

43:21-6

LEGISLATIVE HISTORY CHECKLIST

NJSA 43:21-6

Laws of 1975 Chapter 385

Bill No. A1568

Sponsor(s) Ruane, Pellecchia & Jackman

Date Introduced April 22, 1974

Committee: Assembly Labor

Senate State Gov't. & Federal & Interstate Relations

Amended during passage Yes ~~No~~ Amendments During passage denoted by asterisks

Date of passage: Assembly January 27, 1975

Senate April 24, 1975

Date of approval March 3, 1976

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note Yes ~~No~~

Veto message Yes ~~No~~

Message on signing Yes ~~No~~

Following were printed:

Reports Yes ~~No~~

Hearings Yes ~~No~~

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ASSEMBLY, No. 1568

STATE OF NEW JERSEY

INTRODUCED APRIL 22, 1974

By Assemblymen RUANE, PELLECCCHIA and JACKMAN

Referred to Committee on Labor

AN ACT concerning unemployment compensation and amending
R. S. 43:21-6.

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

1 1. R. S. 43:21-6 is amended to read as follows:

2 43:21-6. Claim for benefits.

3 (a) Filing. Claims for benefits shall be made in accordance
4 with such regulations as the Director of the Division of **[Employ-**
5 **ment Security]** *Unemployment and Temporary Disability Insur-*
6 *ance* of the Department of Labor and Industry of the State of
7 New Jersey may approve. Each employer shall post and maintain
8 on his premises printed notices of his subject status, of such design,
9 in such numbers and at such place as the director of the division
10 may determine to be necessary to give notice thereof to persons
11 in the employer's service. Each employer shall give to each indi-
12 vidual at the time he becomes unemployed a printed copy of benefit
13 instructions. Both the aforesaid notices and instructions shall be
14 supplied by the division to employers without cost to them.

15 (b) (1) Procedure for making initial determinations with respect
16 to benefit years commencing on or after January 1, 1953.

17 A representative or representatives designated by the director
18 of the division and hereafter referred to as a "deputy" shall
19 promptly examine the claim, and shall notify the most recent
20 employing unit and, successively as necessary, each employer in
21 inverse chronological order during the base year. Such notification
22 shall require said employing unit and employer to furnish such
23 information to the deputy as may be necessary to determine the
24 claimant's eligibility and his benefit rights with respect to the

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

25 employer in question and such notification shall also provide the
26 most recent chargeable employer in the base year with the name
27 and address of the most recent employing unit of the claimant.

28 In his discretion, the director may appoint special deputies to
29 make initial or subsequent determinations under subsections 4 (f)
30 and 5 (d) of this chapter.

31 If any employer or employing unit fails to respond to the
32 request for information within 7 days after the mailing of such
33 request, the deputy shall rely entirely on information from other
34 sources, including an affidavit to the best of the knowledge and
35 belief of the claimant with respect to his wages and time worked.
36 Except in the event of fraud, if it is determined that any informa-
37 tion in such affidavit is erroneous, no penalty shall be imposed
38 on the claimant.

39 The deputy shall promptly make an initial determination based
40 upon the available information. The initial determination shall
41 show the weekly benefit amount payable, the maximum duration
41a of benefits with respect to the employer to whom the determina-
42 tion relates, and also shall show whether the claimant is
43 ineligible or disqualified for benefits under the initial determina-
44 tion. The claimant and the employer whose account may be
45 charged for benefits payable pursuant to said determination shall
46 be promptly notified thereof.

47 Whenever an initial determination is based upon information
48 other than that supplied by an employer because such employer
49 failed to respond to the deputy's request for information, such
50 initial determination and any subsequent determination thereunder
51 shall be incontestable by the noncomplying employer, as to any
52 charges to his employer's account because of benefits paid prior
53 to the close of the calendar week following the receipt of his reply.
54 Such initial determination shall be altered if necessary upon
55 receipt of information from the employer, and any benefits paid
56 or payable with respect to weeks occurring subsequent to the
57 close of the calendar week following the receipt of the employer's
58 reply shall be paid in accordance with such altered initial determi-
59 nation.

60 The deputy shall issue a separate initial benefit determination
61 with respect to each of the claimant's base year employers, starting
62 with the most recent employer and continuing as necessary in
63 the inverse chronological order of the claimant's last date of
64 employment with each such employer. If an appeal is taken from
65 an initial determination as hereinafter provided by any employer

66 other than the first chargeable base-year employer, then such
67 appeal shall be limited in scope to include only one or more of
68 the following matters:

69 (A) The correctness of the benefit payments authorized to be
70 made under the determination;

71 (B) Fraud in connection with the claim pursuant to which the
72 initial determination is issued; or

73 (C) The refusal of suitable work offered by the chargeable
74 employer filing the appeal.

75 The amount of benefits payable under an initial determination
76 may be reduced or canceled if necessary to avoid payment of
77 benefits for a number of weeks in excess of the maximum specified
78 in subsection (d) of section 43:21-3 of this Title.

79 Unless the claimant or any interested party within 7 calendar
80 days after delivery of notification of an initial determination or
81 within 10 calendar days after such notification was mailed to his
82 or their last-known address and addresses, files an appeal from
83 such decision, such decision shall be final and benefits shall be paid
84 or denied in accordance therewith, except for such determinations
85 as may be altered in benefit amounts or duration as provided in
86 this paragraph. If an appeal is duly filed, benefits with respect to
87 the period covered by the appeal shall be payable only after a
88 determination of entitlement by the appellate tribunal; benefits
89 payable for periods pending an appeal and not in dispute shall
90 be paid as such benefits accrue; provided, that insofar as any
91 such appeal is or may be an appeal from a determination
92 to the effect that the claimant is disqualified under the provisions
93 of R. S. 43:21-5 or any amendments thereof or supplements thereto,
94 benefits pending determination of the appeal shall be withheld
95 only for the period of disqualification as provided for in said
96 section, and notwithstanding such appeal the benefits otherwise
97 provided by this act shall be paid for the period subsequent to such
98 period of disqualification; and provided, also, that if there are two
99 determinations of entitlement, benefits for the period covered by
100 such determinations shall be paid regardless of any appeal which
101 may thereafter be taken, but no employer's account shall be
102 charged with benefits so paid if the decision is finally reversed.

103 (2) Procedure for making initial determinations in certain cases
104 of concurrent employment, with respect to benefit years commencing
105 on or after January 1, 1953.

106 Notwithstanding any other provisions of this Title, if an individual
107 shows to the satisfaction of the deputy that there were at

108 least 13 weeks in his base period in each of which he earned
109 wages from two or more employers totaling *~~[\$15.00]~~* *\$30.00* or
110 more but in each of which there was no single employer from whom
111 he earned as much as ~~[\$15.00]~~ \$100.00, then such individual's claim
112 shall be determined in accordance with the special provisions of this
113 paragraph. In such case, the deputy shall determine the individual's
114 eligibility for benefits, his average weekly wage, weekly benefit
115 rate and maximum total benefits as if all his base year employers
116 were a single employer. Such determination shall apportion the
117 liability for benefit charges thereunder to the individual's several
118 base year employers so that each employer's maximum liability
119 for charges thereunder bears approximately the same relation
120 to the maximum total benefits allowed as the wages earned by
121 the individual from each employer during the base year bears to
122 his total wages earned from all employers during the base year.
123 Such initial determination shall also specify the individual's last
124 date of employment within the base year with respect to each
125 base year employer, and such employers shall be charged for
126 benefits paid under said initial determination in the inverse chrono-
127 logical order of such last dates of employment.

128 (3) Procedure for making subsequent determinations with
129 respect to benefit years commencing on or after January 1, 1953.
130 The deputy shall make determinations with respect to claims for
131 benefits thereafter in the course of the benefit year in accordance
132 with any initial determination allowing benefits, and under which
133 benefits have not been exhausted, and each notification of a benefit
134 payment shall be a notification of an affirmative subsequent deter-
135 mination. The allowance of benefits by the deputy on any such
136 determination, or the denial of benefits by the deputy on any such
137 determination, shall be appealable in the same manner and under
138 the same limitations as is provided in the case of initial determi-
139 nations.

140 (c) Appeals. Unless such appeal is withdrawn, an appeal
141 tribunal, after affording the parties reasonable opportunity for
142 fair hearing, shall affirm or modify the findings of fact and the
143 determination. The parties shall be duly notified of such tribunal's
144 decision, together with its reasons therefor, which shall be deemed
145 to be the final decision of the board of review, unless within 10 days
146 after the date of notification or mailing of such decision, further
147 appeal is initiated pursuant to subsection (e) of this section.

148 (d) Appeal tribunals. To hear and decide disputed benefit
149 claims, including appeals from determinations with respect to

150 demands for refunds of benefits under section 43:21-16(d) of this
151 chapter (R. S. 43:21-1 et seq.), the director with the approval of
152 the Commissioner of Labor and Industry shall establish one or
153 more impartial appeal tribunals consisting in each case of either
154 a salaried examiner or a body, consisting of three members, one of
155 whom shall be a salaried examiner, who shall serve as chairman,
156 one of whom shall be a representative of employers and the other of
157 whom shall be a representative of employees; each of the latter two
158 members shall serve at the pleasure of the commissioner and be
159 paid a fee of not more than \$20.00 per day of active service on
160 such tribunal plus necessary expenses. No person shall participate
161 on behalf of the division in any case in which he is an interested
162 party. The director may designate alternates to serve in the
163 absence or disqualification of any member of an appeal tribunal.
164 The chairman shall act alone in the absence or disqualification of
165 any other member and his alternates. In no case shall the hearings
166 proceed unless the chairman of the appeal tribunal is present.

167 (e) Board of review. The board of review may on its own
168 motion affirm, modify, or set aside any decision of an appeal
169 tribunal on the basis of the evidence previously submitted in such
170 case, or direct the taking of additional evidence, or may permit
171 any of the parties to such decision to initiate further appeals
172 before it. The board of review shall permit such further appeal by
173 any of the parties interested in a decision of an appeal tribunal
174 which is not unanimous and from any determination which has
175 been overruled or modified by any appeal tribunal. The board of
176 review may remove to itself or transfer to another appeal tribunal
177 the proceedings on any claim pending before an appeal tribunal.
178 Any proceeding so removed to the board of review shall be heard
179 by a quorum thereof in accordance with the requirements of
180 subsection (c) of this section. The board of review shall promptly
181 notify the interested parties of its findings and decision.

182 (f) Procedure. The manner in which disputed benefit claims,
183 and appeals from determinations with respect to (1) claims for
184 benefits and (2) demands for refunds of benefits under section
185 43:21-16 (d) of this chapter (R. S. 43:21-1 et seq.) shall be pre-
186 sented, the reports thereon required from the claimant and from
187 employers, and the conduct of hearings and appeals shall be in
188 accordance with rules prescribed by the board of review for deter-
189 mining the rights of the parties, whether or not such rules conform
190 to common law or statutory rules of evidence and other technical
191 rules of procedure. A full and complete record shall be kept of all

192 proceedings in connection with a disputed claim. All testimony at
193 any hearing upon a disputed claim shall be recorded, but need not
194 be transcribed unless the disputed claim is further appealed.

195 (g) Witness fees. Witnesses subpoenaed pursuant to this section
196 shall be allowed fees at a rate fixed by the director. Such fees and
197 all expenses of proceedings involving disputed claims shall be
198 deemed a part of the expense of administering this chapter
199 (R. S. 43:21-1 et seq.).

200 (h) Court review. Any decision of the board of review shall
201 become final as to any party upon the mailing of a copy thereof to
202 such party or to his attorney, or upon the mailing of a copy thereof
203 to such party at his last-known address. The Division of ***Employ-**
204 **ment Security**)* *Unemployment and Disability Insurance** and
205 any party to a proceeding before the board of review may secure
206 judicial review of the final decision of the board of review. Any
207 party not joining in the appeal shall be made a defendant; the board
208 of review shall be deemed to be a party to any judicial action in-
209 volving the review of, or appeal from, any of its decisions, and may
210 be represented in any such judicial action by any qualified attorney
211 who may be a regular salaried employee of the board of review
212 or has been designated by it for that purpose, or, at the board of
213 review's request, by the Attorney General.

214 (i) Failure to give notice. The failure of any public officer or
215 employee at any time heretofore or hereafter to give notice of
216 determination or decision required in subsections (b), (c) and (e)
217 of this section, as originally passed or amended, shall not relieve
218 any employer's account of any charge by reason of any benefits
219 paid unless and until that employer can show to the satisfaction
220 of the director of the division that the said benefits, in whole or in
221 part, would not have been charged or chargeable to his account
222 had such notice been given. Any determination hereunder by the
223 director shall be subject to court review.

1 2. This act shall take effect immediately.

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193 any hearing upon a disputed claim shall be recorded, but need not
194 be transcribed unless the disputed claim is further appealed.

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197 all expenses of proceedings involving disputed claims shall be
198 deemed a part of the expense of administering this chapter
199 (R. S. 43:21-1 et seq.).

200 (h) Court review. Any decision of the board of review shall
201 become final as to any party upon the mailing of a copy thereof to
202 such party or to his attorney, or upon the mailing of a copy thereof
203 to such party at his last-known address. The Division of Employ-
204 ment Security and any party to a proceeding before the board of
205 review may secure judicial review of the final decision of the
206 board of review. Any party not joining in the appeal shall be
207 made a defendant; the board of review shall be deemed to be a
208 party to any judicial action involving the review of, or appeal
209 from, any of its decisions, and may be represented in any such
210 judicial action by any qualified attorney who may be a regular
211 salaried employee of the board of review or has been designated
212 by it for that purpose, or, at the board of review's request, by the
213 Attorney General.

214 (i) Failure to give notice. The failure of any public officer or
215 employee at any time heretofore or hereafter to give notice of
216 determination or decision required in subsections (b), (c) and (e)
217 of this section, as originally passed or amended, shall not relieve
218 any employer's account of any charge by reason of any benefits
219 paid unless and until that employer can show to the satisfaction
220 of the director of the division that the said benefits, in whole or in
221 part, would not have been charged or chargeable to his account
222 had such notice been given. Any determination hereunder by the
223 director shall be subject to court review.

1 2. This act shall take effect immediately.

STATEMENT

Employees who work out of union halls and others who work for two or more employers, find that when they become unemployed their benefits are not based upon all their earnings. This amendment would permit employees who earn less than \$100.00 per employer to determine their eligibility for benefits, the average weekly wage, the weekly benefit rate, and maximum total benefits as if all their base year employers were their single employers.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1568

STATE OF NEW JERSEY

DATED: NOVEMBER 25, 1974

The committee amended the bill to bring this section of the law in line with P. L. 1974, c. 86 revisions and to correctly update the name of the administering unit in the Department of Labor and Industry.

SENATE STATE GOVERNMENT AND FEDERAL
AND INTERSTATE RELATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1568

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STATE OF NEW JERSEY

DATED: APRIL 7, 1975

The purpose of this bill is to amend the Unemployment Compensation Law to permit employees who work for two or more employers, and who earn less than \$100.00 per employer in a week, to determine their benefits as if all their base year employers were a single employer.