

39:6-63 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 39:6-63 et al (UCJ Fund - transfer unrestricted reserve to General Fund)

LAWS OF: 1983

CHAPTER: 125

Bill No: A2324

Sponsor(s): Adubato and others

Date Introduced: December 30, 1982

Committee: Assembly: /////

Senate: /////

Amended during passage: Yes Amendments denoted by asterisks according to Governor's recommendations

Date of Passage: Assembly: December 30, 1982 Re-enacted 2-28-83

Senate: December 30, 1982 Re-enacted 3-30-83

Date of Approval: April 5, 1983

Following statements are attached if available:

Sponsor statement: Yes (Below)

Committee statement: Assembly No

Senate No

Fiscal Note: No

Veto Message: Yes

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

Sponsors' statement:

This bill transfers the unrestricted reserve of the Unsatisfied Claim and Judgment Fund to the General Fund.

Opinions noted in veto message are unpublished opinions.

4-5-83

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 2324

STATE OF NEW JERSEY

INTRODUCED DECEMBER 30, 1982

By Assemblymen ADUBATO, KARCHER, VAN WAGNER, VISOTCKY, HERMAN, FORTUNATO, DOYLE, BOCCHINI, LESNIAK, Assemblywomen PERUN, COSTA, Assemblymen PANKOK, SCHWARTZ, BRYANT, ZANGARI, GIRGENTI, PELLECCIA, FLYNN, PATERO, GORMAN, HOLLENBECK, THOMPSON, MATTHEWS, MARSELLA, T. GALLO, COWAN, DORIA, Assemblywomen GARVIN, KALIK, Assemblymen CHARLES, MAZUR, PELLY, PATERNITI, McENROE, RILEY, WATSON and DEVERIN

AN ACT ***[providing for the transfer of sums]*** **to permit advances** from the Unsatisfied Claim and Judgment Fund to the ***[General Fund]*** **Division of Motor Vehicles in the Department of Law and Public Safety of those sums necessary for implementation by the division of the New Jersey Merit Rating Plan established pursuant to P. L. 1983, c. 65, providing for the repayment thereof, and amending P. L. 1952, c. 174*.*

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

1 ***[1. Notwithstanding any provision of P. L. 1952, c. 174 or any**
2 **supplement thereto to the contrary, the unrestricted reserve of the**
3 **Unsatisfied Claim and Judgment Fund is transferred to the General**
4 **Fund.]***

1 ***1. Section 3 of P. L. 1952, c. 174 (C. 39:6-63) is amended to read**
2 **as follows:**

3 3. For the purpose of creating and maintaining the fund:

4 (a) (Deleted by amendment, P. L. 1968, c. 323, § 3.)

5 (b) (Deleted by amendment, P. L. 1968, c. 323, § 3.)

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:

***—Assembly amendments adopted February 14, 1983.**

6 (c) (Deleted by amendment, P. L. 1968, c. 323, § 3.)

7 (d) On December 30 in each year, beginning with 1956, the
8 director shall calculate the probable amount which will be needed
9 to carry out the provisions of this act during the ensuing registra-
10 tion license year. In such calculation, he shall take into considera-
11 tion the amount presently reserved for pending claims, anticipated
12 payments from the fund during said year, anticipated payments
13 from the fund for medical expenses to be made pursuant to section
14 2 of this act during the two years after said year, anticipated
15 amounts to be reserved for claims pending during said year,
16 *amounts transferred to the Division of Motor Vehicles pursuant to*
17 *section 28 of P. L. 1952, c. 174 (C. 39:6-88), as amended by this*
18 *1983 amendatory act*, and the desirability of maintaining a surplus
19 over and above such anticipated payments and present and antici-
20 pated reserves, such surplus not to exceed the amount actually paid
21 from the fund during the 12 full calendar months immediately
22 preceding the date of calculation. Such probable amount which will
23 be needed to carry out the provisions of this act shall be assessed
24 against insurers for such year's contribution to the fund. Such
25 probable amount needed shall be apportioned among such insurers
26 in the proportion that the net direct written premiums of each bears
27 to the aggregate net direct written premiums of all insurers during
28 the preceding calendar year as shown by the records of the com-
29 missioner. Each insurer shall pay the sum so assessed to the
30 treasurer on or before March 31, next following.

31 (e) Whenever any of the provisions of this act concerning the
32 method and sources of assessments, the maximum amounts payable
33 from the fund, eligibility or qualifications of claimants, or amounts
34 to be deducted from payments made from the fund are amended by
35 law, between January 1 and April 30 in any year, the director may,
36 if he deems it necessary, rescind any assessment made on December
37 30 of the preceding year. He shall then, within 15 days of the
38 adoption of such amendment, recalculate the probable amount which
39 will be needed to carry out the provisions of this act during the
40 ensuing registration license year, in accordance with the provisions
41 of subsection (d) of this section. If, in his judgment, the estimated
42 balance of the fund at the beginning of the next registration license
43 year will be insufficient to meet such needs, he shall determine the
44 contributions of insurers, if any, in accordance with the provisions
45 of subsection (d) of this section. In the event of a rescission and
46 reassessment subsequent to March 1 in any year, insurers shall pay
47 the sum so assessed, if any, to the treasurer within 90 days of the
48 date of such assessment.

1 2. Section 28 of P. L. 1952, c. 174 (C. 39:6-88) is amended to read
2 as follows:

3 28. Fund to be held in trust. All sums paid to the director as
4 Unsatisfied Claim and Judgment Fund Fees and as additional
5 charges against owners of uninsured motor vehicles shall be re-
6 mitted to the treasurer within 30 days after the receipt of the same.
7 All sums received by the treasurer pursuant to any of the provisions
8 of this act shall become part of the fund, and shall be held by the
9 treasurer in trust for the carrying out of the purposes of this act
10 and for the payment of the cost of administering this act, *and*
11 *for the payment of the costs of the Division of Motor Vehicles of*
12 *implementing the New Jersey Merit Rating Plan pursuant to section*
13 *6 of P. L. 1983, c. 65 (C. 17:29A-35). The director shall certify to*
14 *the treasurer the amount necessary to implement the New Jersey*
15 *Merit Rating Plan pursuant to that section, and the treasurer shall*
16 *thereupon disburse that amount from the fund. Moneys transferred*
17 *to the Division of Motor Vehicles pursuant to this section shall be*
18 *repaid, with interest at the prevailing rate as determined by the*
19 *board, out of sums appropriated to the Division of Motor Vehicles*
20 *from surcharges assessed in accordance with the New Jersey Merit*
21 *Rating Plan established pursuant to section 6 of P. L. 1983, c. 65*
22 *(C. 17:29A-35). Said fund may be invested and reinvested in the*
23 *same manner as other State funds and shall be disbursed according*
24 *to the order of the treasurer, as custodian of the fund.**

1 ***[2.]*** *3.* This act shall take effect immediately.

ASSEMBLY, No. 2324
STATE OF NEW JERSEY

INTRODUCED DECEMBER 30, 1982

By Assemblymen ADUBATO, KARCHER, VAN WAGNER,
VISOTCKY, HERMAN, FORTUNATO, DOYLE, BOCCHINI,
LESNIAK, Assemblywomen PERUN, COSTA, Assemblymen
PANKOK, SCHWARTZ, BRYANT, ZANGARI, GIRGENTI,
PELLECCHIA, FLYNN, PATERO, GORMAN, HOLLENBECK,
THOMPSON, MATTHEWS, MARSELLA, T. GALLO, COWAN,
DORIA, Assemblywomen GARVIN, KALIK, Assemblymen
CHARLES, MAZUR, PELLY, PATERNITI, McENROE, RILEY,
WATSON and DEVERIN

AN ACT providing for the transfer of sums from the Unsatisfied
Claim and Judgment Fund to the General Fund.

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

1 1. Notwithstanding any provision of P. L. 1952, c. 174 or any
2 supplement thereto to the contrary, the unrestricted reserve of the
3 Unsatisfied Claim and Judgment Fund is transferred to the General
4 Fund.

1 2. This act shall take effect immediately.

STATEMENT

This bill transfers the unrestricted reserve of the Unsatisfied
Claim and Judgment Fund to the General Fund.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

February 14, 1983

ASSEMBLY BILL NO. 2324

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 2324 with my objections and recommendations for amendment.

This bill requires that notwithstanding any provision of the "Unsatisfied Claim and Judgment Fund Law" (N.J.S. 39:6-61 et seq.) or any supplement thereto to the contrary, the unrestricted reserve of the Unsatisfied Claim and Judgment Fund is transferred to the State General Fund.

I am concerned that an outright transfer of monies from the Fund would effectively prohibit it from carrying out its designed purpose - the satisfaction of certain statutory claims for loss or injury caused by financially irresponsible or unidentified owners or operators of motor vehicles, and claims for medical expenses under no-fault insurance policies in amounts over \$75,000.

The Unsatisfied Claim and Judgment Fund's (UCJF) balance sheet of November 30, 1982 shows a \$90,000,000 deficit. This deficit does not include a very substantial incurred but not reported factor as to excess medical benefit claims.

Also, the Director of the UCJF has determined that he must assess insurance carriers \$38,000,000 for fiscal year 1983, in order to maintain the UCJF. This figure represents a 200% increase over the 1982 assessments, which itself was a 115% increase over the 1981 assessment. Should the State transfer any funds from the UCJF, the assessment will by necessity have to increase. When the assessment on the insurer increases, it in turn must raise its premiums.

I am also concerned about the constitutional questions that are raised by this bill.

Sums paid into the Fund are held by the Treasurer in trust for the purposes of the Unsatisfied Claim and Judgment Fund. In recent years, the States of Wisconsin and New York have enacted legislation seeking to utilize for broad State purposes, monies held in workers' compensation and other trust funds. Both laws were ruled unconstitutional. See Employers Insurance of Wausau v. Mitchell at 5-6 (Circuit

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T., Dane County, Wis., November 2, 1982). See also American Insurance Association, et al. v. Bouchard, et al. (Supr. Ct., New York County, N.Y., Index No. 91531-82, Filed Dec. 30, 1982).

I respect the sponsor's zeal and conviction in obtaining passage of Assembly Bill No. 2324, and certainly understand the desire to seek out new sources of funding for necessary State programs.

Because the Unsatisfied Claim and Judgment Fund exists in part to satisfy claims for loss or injury caused by financially irresponsible or unidentified owners or operators of motor vehicles, the financial stability of the Fund will be enhanced by increasing the effectiveness of the Division of Motor Vehicles in its ability to perform its insurance related duties in an expeditious fashion. Therefore, I recommend amending Assembly Bill No. 2324 to permit monies in the Unsatisfied Claim and Judgment Fund to be loaned to DMV for those purposes.

Therefore, I herewith return Assembly Bill No. 2324 and recommend that it be amended as follows:

Page 1, Title: After "An Act" delete "providing for the transfer of sums from" and insert "to amend" and after "Judgment Fund" delete "to the General Fund" and insert "to permit advances from the Fund to the Division of Motor Vehicles in the Department of Law and Public Safety such sums as are necessary for implementation by the Division of Motor Vehicles of the New Jersey Merit Rating Plan pursuant to P.L. 1983, c. , section 6(b), and providing for the repayment thereof:"

Page 1, Section 1, Lines 1-4: Delete in entirety and insert the following:

1. Section 3 of P.L. 1952, c. 174 (C.39:6-63, as amended and supplemented, is amended to read as follows:

For the purpose of creating and maintaining the fund:

- (a) (Deleted by amendment, P.L. 1968, c. 323, section 3).
- (b) (Deleted by amendment, P.L. 1968, c. 323, section 3).
- (c) (Deleted by amendment, P.L. 1968, c. 323, section 3).
- (d) On December 30 in each year, beginning with 1956, the director shall calculate the probable amount which will be needed to carry out the provisions of this act, as amended and supplemented, during the ensuing registration license year. In such calculation, he shall take into consideration the amount presently reserved for pending claims, anticipated payments from the fund during said year, anticipated payments from the fund for medical expenses to be made pursuant to section 2 of this act during the two years after said year, anticipated amounts to be reserved for claims pending during said year, amounts transferred to the Division of Motor Vehicles pursuant to P.L. 1983, c. , §2, and the desirability of maintaining

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a surplus over and above such anticipated payments and present and anticipated reserves, such surplus not to exceed the amount actually paid from the fund during the 12 full calendar months immediately preceding the date of calculation. Such probable amount which will be needed to carry out the provisions of this act, as amended and supplemented, shall be assessed against insurers for such year's contribution to the fund. Such probable amount needed shall be apportioned among such insurers in the proportion that the net direct written premiums of each bears to the aggregate net direct written premiums of all insurers during the preceding calendar year as shown by the records of the commissioner. Each insurer shall pay the sum so assessed to the treasurer on or before March 31, next following.

(e) Whenever any of the provisions of this act concerning the method and sources of assessments, the maximum amounts payable from the fund, eligibility or qualifications of claimants, or amounts to be deducted from payments made from the fund are amended by law, between January 1 and April 30 in any year, the director may, if he deems it necessary, rescind any assessment made on December 30 of the preceding year. He shall then, within 15 days of the adoption of such amendment, recalculate the probable amount which will be needed to carry out the provisions of this act, as amended and supplemented, during the ensuring registration license year, in accordance with the provisions of subsection (d) of this section. If, in his judgment, the estimated balance of the fund at the beginning of the next registration license year will be insufficient to meet such needs, he shall determine the contributions of insurers, if any, in accordance with the provisions of subsection (d) of this section. In the event of a rescission and reassessment subsequent to March 1 in any year, insurers shall pay the sum so assessed, if any, to the treasurer within 90 days of the date of such assessment.

Page 1: After Section 1 insert new section 2 as follows:

2. Section 28 of P.L. 1952, c. 174 (C.39:6-88) is amended to read as follows:

28. All sums paid to the director as Unsatisfied Claim and Judgment Fund Fees and as additional charges against owners of uninsured motor vehicles shall be remitted to the treasurer within 30 days after the receipt of the same. All sums received by the treasurer pursuant to any of the provisions of this act shall become part of the fund, and shall be held by the treasurer in trust for the carrying out of the purposes of this act, and for the payment of the cost of administering this act, and for the payment of the costs of the Division of Motor Vehicles of implementing the New Jersey Merit Rating Plan pursuant to P.L. 1983, c. , section 6(b). The director shall certify to the treasurer the amount necessary to implement the New Jersey Merit Rating Plan pursuant to P.L. 1983, c. , section 6(b), and the treasurer shall thereupon disburse such amount from the fund. Monies transferred to the Division of Motor Vehicles pursuant to this section shall be repaid, with interest at the prevailing rate as determined by the Board of the Unsatisfied Claim and Judgment Fund, out of sums appropriated to the Division of Motor Vehicles from surcharges assessed in accordance with the New Jersey Merit Rating Plan established pursuant to P.L. 1983, c. , section 6. Said fund may be invested and reinvested in the same manner as other State funds and shall be disbursed according to the order of the treasurer, as custodian of the fund.

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Page 1, Section 2, Line 1: Delete "2." and insert "3."

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Kenneth D. Merin

Deputy Chief Counsel