defendant. The jury fee so received shall be paid to the county district court wherein the cause is to be tried by the judge and jury. The judgment shall be docketed in the County Court as are other judgments of the wage collection division.

44. Section 34:11-67 of the Revised Statutes is amended to read as follows:

34:11-67. No filing fee shall be charged by the wage collection division, for accepting a wage claim, and no advance fees shall be charged by constables making service of process on wage claims of the wage collection division, nor shall any fee be charged by any county clerk for filing of any award or determination of the wage collection division or sheriff for execution and levy but the collection of any wage claim either by execution or otherwise shall carry taxed costs of service, filing, recording fees, executions, and similar items, in accordance with the schedule of costs as prescribed for county district courts. The balance of all moneys received by way of taxed costs shall be retained by the wage collection division and at the end of each calendar year shall be paid into the State treasury for the use of the State.

1 45. Section 34:13-4 of the Revised Statutes is amended to read as fol- 6
2 lows: 7

3 34:13-4. It shall be lawful for the clerk of any court of record within 8
4 the county wherein such board of arbitrators may be, to issue subpoenas for 9
5 the production of books and papers and for the attendance of witnesses before 10
6 the board. If any such witness, when so subpoenaed, shall not appear in ac- 11
7 cordance with the command of such writ, or, if appearing, shall refuse to be 12
8 sworn and give evidence, he shall be liable to the same fines and penalties as he 13
9 would be had such default or refusal been committed in a court of record in 14
10 this State. 15

1 46. Section five of chapter forty-seven of the laws of one thousand 16
2 nine hundred and forty-seven is amended to read as follows: 17

3 5. The Board of Arbitration shall promptly proceed to arbitrate the 18
4 matters submitted to it. It shall promptly hold hearings and shall have 19
5 the power to administer oaths and compel by subpoena the attendance of 20
6 witnesses and the furnishing and production by any person of such infor- 21
7 mation, books, records, papers and documents as may be necessary to a 22
8 determination of the issue or issues in dispute. If a person subpoenaed to 23
9 attend any hearing refuses or fails to appear or to be examined, or to answer 24
10 any question or to produce any books, records, papers and documents when 25
11 ordered so to do by the Board of Arbitration, such board may apply to the 26
12 Superior Court to compel the person to comply forthwith with the sub- 27
13 poena, direction or order of the board. Both parties to the dispute shall be 28
14 afforded an opportunity to be present at the hearing, both personally and by 29
15 counsel, and to present such oral and documentary evidence as the Board 1
16 of Arbitration shall deem relevant to the issue or issues in controversy. 2

1 47. Section seven of chapter forty-seven of the laws of one thousand nine 3
2 hundred and forty-seven is amended to read as follows: 4

3 7. The findings, decision and order of the Board of Arbitration shall, 5
4 unless modified or reversed on appeal, be conclusive and binding upon all of 6
5 the parties to the dispute and such order of such board shall be complied 7

ad as for 196 with by the parties in accordance with the terms thereof. The order of the
 197 Board of Arbitration shall remain in effect for a period of one year from
 198 the date thereof unless the board shall fix a lesser period therefor after
 199 having given due consideration to the duration of any prior contract be-
 200 tween the public utility and the employees thereof, and any practice with
 201 respect to the duration of such contract existing in the same or similar in-
 202 dustries. The Board of Arbitration may, in its discretion, with respect to
 203 any labor dispute existing at the effective date of this act, provide that any
 204 award made by it shall be retroactive to the day of the return to work by the
 205 employees or, with respect to any labor dispute occurring after the effective
 206 date of this act, to the day of the taking of possession pursuant to the provi-
 207 sions of section thirteen of the act which this act supplements, or to the day
 208 of the return to work by the employees, or to the day of the termination of
 209 any contract between the public utility and its employees.

210 Within thirty days after the Board of Arbitration has filed with the Gov-
 211 ernor such findings, decision and order, any party to the dispute aggrieved
 212 thereby may secure judicial review thereof by appeal therefrom to the Ap-
 213 pellate Division of the Superior Court. A copy of the notice of appeal shall
 214 be served upon the chairman of the Board of Arbitration and upon the other
 215 party to the dispute or its attorney. In any such appeal the findings of the
 216 Board of Arbitration upon the facts, if supported by any evidence, shall be
 217 conclusive. The filing of such notice of appeal shall not supersede or stay
 218 the order of the Board of Arbitration unless the Appellate Division shall so
 219 direct.

220 48. Section eleven of chapter seventy-five of the laws of one thousand
 221 nine hundred and forty-seven is amended to read as follows:

222 11. Notwithstanding the provisions of any other law to the contrary:

223 The commissioner, director or other chief administrative officer of any
 224 department or agency of the Government of the State of New Jersey through
 225 which the power and authority of the Governor in the use and operation of
 226 the plant, equipment or facility of any public utility is exercised pursuant to

8 the provisions of section thirteen of chapter thirty-eight of the laws of one
 9 thousand nine hundred and forty-six, or the Attorney-General, may institute
 10 an action in the Superior Court in the name of this State, on the relation of
 11 said commissioner, director or other chief administrative officer, or Attor-
 12 ney-General, as the case may be, for injunctive relief to prohibit any viola-
 13 tion of any of the provisions of this act, or of any provision of any act
 14 which this act supplements or amends, or for any declaratory and other
 15 relief. The court shall have power and authority to grant such relief and
 16 make or render such orders and judgments as it shall determine to be
 17 equitable and just in the premises.

1 49. Section 34:15-4 of the Revised Statutes is amended to read as
 2 follows:

3 34:15-4. The provisions of this article shall apply to any claim for the
 4 death of an employee arising under sections 2A:31-1 to 2A:31-6 of the New
 5 Jersey Statutes.

1 50. Section 34:15-6 of the Revised Statutes is amended to read as
 2 follows:

3 34:15-6. No claim for legal services or disbursements pertaining to any
 4 demand or suit under this chapter shall be an enforceable lien against the
 5 amount paid as compensation, unless approved in writing by the court in
 6 which the claim is sued upon, or in case of settlement without trial, by the
 7 County Court of the county in which such issue arose, unless notice in writ-
 8 ing be given the defendant of such claim, in which event the same shall be a
 9 lien against the amount paid as compensation, subject to determination of the
 10 amount and approval hereinbefore provided.

1 51. Section 34:15-25 of the Revised Statutes is amended to read as
 2 follows:

3 34:15-25. Compensation may be commuted by the bureau at its present
 4 value, when discounted at five per centum (5%) simple interest, upon appli-
 5 cation of either party, with due notice to the other, if it appears that such
 6 commutation will be for the best interest of the employee or the dependents

7 of the deceased employee, or that it will avoid undue expense or undue hardship to either party, or that the employee or dependent has removed or is about to remove from the United States, or that the employer has sold or otherwise disposed of the greater part of his business or assets.

11 Unless so approved, no compensation payments shall be commuted.

12 In determining whether commutation will be for the best interest of the employee or the dependents of the deceased employee, or that it will avoid undue expense or undue hardship to either party, the bureau and the County Court will regard the intention of this chapter that compensation payments are in lieu of wages, and are to be received by the injured employee or his dependents in the same manner in which wages are ordinarily paid. Commutation is to be allowed only when it clearly appears that an unusual circumstance warrants a departure from the normal manner of payment and not to enable the injured employee or dependents of a deceased employee to satisfy a debt, or to make payment to physicians, lawyers or others.

15 52. Section 34:15-26 of the Revised Statutes is amended to read as follows:

16 34:15-26. When any proceedings have been taken under the provisions of article two of this chapter, the bureau or the County Court shall, as a part of the determination and order, either for payment or for commutation of payment, settle and determine the amount of compensation to be paid by the injured employee or his dependents, on behalf of whom such proceedings are instituted, to his legal advisers, and it shall be unlawful for any lawyer, or other person acting in that behalf, to ask for, contract for or receive any larger sum than the amount so fixed. In the order determining weekly payments where no commutation is made, the bureau or the court shall also determine the amount to be paid per week from the compensation payment on account of the legal fee thus awarded, and it shall be unlawful for the legal adviser, or other person acting in that behalf, to ask for, contract for or receive a larger sum per week than the allowance thus determined.

1 53. Section 34:15-45 of the Revised Statutes is amended to read as
2 follows:

3 34:15-45. In any case where a person under the age of twenty-one years
4 shall be entitled to receive any compensation or distributive share under this
5 chapter any duly authorized guardian of the person and property of such
6 person appointed by the surrogate or the County Court of the county in
7 which such person resides, or by the Superior Court, shall be authorized and
8 empowered to act for such person to the same extent as a duly appointed
9 guardian ad litem appointed by any court of this State and shall have the right
10 and authority to compromise and make composition in behalf of such person of
11 any disputed claim for compensation arising under this chapter; provided the
12 terms of such compromise or composition shall be approved by an order of
13 the workmen's compensation bureau upon presentation of the facts and terms
14 thereof to the bureau, before the same shall become effective.

1 54. Section 34:15-46 of the Revised Statutes is amended to read as
2 follows:

3 34:15-46. In case a person under the age of twenty-one years shall be
4 entitled to receive a sum or sums amounting, in the aggregate, to not more
5 than two hundred fifty dollars (\$250.00) as compensation for injuries, or
6 as a distributive share under this chapter, the father, mother or natural
7 guardian upon whom said person shall be dependent for support shall be
8 authorized and empowered to receive and receipt for such moneys to the
9 same extent as a guardian of the person and property of such person duly ap-
10 pointed by the surrogate or County Court of the county in which such person
11 resides. The release or discharge of such father, mother or natural guardian
12 shall be a full and complete discharge of all claims or demands of the said
13 person thereunder.

1 55. Section 34:15-60 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:15-60. The director, each deputy director and each of the referees
4 shall have the same power as the County Court to issue subpoenas to compel
5 the attendance of witnesses and the production of books and papers. The

6 fees for the attendance of witnesses shall be such as are now provided for the
 7 attendance of witnesses in other civil cases, and shall be paid by the party
 8 arranging for the attendance of such witnesses. The subpoenas shall be au-
 9 thenticated by the seal of the department, and either party to any such pro-
 10 ceeding may, without charge, secure subpoenas from the director, a deputy
 11 director or any referee. Misconduct on the part of any person attending a
 12 hearing, or the failure of any witness, when duly subpoenaed to attend or
 13 give testimony shall be punishable by the director, each deputy director and
 14 each of the referees, in the same manner as such failure is punishable by the
 15 County Court in a case therein pending.

1 56. Section 34:15-65 of the Revised Statutes is amended to read as fol-
 2 lows:

3 34:15-65. The deposition of a witness whose attendance before said
 4 bureau cannot be secured by reason of his absence from the State, or by
 5 reason of his physical inability to attend the hearing may be taken upon
 6 order of the official to whom said cause has been referred. In any such case
 7 the procedure for taking such depositions shall conform as nearly as prac-
 8 ticable with the procedure for taking depositions in the Superior Court.

1 57. Section 34:15-66 of the Revised Statutes is amended to read as fol-
 2 lows:

3 34:15-66. Either party may appeal from the judgment of the director,
 4 deputy director, or referee, to the County Court of the county in which the ac-
 5 cident occurred or, if the accident occurred out of the State, then of the county
 5A wherein the hearing was had, by filing with the secretary of the division, and
 6 with the clerk of such county, a notice of appeal. Such notice shall be filed
 7 within thirty days after the judgment has been rendered. The judgment
 8 entered in the County Court on any such appeal shall be conclusive and bind-
 9 ing, and proceedings thereon shall only be for the recovery of moneys thereby
 10 determined to be due. Costs may be awarded by the court in its discretion,
 11 and when so awarded the same costs shall be allowed, taxed and collected as
 12 are allowed, taxed and collected for like services in the County Court. In
 13 case the respondent, in said appeal, is unable to pay counsel, the court shall
 14 assign counsel to represent him. Nothing herein contained shall be con-

15 strued as limiting the jurisdiction of the Superior Court to review any
 16 matter through a proceeding in lieu of prerogative writ or as limiting the
 17 jurisdiction of the Supreme Court.

1 58. Section 34:15-66.1 of the Revised Statutes is amended to read as fol-
 2 lows:

3 34:15-66.1. Any judgment entered in a County Court pursuant to the
 4 provisions of section 34:15-66 of this Title may be docketed in the Superior
 5 Court and thenceforward operate as a judgment recovered in that court.
 6 Upon failure to comply with the original order for compensation the court
 7 may order that the entire amount of compensation shall become due im-
 8 mediately, and execution may issue upon proof of such failure for the entire
 9 amount of compensation, without discount or commutation. Supplementary
 10 proceedings in aid of execution may be resorted to upon a judgment so
 11 docketed and becoming due in whole, as in any other case.

1 59. Section 34:15-67 of the Revised Statutes is hereby repealed.

1 60. Section 34:15-69 of the Revised Statutes is amended to read as fol-
 2 lows:

3 34:15-69. Whenever any judgment is entered in a County Court upon any
 4 matter arising under the provisions of this chapter the clerk of the law divi-
 5 sion of said court shall forthwith forward to the director a copy of the judg-
 6 ment, which need not be certified and for which no charge shall be made.

1 61. Section 34:15-84 of the Revised Statutes is amended to read as fol-
 2 lows:

3 34:15-84. Every such contract shall further provide, or be construed to
 4 provide, that any injured employee or his dependents may enforce the provi-
 5 sions thereof to his or their benefit, either by agreement with the employer
 6 and the insurance carrier, in event that compensation be settled by agree-
 7 ment, or by joining the insurance carrier with the employer in his petition
 8 filed for the purpose of enforcing his claim for compensation, or by sub-
 9 sequent application to the County Court, upon the failure of the employer,
 10 for any reason, to make adequate and continuous compensation payments.

1 62. This act shall take effect immediately.

[OFFICIAL COPY REPRINT]

SENATE, No. 30

STATE OF NEW JERSEY

INTRODUCED JANUARY 13, 1953

By Mr. CLAPP

Referred to Committee on Revision and Amendment of Laws

AN ACT concerning labor and workmen's compensation, and revising parts of the
statutory law.

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

1 1. Section 34:1-70 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:1-70. Except as otherwise in this Title specifically provided, a proceed-
4 ing for the recovery of a penalty for the violation of any provision of this
5 Title shall be by a civil action in the name of the commissioner, to be
6 instituted in the county district court of the county, or a municipal court of
7 the municipality, where the offense was committed.

8 If a corporation violates the provisions of this Title and if, according
9 to the practice of the court in which the action is brought, service of process
10 cannot be made upon it in the county where the offense was committed, then
11 such service may be made upon the manager, superintendent, foreman or per-
12 son in charge of the business where such offense was committed. If an indi-
13 vidual violating the provisions of this Title is the owner or operator of the
14 business wherein the offense was committed, and if he does not reside in the
15 county where such offense was committed, service of process against him may
16 be made upon the manager, superintendent, foreman or person in charge of
17 the business. If an individual is committed under execution against his
18 body, he shall not be discharged under the insolvent debtors law of the State,

19 but shall only be discharged by the court issuing the execution, or by the
 20 Superior Court, when it is satisfied that further confinement will not result
 21 in the payment of the judgment and costs.

1 2. Section 34:3-21 of the Revised Statutes is hereby repealed.

1 3. Section 34:3-22 of the Revised Statutes is hereby repealed.

1 4. Section three of chapter two hundred seventy-four of the laws of one
 2 thousand nine hundred and forty-nine is amended to read as follows:

3 3. Any person who shall violate any of the provisions of this act shall be
 4 liable to a penalty of not less than ten dollars (\$10.00) nor more than two
 5 hundred dollars (\$200.00) in the discretion of the court. The penalties herein
 6 provided for shall be sued for and recovered by, and in the name of, the
 7 Commissioner of Labor and Industry, in summary proceedings pursuant to
 8 the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.), in the county district
 9 court or municipal court of the county or municipality, where the offense was
 10 committed.

1 5. Section 34:4-5 of the Revised Statutes is amended to read as follows:

2 34:4-5. All proceedings brought under the provisions of this chapter
 3 shall be by a civil action in the name of the commissioner or building in-
 4 spector, to be instituted in any county district court of the county, or munici-
 5 pal court of the municipality, where the offense occurs.

1 6. Section 34:4-6 of the Revised Statutes is amended to read as follows:

2 34:4-6. Service shall be made on the owner or owners, person or persons
 3 or any of them, owning the place or operating the business wherein the
 4 offense is committed, if he or they reside in the county where such offense is
 5 committed; and if he or they do not reside therein, then on the superintend-
 6 ent, foreman or person in charge of such business or place, or in case of a
 7 building, upon the agent in charge of the building, or if there be no such
 8 agent, by affixing a copy thereof to the main outer door of such building.

9 If a corporation commits an offense and no officer or director thereof re-
 10 sides in the county where such offense is committed, service may be made
 11 upon the superintendent, foreman or person in charge of the business or
 12 place where the offense was committed.

1 7. Section 34:4-7 of the Revised Statutes is hereby repealed.

1 8. Section 34:4-8 of the Revised Statutes is hereby repealed.

1 9. Section 34:5-162 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:5-162. The county district court of the county, and the municipal court
4 in a municipality, where a violation of any of the provisions of this chapter
5 shall be committed, shall have jurisdiction to try and punish the offender.

1 10. Section 34:5-163 of the Revised Statutes is hereby repealed.

1 11. Section 34:6-56 of the Revised Statutes is hereby repealed.

1 12. Section 34:6-57 of the Revised Statutes is hereby repealed.

1 13. Section 34:6-117 of the Revised Statutes is hereby repealed.

1 14. Section 34:6-118 of the Revised Statutes is hereby repealed.

1 15. Section 34:6-119 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:6-119. Whenever any person shall violate any of the provisions of
4 this article it shall be lawful for the commissioner, either before or after
5 the institution of proceedings for the collection of a penalty, to institute a civil
6 action in the Superior Court in the name of the State, at the relation of the
7 commissioner for injunctive relief to restrain such violation and for such other
8 or further relief in the premises as the court shall deem proper, but the in-
9 stitution of such action, and any of the proceedings thereon, shall not relieve
10 any party to the proceedings from the penalties prescribed for the violation.

1 16. Section 34:6-136 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:6-136. Any penalty for a violation of this article shall be recovered in
4 a civil action brought in the name of the commissioner in the County Court
5 or county district court of the county, or municipal court of the municipality,
6 where the offense is committed.

7 A penalty recovered shall be transmitted by the clerk of the court or the
8 magistrate to the commissioner and by him paid into the treasury of this
9 State.

1 17. Section eighteen of chapter three hundred eight of the laws of one
2 thousand nine hundred and forty-one is amended to read as follows:

3 18. The commissioner shall have the power to institute a civil action in the
4 Superior Court for injunctive relief, and such court shall have the power to
5 restrain any employer from violating any of the provisions of this act. The
6 court may proceed in the action in a summary manner or otherwise.

1 18. Section 34:7-7 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:7-7. Every county district court and municipal court shall have juris-
4 diction of proceedings for the collection and enforcement of a penalty imposed
5 because of the violation of any provision of this article. The proceedings shall
6 be summary and in accordance with the Penalty Enforcement Law (N. J. S.
7 2A:58-1 et seq.) and may be brought in the county or municipality where the
8 offense was committed, or where the offender may be summoned or arrested,
9 or where he resides.

1 19. Section 34:7-8 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:7-8. All proceedings brought for a violation of this article shall be
4 brought in the name of the commissioner as plaintiff. Process shall be
5 either a summons or warrant and shall issue only at the instance of the
6 commissioner, or a member of the bureau of engineers' and firemen's
7 licenses or an employee of the department.

1 20. Section 34:7-9 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:7-9. Any process under the provisions of this article shall be served
4 by the commissioner or a member of the engineers' and firemen's license
5 bureau or by any officer authorized to serve process in county district courts
6 or municipal courts.

1 21. Section 34:7-10 of the Revised Statutes is hereby repealed.

1 22. Section 34:7-11 of the Revised Statutes is hereby repealed.

23. Section 34:7-12 of the Revised Statutes is amended to read as follows:

34:7-12. If after issuance of execution against any person convicted of violating this article, sufficient goods and chattels be not found to satisfy the execution, the court shall commit the defendant to the common jail of the county where the conviction is had for a period not exceeding thirty days.

24. Section 34:7-13 of the Revised Statutes is hereby repealed.

25. Section 34:7-26 of the Revised Statutes is amended to read as follows:

34:7-26. Except as provided by sections 34:7-23 and 34:7-23.1 of this Title, any owner, lessee or operator of any steam boiler or refrigerating plant who shall use or allow to be used such steam boiler or refrigerating plant in violation of any provision of this article shall be liable to a penalty of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), to be collected by a civil action or compromise. All such actions shall be brought by the commissioner as plaintiff, and may be brought before any county district court of the county, or municipal court of the municipality, wherein such violation shall occur.

26. Section 34:8-19 of the Revised Statutes is amended to read as follows:

34:8-19. Penalties for violation of this chapter committed before January first, one thousand nine hundred and fifty-two shall be sued for and recovered by and in the name of the commissioner in summary proceedings pursuant to the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.). Every county district court and municipal court, within the limits of its jurisdiction, shall have jurisdiction over such proceedings. Process shall be either in the nature of a summons or warrant.

1 27. Section 34:8-20 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:8-20. The court shall cause any defendant who refuses or neglects to
4 pay forthwith the amount of a judgment rendered against him with all costs
5 and charges incident thereto, to be committed to the county jail for any
6 period not exceeding one hundred days.

1 28. Section 34:8-21 of the Revised Statutes is hereby repealed.

1 29. Section 34:8-22 of the Revised Statutes is hereby repealed.

1 30. Section 34:8-23 of the Revised Statutes is hereby repealed.

1 31. Section 34:11-7 of the Revised Statutes is amended to read as
2 follows:

3 34:11-7. The county district court of the county, and the municipal court
4 of the municipality, wherein a violation of section 34:11-6 of this Title has
5 occurred, shall have jurisdiction of proceedings for the collection and enforce-
6 ment of the penalty imposed because of the violation. The proceedings shall
7 be summary and in accordance with the Penalty Enforcement Law (N. J. S.
8 2A:58-1 et seq.). They shall be brought at the suit of the Department of
9 Labor and Industry of New Jersey as plaintiff by any person authorized by
10 the commissioner, and process shall be either in the nature of a summons or
11 warrant.

1 32. Section 34:11-8 of the Revised Statutes is hereby repealed.

1 33. Section 34:11-9 of the Revised Statutes is hereby repealed.

1 34. Section 34:11-11 of the Revised Statutes is hereby repealed.

1 35. Section 34:11-12 of the Revised Statutes is hereby repealed.

1 36. Section 34:11-13 of the Revised Statutes is hereby repealed.

1 37. Section 34:11-33 of the Revised Statutes is amended to read as
2 follows:

3 34:11-33. Whenever personal property of a manufacturer, distiller,
4 brewer or producer of manufactured articles shall come into the possession of
5 a receiver, any employee who has bestowed labor or services upon any of such
6 personal property for which there is then due and owing to him wages, may
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7 apply to the court appointing such receiver for the payment of such wages.
 8 The court may proceed in a summary manner or otherwise, and shall deter-
 9 mine the amount of wages that are due and unpaid, and direct the receiver
 10 forthwith to sell so much of such personal property as may be necessary to
 11 pay such wages to such employees in preference to any other creditors and
 12 without delay.

1 38. Section 34:11-41 of the Revised Statutes is amended to read as
 2 follows:

3 34:11-41. A wage board shall have power to administer oaths and to
 4 require by subpoena the attendance and testimony of witnesses, the production
 5 of all books, records, and other evidence relative to matters under investiga-
 6 tion. Such subpoenas shall be signed and issued by a member of the wage
 7 board and shall be served and have the same effect, and the witnesses shall
 8 be subject to the same fines and penalties, as if the subpoenas were issued out
 9 of the Superior Court. Failure of a person to obey the subpoena or to answer
 10 a proper question shall be punishable by the Superior Court in the same man-
 11 ner as a similar failure is punishable in an action pending in the court. A
 12 wage board shall have power to cause depositions of witnesses residing within
 13 or without the State to be taken in like manner as is prescribed for depositions
 14 in civil actions in the Superior Court.

1 39. Section 34:11-53 of the Revised Statutes is amended to read as
 2 follows:

3 34:11-53. Any ruling or holding included or embodied in any decision
 4 or order of the commissioner or the director made under this article may be
 5 reviewed by the Superior Court by a proceeding in lieu of prerogative writ.

1 40. Section 34:11-58 of the Revised Statutes is amended to read as
 2 follows:

3 34:11-58. The commissioner is authorized and empowered to investigate
 4 and hear any claim for wages due an employee and in such investigation may
 5 summon the defendant, subpoena witnesses, administer oaths, take testimony
 6 and shall upon such hearing make a determination or award where the sum in
 7 controversy, exclusive of costs, does not exceed two hundred dollars (\$200.00).

8 Such determination or award shall be a judgment when a certified copy
9 thereof is filed with the County Court, law division, of the county where de-
10 fendant resides.

11 Such judgment shall be entered in the same manner and have the same
12 effect and be subject to the same proceedings as are judgments rendered in
13 actions duly heard and determined by courts of competent jurisdiction.

1 41. Section 34:11-63 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:11-63. From any judgment which may be obtained in the wage col-
4 lection division, except such as shall be given by confession, either party
5 may, upon filing a notice of appeal with the wage collection division within
6 twenty days after judgment shall be given, appeal to the County Court of
7 the county. The appellant shall give a bond in every case, except where the
8 judgment appealed from is partially in his favor and no set-off against his
9 demand has been allowed by the division, or where the court otherwise
10 orders. The bond shall be secured by one sufficient surety, either a free-
11 holder in the county or a surety company authorized to do business in New
12 Jersey, and shall be in double the amount of such judgment or of any off-
13 set allowed by the division, conditioned that the appellant shall prosecute
14 his appeal in the County Court, stand to and abide the judgment of the
15 court, and pay such costs as shall be taxed against him if the judgment be
16 affirmed. The wage collection division shall then prepare a transcript of the
17 record to be filed in the County Court.

1 42. Section 34:11-64 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:11-64. The County Courts shall hear and determine all such appeals
4 without a jury in a summary manner.

43. Section 34:11-66 of the Revised Statutes is amended to read as follows:

34:11-66. Nothing in this article shall prevent the claimant from instituting an action for his claim in any court of competent jurisdiction or be construed to deny or limit the right of the plaintiff or defendant to a trial by jury. Where either party demands a trial by jury, he shall pay, at least two days before the return date or the adjourned date of hearing of his cause, the statutory jury fee to the wage collection division and thereupon the wage collection division of the department shall file the entire record, in the cause, in a county district court, for trial by jury of the issues presented by the claimant and defendant. The jury fee so received shall be paid to the county district court wherein the cause is to be tried by the judge and jury. The judgment shall be docketed in the County Court as are other judgments of the wage collection division.

44. Section 34:11-67 of the Revised Statutes is amended to read as follows:

34:11-67. No filing fee shall be charged by the wage collection division, for accepting a wage claim, and no advance fees shall be charged by constables making service of process on wage claims of the wage collection division, nor shall any fee be charged by any county clerk for filing of any award or determination of the wage collection division or sheriff for execution and levy but the collection of any wage claim either by execution or otherwise shall carry taxed costs of service, filing, recording fees, executions, and similar items, in accordance with the schedule of costs as prescribed for county district courts. The balance of all moneys received by way of taxed costs shall be retained by the wage collection division and at the end of each calendar year shall be paid into the State treasury for the use of the State.

1 45. Section 34:13-4 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:13-4. It shall be lawful for the clerk of any court of record within
4 the county wherein such board of arbitrators may be, to issue subpoenas for
5 the production of books and papers and for the attendance of witnesses before
6 the board. If any such witness, when so subpoenaed, shall not appear in ac-
7 cordance with the command of such writ, or, if appearing, shall refuse to be
8 sworn and give evidence, he shall be liable to the same fines and penalties as he
9 would be had such default or refusal been committed in a court of record in
10 this State.

1 46. Section five of chapter forty-seven of the laws of one thousand
2 nine hundred and forty-seven is amended to read as follows:

3 5. The Board of Arbitration shall promptly proceed to arbitrate the
4 matters submitted to it. It shall promptly hold hearings and shall have
5 the power to administer oaths and compel by subpoena the attendance of
6 witnesses and the furnishing and production by any person of such infor-
7 mation, books, records, papers and documents as may be necessary to a
8 determination of the issue or issues in dispute. If a person subpoenaed to
9 attend any hearing refuses or fails to appear or to be examined, or to answer
10 any question or to produce any books, records, papers and documents when
11 ordered so to do by the Board of Arbitration, such board may apply to the
12 Superior Court to compel the person to comply forthwith with the sub-
13 poena, direction or order of the board. Both parties to the dispute shall be
14 afforded an opportunity to be present at the hearing, both personally and by
15 counsel, and to present such oral and documentary evidence as the Board
16 of Arbitration shall deem relevant to the issue or issues in controversy.

1 47. Section seven of chapter forty-seven of the laws of one thousand nine
2 hundred and forty-seven is amended to read as follows:

3 7. The findings, decision and order of the Board of Arbitration shall,
4 unless modified or reversed on appeal, be conclusive and binding upon all of
5 the parties to the dispute and such order of such board shall be complied

with by the parties in accordance with the terms thereof. The order of the Board of Arbitration shall remain in effect for a period of one year from the date thereof unless the board shall fix a lesser period therefor after having given due consideration to the duration of any prior contract between the public utility and the employees thereof, and any practice with respect to the duration of such contract existing in the same or similar industries. The Board of Arbitration may, in its discretion, with respect to any labor dispute existing at the effective date of this act, provide that any award made by it shall be retroactive to the day of the return to work by the employees or, with respect to any labor dispute occurring after the effective date of this act, to the day of the taking of possession pursuant to the provisions of section thirteen of the act which this act supplements, or to the day of the return to work by the employees, or to the day of the termination of any contract between the public utility and its employees.

Within thirty days after the Board of Arbitration has filed with the Governor such findings, decision and order, any party to the dispute aggrieved thereby may secure judicial review thereof by appeal therefrom to the Appellate Division of the Superior Court. A copy of the notice of appeal shall be served upon the chairman of the Board of Arbitration and upon the other party to the dispute or its attorney. In any such appeal the findings of the Board of Arbitration upon the facts, if supported by any evidence, shall be conclusive. The filing of such notice of appeal shall not supersede or stay the order of the Board of Arbitration unless the Appellate Division shall so direct.

48. Section eleven of chapter seventy-five of the laws of one thousand nine hundred and forty-seven is amended to read as follows:

11. Notwithstanding the provisions of any other law to the contrary:

The commissioner, director or other chief administrative officer of any department or agency of the Government of the State of New Jersey through which the power and authority of the Governor in the use and operation of the plant, equipment or facility of any public utility is exercised pursuant to

8 the provisions of section thirteen of chapter thirty-eight of the laws of one
 9 thousand nine hundred and forty-six, or the Attorney-General, may institute
 10 an action in the Superior Court in the name of this State, on the relation of
 11 said commissioner, director or other chief administrative officer, or Attor-
 12 ney-General, as the case may be, for injunctive relief to prohibit any viola-
 13 tion of any of the provisions of this act, or of any provision of any act
 14 which this act supplements or amends, or for any declaratory and other
 15 relief. The court shall have power and authority to grant such relief and
 16 make or render such orders and judgments as it shall determine to be
 17 equitable and just in the premises.

1 49. Section 34:15-4 of the Revised Statutes is amended to read as
 2 follows:

3 34:15-4. The provisions of this article shall apply to any claim for the
 4 death of an employee arising under sections 2A:31-1 to 2A:31-6 of the New
 5 Jersey Statutes.

1 50. Section 34:15-6 of the Revised Statutes is amended to read as
 2 follows:

3 34:15-6. No claim for legal services or disbursements pertaining to any
 4 demand or suit under this chapter shall be an enforceable lien against the
 5 amount paid as compensation, unless approved in writing by the court in
 6 which the claim is sued upon, or in case of settlement without trial, by the
 7 County Court of the county in which such issue arose, unless notice in writ-
 8 ing be given the defendant of such claim, in which event the same shall be a
 9 lien against the amount paid as compensation, subject to determination of the
 10 amount and approval hereinbefore provided.

1 51. Section 34:15-25 of the Revised Statutes is amended to read as
 2 follows:

3 34:15-25. Compensation may be commuted by the bureau at its present
 4 value, when discounted at five per centum (5%) simple interest, upon appli-
 5 cation of either party, with due notice to the other, if it appears that such
 6 commutation will be for the best interest of the employee or the dependents

7 of the deceased employee, or that it will avoid undue expense or undue hardship to either party, or that the employee or dependent has removed or is about to remove from the United States, or that the employer has sold or otherwise disposed of the greater part of his business or assets.

11 Unless so approved, no compensation payments shall be commuted.

12 In determining whether commutation will be for the best interest of the employee or the dependents of the deceased employee, or that it will avoid undue expense or undue hardship to either party, the bureau and the County Court will regard the intention of this chapter that compensation payments are in lieu of wages, and are to be received by the injured employee or his dependents in the same manner in which wages are ordinarily paid. Commutation is to be allowed only when it clearly appears that an unusual circumstance warrants a departure from the normal manner of payment and not to enable the injured employee or dependents of a deceased employee to satisfy a debt, or to make payment to physicians, lawyers or others.

1 52. Section 34:15-26 of the Revised Statutes is amended to read as follows:

3 34:15-26. When any proceedings have been taken under the provisions of article two of this chapter, the bureau or the County Court shall, as a part of the determination and order, either for payment or for commutation of payment, settle and determine the amount of compensation to be paid by the injured employee or his dependents, on behalf of whom such proceedings are instituted, to his legal advisers, and it shall be unlawful for any lawyer, or other person acting in that behalf, to ask for, contract for or receive any larger sum than the amount so fixed. In the order determining weekly payments where no commutation is made, the bureau or the court shall also determine the amount to be paid per week from the compensation payment on account of the legal fee thus awarded, and it shall be unlawful for the legal adviser, or other person acting in that behalf, to ask for, contract for or receive a larger sum per week than the allowance thus determined.

1 53. Section 34:15-45 of the Revised Statutes is amended to read as
2 follows:

3 34:15-45. In any case where a person under the age of twenty-one years
4 shall be entitled to receive any compensation or distributive share under this
5 chapter any duly authorized guardian of the person and property of such
6 person appointed by the surrogate or the County Court of the county in
7 which such person resides, or by the Superior Court, shall be authorized and
8 empowered to act for such person to the same extent as a duly appointed
9 guardian ad litem appointed by any court of this State and shall have the right
10 and authority to compromise and make composition in behalf of such person of
11 any disputed claim for compensation arising under this chapter; provided the
12 terms of such compromise or composition shall be approved by an order of
13 the workmen's compensation bureau upon presentation of the facts and terms
14 thereof to the bureau, before the same shall become effective.

1 54. Section 34:15-46 of the Revised Statutes is amended to read as
2 follows:

3 34:15-46. In case a person under the age of twenty-one years shall be
4 entitled to receive a sum or sums amounting, in the aggregate, to not more
5 than two hundred fifty dollars (\$250.00) as compensation for injuries, or
6 as a distributive share under this chapter, the father, mother or natural
7 guardian upon whom said person shall be dependent for support shall be
8 authorized and empowered to receive and receipt for such moneys to the
9 same extent as a guardian of the person and property of such person duly ap-
10 pointed by the surrogate or County Court of the county in which such person
11 resides. The release or discharge of such father, mother or natural guardian
12 shall be a full and complete discharge of all claims or demands of the said
13 person thereunder.

1 55. Section 34:15-60 of the Revised Statutes is amended to read as fol-
2 lows:

3 34:15-60. The director, each deputy director and each of the referees
4 shall have the same power as the County Court to issue subpoenas to compel
5 the attendance of witnesses and the production of books and papers. The

fees for the attendance of witnesses shall be such as are now provided for the attendance of witnesses in other civil cases, and shall be paid by the party arranging for the attendance of such witnesses. The subpoenas shall be authenticated by the seal of the department, and either party to any such proceeding may, without charge, secure subpoenas from the director, a deputy director or any referee. Misconduct on the part of any person attending a hearing, or the failure of any witness, when duly subpoenaed to attend or give testimony shall be punishable by the director, each deputy director and each of the referees, in the same manner as such failure is punishable by the County Court in a case therein pending.

56. Section 34:15-65 of the Revised Statutes is amended to read as follows:

34:15-65. The deposition of a witness whose attendance before said bureau cannot be secured by reason of his absence from the State, or by reason of his physical inability to attend the hearing may be taken upon order of the official to whom said cause has been referred. In any such case the procedure for taking such depositions shall conform as nearly as practicable with the procedure for taking depositions in the Superior Court.

57. Section 34:15-66 of the Revised Statutes is amended to read as follows:

34:15-66. Either party may appeal from the judgment of the director, deputy director, or referee, to the County Court of the county in which the accident occurred or, if the accident occurred out of the State, then of the county wherein the hearing was had, by filing with the secretary of the division, and with the clerk of such county, a notice of appeal. Such notice shall be filed within thirty days after the judgment has been rendered. The judgment entered in the County Court on any such appeal shall be conclusive and binding, and proceedings thereon shall only be for the recovery of moneys thereby determined to be due. Costs may be awarded by the court in its 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 County Court. In case the respondent, in said appeal, is unable to pay counsel, the court shall assign counsel to represent him. Nothing herein contained shall be con-

15 strued as limiting the jurisdiction of the Superior Court to review any
 16 matter through a proceeding in lieu of prerogative writ or as limiting the
 17 jurisdiction of the Supreme Court.

1 58. Section 34:15-66.1 of the Revised Statutes is amended to read as fol-
 2 lows:

3 34:15-66.1. Any judgment entered in a County Court pursuant to the
 4 provisions of section 34:15-66 of this Title may be docketed in the Superior
 5 Court and thenceforward operate as a judgment recovered in that court.
 6 Upon failure to comply with the original order for compensation the court
 7 may order that the entire amount of compensation shall become due im-
 8 mediately, and execution may issue upon proof of such failure for the entire
 9 amount of compensation, without discount or commutation. Supplementary
 10 proceedings in aid of execution may be resorted to upon a judgment so
 11 docketed and becoming due in whole, as in any other case.

1 59. Section 34:15-67 of the Revised Statutes is hereby repealed.

1 60. Section 34:15-69 of the Revised Statutes is amended to read as fol-
 2 lows:

3 34:15-69. Whenever any judgment is entered in a County Court upon any
 4 matter arising under the provisions of this chapter the clerk of the law divi-
 5 sion of said court shall forthwith forward to the director a copy of the judg-
 6 ment, which need not be certified and for which no charge shall be made.

1 61. Section 34:15-84 of the Revised Statutes is amended to read as fol-
 2 lows:

3 34:15-84. Every such contract shall further provide, or be construed to
 4 provide, that any injured employee or his dependents may enforce the provi-
 5 sions thereof to his or their benefit, either by agreement with the employer
 6 and the insurance carrier, in event that compensation be settled by agree-
 7 ment, or by joining the insurance carrier with the employer in his petition
 8 filed for the purpose of enforcing his claim for compensation, or by sub-
 9 sequent application to the County Court, upon the failure of the employer,
 10 for any reason, to make adequate and continuous compensation payments.

1 62. This act shall take effect immediately.