

43: 21-27 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 43: 21-27 et al

(Temporary disability
Benefits Law-amendments)

LAWS OF: 1984

CHAPTER: 104

Bill No: S1793

Sponsor(s): Russo and DiFrancesco

Date Introduced: May 14, 1984

Committee: Assembly: /////

Senate: Labor, Industry and Professions

Amended during passage: Yes Amendments during passage denoted
by asterisks

Date of Passage: Assembly: June 25, 1984

Senate: June 25, 1984

Date of Approval: August 2, 1984

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

Recommendations referred to in sponsor's statement are not formally
published.

8-2-84

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SENATE, No. 1793**STATE OF NEW JERSEY**

INTRODUCED MAY 14, 1984

By Senators RUSSO and DiFRANCESCO

Referred to Committee on Labor, Industry and Professions

AN ACT concerning temporary disability benefits and amending
P. L. 1948, c. 110.

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

1 1. Section 3 of P. L. 1948, c. 110 (C. 43:21-27) is amended to read
2 as follows:

3 3. As used in this act, unless the context clearly requires other-
4 wise:

5 (a) (1) "Covered employer" means any individual or type of
6 organization, including any partnership, association, trust, estate,
7 joint-stock company, insurance company or corporation, whether
8 domestic or foreign, or the receiver, trustee in bankruptcy, trustee
9 or successor thereof, or the legal representative of a deceased per-
10 son, who is an employer subject to the chapter to which this act is
11 a supplement, designated as the Unemployment Compensation Law
12 (R. S. 43:21-1 et seq.), except the State, its political subdivisions,
13 and any instrumentality of the State unless such governmental
14 entity elects to become a covered employer under the Temporary
15 Disability Benefits Law; provided, however, that commencing with
16 the effective date of this act the State of New Jersey, including
17 Rutgers, The State University, the **[College]** *University of*
18 *Medicine and Dentistry of New Jersey* and the New Jersey Institute
19 of Technology, shall be deemed a covered employer, as defined
20 herein.

21 (2) Any governmental entity or instrumentality which is an
22 employer under R. S. 43:21-19(h)(5) may elect to become a

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

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Senate committee amendments adopted June 18, 1984.**

23 “covered employer” under this subsection beginning with the date
24 on which its coverage under subsection 19(h)(5) begins or as of
25 January 1 of any year thereafter by filing written notice of such
26 election with the division within at least 30 days of the effective
27 date. Such election shall remain in effect for at least two full
28 calendar years and may be terminated as of January 1 of any year
29 thereafter by filing with the division a written notice of termination
30 at least 30 days prior to the termination date.

31 (b) “Covered individual” means any person who is in employ-
32 ment, as defined in the chapter to which this act is a supplement,
33 for which he is entitled to remuneration from a covered employer,
34 or who has been out of such employment for less than two weeks.
35 However, a “covered individual” who is employed by the State
36 of New Jersey, including Rutgers, The State University, the [Col-
37 lege] *University* of Medicine and Dentistry of New Jersey and the
38 New Jersey Institute of Technology, or by any governmental entity
39 or instrumentality which elects to becoming a “covered employer”
40 pursuant to this amendatory act, shall not be eligible to receive any
41 benefits under the Temporary Disability Benefits Law until such
42 individual has exhausted all sick leave accumulated as an employee
43 in the classified service of the State or accumulated under terms and
44 conditions similar to classified employees or accumulated under the
45 terms and conditions pursuant to the laws of this State or as the
46 result of a negotiated contract with any governmental entity or
47 instrumentality which elects to become a “covered employer.”

48 “Covered individual” shall not mean any member of the Division
49 of State Police in the Department of Law and Public Safety.

50 (c) “Division” or “commission” means the Division of Unem-
51 ployment and Temporary Disability Insurance of the Department
52 of Labor, and any transaction or exercise of authority by the
53 director of the division shall be deemed to be performed by the
54 division.

55 (d) “Day” shall mean a full calendar day beginning and ending
56 at midnight.

57 (e) “Disability” shall mean such disability as is compensable
58 under section 5 of this act.

59 (f) “Disability benefits” shall mean any cash payments which are
60 payable to a covered individual pursuant to this act.

61 (g) “Period of disability” with respect to any individual shall
62 mean the entire period of time, during which he is continuously and
63 totally unable to perform the duties of his employment, except that
64 two periods of disability due to the same or related cause or condi-
65 tion and separated by a period of not more than 14 days shall be

66 considered as one continuous period of disability; provided, the
 67 individual has earned wages during such 14-day period with the
 68 employer who was his last employer immediately preceding the first
 69 period of disability.

70 (h) "Wages" shall mean all compensation payable by covered
 71 employers to covered individuals for personal services, including
 72 commissions and bonuses and the cash value of all compensation
 73 payable in any medium other than cash.

74 (i) (1) "Base week" with respect to periods of disability com-
 75 mencing prior to October 1, 1984, means any calendar week during
 76 which an individual earned not less than \$15.00 from a covered em-
 77 ployer, in employment as defined in the chapter to which this act is
 78 a supplement.

79 (2) "Base week" with respect to periods of disability commencing
 80 on or after October 1, 1984, and prior to October 1, 1985, means any
 81 calendar week during which an individual earned in employment
 82 from a covered employer remuneration equal to not less than 15%
 83 of the Statewide average weekly remuneration as determined under
 84 subsection (c) of R. S. 43:21-3, which shall be adjusted to the next
 85 higher multiple of \$1.00 if not already a multiple thereof.

86 (3) "Base week" with respect to periods of disability commencing
 87 on or after October 1, 1985, means any calendar week during which
 88 an individual earned in employment from a covered employer
 89 remuneration equal to not less than 20% of the Statewide average
 90 weekly remuneration as determined under subsection (c) of R. S.
 91 43:21-3, which shall be adjusted to the next higher multiple of \$1.00
 92 if not already a multiple thereof.

93 (j) "Average weekly wage" means the amount derived by divid-
 94 ing a covered individual's total wages earned from his most recent
 95 covered employer during the base weeks in the eight calendar
 96 weeks immediately preceding the calendar week in which disability
 97 commenced, by the number of such base weeks. If this computation
 98 yields a result which is less than the individual's average weekly
 99 earnings in employment, as defined in the chapter to which this act
 100 is a supplement, with all covered employers during the base weeks
 101 in such eight calendar weeks, then the average weekly wage shall be
 102 computed on the basis of earnings from all covered employers
 103 during the eight base weeks immediately preceding the week in
 104 which the disability commenced.

1 2. Section 14 of P. L. 1948, c. 110 (C. 43:21-38) is amended to
 2 read as follows:

3 14. Duration of benefits.

4 With respect to periods of disability commencing on or after

5 January 1, 1953, disability benefits, not, in excess of an individual's
 6 maximum benefits, shall be payable with respect to disability which
 7 commences while a person is a covered individual under the Tem-
 8 porary Disability Law, and shall be payable with respect to the
 9 eighth consecutive day of such disability and each day thereafter
 10 that such period of disability continues; and if benefits shall be
 11 payable for three consecutive weeks with respect to any period of
 12 disability commencing on or after January 1, 1968, then benefits
 13 shall also be payable with respect to the first seven days thereof.
 14 The maximum total benefits payable to any eligible individual for
 15 any period of disability commencing on or after January 1, 1968,
 16 shall be either 26 times his weekly benefit amount or $\frac{1}{3}$ of his
 17 total wages in his base year, whichever is the lesser; provided, that
 18 such maximum amount shall be computed in the next **higher** *lower*
 19 multiple of \$1.00 if not already a multiple thereof.

1 3. Section 16 of P. L. 1948, c. 110 (C. 43:21-40) is amended to
 2 read as follows:

3 16. With respect to periods of disability commencing on or after
 4 July 1, 1961, an individual's weekly benefit amount shall be deter-
 5 mined and computed by the division on the same basis as the weekly
 6 benefit rate is determined and computed pursuant to **section** *sub-*
 7 *section (c) of R. S. 43:21-3* **(c) of the Revised Statutes** except
 8 that for periods of disability commencing on or after October 1,
 9 1984, an individual's weekly benefit rate shall be two-thirds of his
 10 average weekly wage, subject to a maximum of **50%** *53%* of the
 11 Statewide average weekly remuneration paid to workers by em-
 12 ployers **subject to this chapter (R. S. 43:21-1 et seq.),** as
 13 determined **and promulgated by the Commissioner of Labor**
 14 *under subsection (c) of R. S. 43:21-3*; provided, however, that such
 15 individual's benefit rate shall be computed to the next **higher**
 16 *lower* multiple of \$1.00 if not already a multiple thereof. The
 17 amount of benefits for each day of disability for which benefits are
 18 payable shall be one-seventh of the corresponding weekly benefit
 19 amount; provided, that the total benefits for a fractional part of a
 20 week shall be computed to the next **higher** *lower* multiple of \$1.00
 21 if not already a multiple thereof.

1 4. Section 17 of P. L. 1948, c. 110 (C. 43:21-41) is amended to
 2 read as follows:

3 17. (a) (Deleted by amendment, *P. L. 1975, c. 355.*)

4 (b) With respect to periods of disability commencing on or after
 5 January 1, 1953, and prior to January 1, 1976, no individual shall
 6 be entitled to benefits under this article unless he has established at
 7 least 17 base weeks within the 52 calendar weeks preceding the

8 week in which his period of disability commenced, nor unless he
 9 shall duly file notice and proof of claim, and submit to such reason-
 10 able examinations as are required by this act and the rules and
 11 regulations of the division.

12 (c) With respect to periods of disability commencing on or after
 13 January 1, 1976 and prior to October 1, 1984, no individual shall be
 14 entitled to benefits under this article unless he has established at
 15 least 17 base weeks within the 52 calendar weeks preceding the
 16 week in which his period of disability commenced or, in the alterna-
 17 tive has earned \$2,200.00 or more within the 52 calendar weeks
 18 preceding the week in which his period of disability commenced,
 19 nor unless he shall duly file notice and proof of claim, and submit
 20 to such reasonable examinations as are required by this act and the
 21 rules and regulations of the division.

22 Notwithstanding any provisions of this section to the contrary,
 23 the provision of section 17 (c) shall apply to any claim pending
 24 before the division or the courts on the effective date of this act.

25 (d) *With respect to periods of disability commencing on or after*
 26 *October 1, 1984, no individual shall be entitled to benefits under this*
 27 *act unless he has established at least 20 base weeks within the 52*
 28 *calendar weeks preceding the week in which his period of disability*
 29 *commenced or, in the alternative the individual has earned twelve*
 30 *times the Statewide average weekly remuneration paid to workers,*
 31 *as determined under subsection (c) of R. S. 43:21-3, raised to the*
 32 *next higher multiple of \$100.00 if not already a multiple thereof, or*
 33 *more within the 52 calendar weeks preceding the week in which his*
 34 *period of disability commenced, nor shall the individual be entitled*
 35 *to benefits unless he shall duly file notice and proof of claim, and*
 36 *submit to such reasonable examinations as are required by this act*
 37 *and the rules and regulations of the division.*

1 *5. Section 22 of P. L. 1948, c.110 (C. 43:21-46) is amended to
 2 read as follows:

3 22. State disability benefits fund. (a) The State disability bene-
 4 fits fund, hereinafter referred to as the fund, is hereby established.
 5 The fund shall remain in the custody of the State Treasurer, and
 6 to the extent of its cash requirements shall be deposited in autho-
 7 rized public depositories in the State of New Jersey. There shall be
 8 deposited in and credited to the fund the amount of worker and
 9 employer contributions provided under subsections (d) and (e)
 10 of R. S. 43:21-7, less refunds authorized by the chapter (R. S.
 11 43:21-1 et seq.) to which this act is a supplement, and the entire
 12 amount of interest and earnings from investments of the fund,

13 and all assessments, fines and penalties collected under this act.
14 The fund shall be held in trust for the payment of disability benefits
15 pursuant to this act, for the payment of benefits pursuant to sub-
16 section (f) of R. S. 43:21-4, and for the payment of any authorized
17 refunds of contributions. All warrants for the payment of benefits
18 shall be issued by and bear only the signature of the Director of
19 the Division of Unemployment and Temporary Disability Insur-
20 ance or his duly authorized agent for that purpose. All other
21 moneys withdrawn from the fund shall be upon warrant signed by
22 the State Treasurer and countersigned by the Director of the
23 Division of Unemployment and Temporary Disability Insurance of
24 the Department of Labor [and Industry] of the State of New
25 Jersey. The Treasurer shall maintain books, records and accounts
26 for the fund, appoint personnel and fix their compensation within
27 the limits of available appropriations. The expenses of the trea-
28 surer in administering the fund and its accounts shall be charged
29 against the administration account, as hereinafter established. A
30 separate account, to be known as the administration account, shall
31 be maintained in the fund, and there shall be credited to such ac-
32 count an amount determined to be sufficient for proper administra-
33 tion, not to exceed, however, $\left[\frac{8}{100}\right] \frac{1}{10}$ of 1% of the wages with
34 respect to which current contributions are payable into the fund,
35 and the entire amount of any assessments against covered em-
36 ployers, as hereinafter provided, for costs of administration pro-
37 rated among approved private plans. The costs of administration
38 of this act including R. S. 43:21-4 (f) shall be charged to the
39 administration account.

40 (b) A further separate account, to be known as the unemploy-
41 ment disability account, shall be maintained in the fund. Such
42 account shall be charged with all benefit payments under R. S.
43 43:21-4 (f).

44 Prior to July 1 of each calendar year, the Division of Unem-
45 ployment and Temporary Disability Insurance of the Department
46 of Labor [and Industry] of the State of New Jersey shall determine
47 the average rate of interest and other earnings on all investments
48 of the State disability benefits fund for the preceding calendar year.
49 An amount equal to the sum of the amounts withdrawn from the
50 unemployment trust fund pursuant to section 23 hereof multiplied
51 by such average rate shall be determined by the division and
52 credited to the unemployment disability account as of the end of
53 the preceding calendar year.

54 If the unemployment disability account shall show an accumu-

55 lated deficit in excess of \$200,000.00 at the end of any calendar year
 56 after interest and other earnings have been credited as provided
 57 hereinabove, the division shall determine the ratio of such deficit to
 58 the total of all taxable wages paid during the preceding calendar
 59 year, and shall make an assessment against all employers in an
 60 amount equal to the taxable wages paid by them during such pre-
 61 ceding calendar year to employees, multiplied by such ratio, but
 62 in no event shall any such assessment exceed $\frac{1}{10}$ of 1% of such
 63 wages; provided, however, that the assessment made against the
 64 State (including Rutgers, The State University **of New Jersey**],
 65 the **College** *University* of Medicine and Dentistry of New Jersey
 66 and the New Jersey Institute of Technology) shall not exceed the
 67 sum of all benefits paid under the provisions of R. S. 43:21-4 (f) as
 68 the result of employment with the State. Such amounts shall be
 69 collectable by the division in the same manner as provided for the
 70 collection of employee contributions under this chapter (R. S.
 71 43:21-1 et seq.). In making this assessment, the division shall
 72 furnish to each affected employer a brief summary of the deter-
 73 mination thereof. The amount of such assessments collected by the
 74 division shall be credited to the unemployment disability account.

75 As used in this section, "taxable wages" shall mean wages with
 76 respect to which employer contributions have been paid or are pay-
 77 able pursuant to subsections (a), (b) and (c) of R. S. 43:21-7.

78 (c) A board of trustees, consisting of the State Treasurer, the
 79 Secretary of State, the Commissioner of Labor and Industry, the
 80 director of the division, and the State Comptroller, is hereby
 81 created. The board shall invest and reinvest all moneys in the fund
 82 in excess of its cash requirements, and such investments shall be
 83 made in obligations legal for savings banks; provided, however,
 84 that the provisions of this subsection shall in all respects be subject
 85 to the provisions of **chapter 270 of the laws of 1950** *P. L. 1950,*
 86 *c. 270 (C. 52:18A-79 et seq.)*.

87 (d) There is hereby appropriated, to be paid out of the fund,
 88 such amounts as may from time to time be required for the payment
 89 of disability benefits, and such amounts as may be required each
 90 year, as contained in the annual appropriation act, for the admin-
 91 istration of this act including R. S. 43:21-4 (f).*

1 ***[5.]*** *6.* This act shall take effect on October 1, 1984.

8 week in which his period of disability commenced, nor unless he
 9 shall duly file notice and proof of claim, and submit to such reason-
 10 able examinations as are required by this act and the rules and
 11 regulations of the division.

12 (c) With respect to periods of disability commencing on or after
 13 January 1, 1976 and prior to October 1, 1984, no individual shall be
 14 entitled to benefits under this article unless he has established at
 15 least 17 base weeks within the 52 calendar weeks preceding the
 16 week in which his period of disability commenced or, in the alterna-
 17 tive has earned \$2,200.00 or more within the 52 calendar weeks
 18 preceding the week in which his period of disability commenced,
 19 nor unless he shall duly file notice and proof of claim, and submit
 20 to such reasonable examinations as are required by this act and the
 21 rules and regulations of the division.

22 Notwithstanding any provisions of this section to the contrary,
 23 the provision of section 17 (c) shall apply to any claim pending
 24 before the division or the courts on the effective date of this act.

25 (d) With respect to periods of disability commencing on or after
 26 October 1, 1984, no individual shall be entitled to benefits under this
 27 act unless he has established at least 20 base weeks within the 52
 28 calendar weeks preceding the week in which his period of disability
 29 commenced or, in the alternative the individual has earned twelve
 30 times the Statewide average weekly remuneration paid to workers,
 31 as determined under subsection (c) of R. S. 43:21-3, raised to the
 32 next higher multiple of \$100.00 if not already a multiple thereof, or
 33 more within the 52 calendar weeks preceding the week in which his
 34 period of disability commenced, nor shall the individual be entitled
 35 to benefits unless he shall duly file notice and proof of claim, and
 36 submit to such reasonable examinations as are required by this act
 37 and the rules and regulations of the division.

1 5. This act shall take effect on October 1, 1984.

STATEMENT

Section 20 of P. L. 1984, c. 24 required the Department of Labor under the direction of the Governor's Commission on Unemployment Insurance to review the "Temporary Disability Benefits Law," P. L. 1948, c. 110 (C. 43:21-25 et seq.) with the objective of conforming benefit levels and eligibility criteria to those contained in the "unemployment compensation law," R. S. 43:21-1 et seq.

This bill is based on the recommendations of the Governor's Commission on Unemployment Insurance and includes the following amendments to the "Temporary Disability Benefits Law."

51793 (1984)

To qualify for benefits after October 1, 1984, an individual will be required to work 20 weeks and earn at least 15% of the Statewide average weekly wage in each of those weeks. For periods of disability after October 1, 1985, the individual must earn at least 20% of the Statewide average weekly wage in each of 20 weeks. These provisions are identical to the changes made to the "unemployment compensation law" in P. L. 1984, c. 24.

The alternative earnings test, currently \$2,200.00, will be indexed at 12 times the Statewide average weekly (\$4,100.00 in 1984) beginning October 1, 1984. This provision will also be identical to that contained in the "unemployment compensation law."

Effective October 1, 1984, the maximum weekly benefit amount will be increased from 50% to 53% of the Statewide average weekly wage. The maximum amount payable will be increased from \$170.00 to \$180.00 in 1984. Also, all benefit computations will be rounded to the next lower dollar to conform with the provisions of the "unemployment compensation law."

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

SENATE, No. 1793

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 18, 1984

This bill amends the "Temporary Disability Benefits Law" by:

a. Requiring that individuals work 20 instead of 17 base weeks in covered employment during the 52 weeks immediately preceding the week in which the disability begins and earn in that employment at least 15% of the Statewide average weekly wage (SAWW) in each of those weeks, instead of at least \$15.00 per week, in order to qualify for benefits for disabilities commencing on or after October 1, 1984 and prior to October 1, 1985;

b. Requiring that individuals work 20 base weeks in covered employment during the 52 weeks immediately preceding the week in which the disability begins and earn in that employment at least 20% of the SAWW in each of those weeks in order to qualify for benefits for disabilities commencing on or after October 1, 1985;

c. Providing that, effective October 1, 1984, the alternative earnings test will be indexed at 12 times the SAWW (\$4,100.00 in 1984), instead of the current test of \$2,200.00 in covered employment during the 52 weeks immediately preceding the week in which the disability begins;

d. Raising the maximum benefit rate for periods of disability commencing on or after October 1, 1984 from 50% of the SAWW to 53% of the SAWW which would result in the maximum being raised from \$170.00 to \$180.00 in 1984; and

e. Raising the limit on the amount that may be credited to the administration account in the disability benefits fund from $\frac{8}{100}$ to $\frac{1}{10}$ of 1% of the wage contributions payable to the fund.

Bills Signings

Thursday, August 2, 1984

Page Two

The Governor also signed the following bills:

A-2011, sponsored by Assemblyman Paul Cuprowski, D-Hudson, which enables the New Jersey Transit Corporation (NJT) to issue grant anticipation notes. By doing so, NJT does not incur any new debt. The notes are in the anticipation of federal operating assistance grants, which normally do not arrive until March or April of each state fiscal year. The anticipation notes will allow NJT to distribute its cash flow more evenly over the course of the year.

S-1793, sponsored by State Senator John F. Russo, D-Ocean, which amends the State Temporary Disability Benefits law. The effect of the bill is to increase the maximum allowable weekly benefit from \$170 to \$180. The bill also restricts eligibility requirements by extending the length of time an individual must work and the amount he or she must earn to qualify.

S-1914/A-1603, sponsored by State Senator Francis J. McManimon, D-Mercer and Assemblyman Karl Weidel, R-Mercer, which appropriates \$5,550,000 from the Water Supply Bond Act of 1981 for dredging of the Delaware and Raritan Canal.

S-1901, sponsored by State Senator Laurence S. Weiss, D-Middlesex, which appropriates \$333,182 to pay various claims.

SJR-42 sponsored by State Senator Donald T. DiFrancesco, R-Union, which designates the Transportation Technical Services Building in Ewing Township as the Arthur F. Foran Technical Services Building, to honor the public service of Arthur F. Foran, Chairman of the State Highway Commission from 1933 to 1935.

AJR-31, sponsored by Assemblyman Joseph D. Patero, D-Somerset, which designates a portion of the Delaware and Raritan Canal State Park in Franklin Township as the Freda Marden Common, in honor of her efforts as an advocate of environmental preservation and her service as a member of the Franklin Township Environmental Commission.

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