

48:2-21.11 to 48:2-21.13

LEGISLATIVE HISTORY CHECKLIST

NJSA: 48:2-21.11 to 48:2-21.13

(Public utilities -- insurance reimbursement small benefit utility's customers)

LAWS OF: 1983

CHAPTER: 461

Bill No: A379

Sponsor(s): McEnroe

Date Introduced: Pre-filed

Committee:

Assembly: Commerce and Industry

Senate: Transportation and Communications

Amended during passage: YES  
According to Governor's recommendations

Amendments denoted by asterisks

Date of Passage:

Assembly: June 17, 1982

Re-enacted 12/8/83

Senate: September 15, 1983

Re-enacted 1/9/84

Date of Approval: January 12, 1984

Following statements are attached if available:

Sponsor statement:

YES

Committee statement:

Assembly

YES

Senate

YES

Fiscal Note:

NO

Veto Message:

YES

Message on Signing:

NO

Following were printed:

Reports:

NO

Hearings:

NO

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[SECOND OFFICIAL COPY REPRINT]  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 379**

**STATE OF NEW JERSEY**

ADOPTED MAY 17, 1982

By Assemblyman McENROE

AN ACT concerning *\*certain\** public utility rates, and supplementing chapter 2 of Title 48 of the Revised Statutes.

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

1 \***[**1. a. Any moneys which are reimbursed to a utility by any  
2 insurer for any cost already charged to rate payers shall be  
3 characterized by the board as only for the benefit of rate payers.

4 b. Any moneys which are reimbursed to a utility by any utility  
5 contractor or by an legal action or settlement or by any other  
6 person except a rate payer for any cost already charged to rate  
7 payers shall be characterized by the board as only for the benefit  
8 of rate payers.]\*

1 \*1. *In determining just and reasonable rates for any electric*  
2 *utility pursuant to R. S. 48:2-21, R. S. 48:2-21.1, or section 31 of*  
3 *P. L. 1962, c. 198 (C. 48:2-21.2), the Board of Public Utilities shall*  
4 *provide that any moneys received \*\*by the utility\*\* as reimburse-*  
5 *ment \*\*[to the utility]\*\* for costs incurred, including those for*  
6 *replacement energy, \*\*[to the utility by]\*\* \*\*from\*\* any insur-*  
7 *ance carrier, or as a result of any legal action or settlement shall*  
8 *be accounted for as moneys available to the utility.\**

1 2. The board shall make an appropriate adjustment to the rates  
2 charged to rate payers **[to reflect the reimbursements referred to**  
3 **in section 1 of this act]** **[\*providing]** **\*\*to provide\*\* that any**  
4 **reimbursements so received are applied properly for reducing**  
5 **utility rates at the utility's rate hearing next following the utility's**

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 February 24, 1983.

\*\*—Assembly amendments adopted in accordance with Governor's recommendations November 21, 1983.

6 receipt of **those** moneys **if the board determines that those**  
7 reimbursed costs are also being charged to rate payers**.**

1 **\*3. The provisions of this act shall not apply to moneys reim-**  
2 **bursed which are less than \$100,000.00.\***

1 **\*[3.] \*4.\* This act shall take effect immediately.**

ASSEMBLY, No. 379

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Assemblymen McENROE, THOMPSON, Assemblywoman GARVIN, Assemblymen BROWN, ZANGARI, LESNIAK and GIRGENTI

AN ACT concerning public utility rates, and supplementing chapter 2 of Title 48 of the Revised Statutes.

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

1 1. In determining just and reasonable rates for any electric  
2 utility pursuant to R. S. 48:2-21, R. S. 48:2-21.1, or section 31 of  
3 P. L. 1962, c. 198 (C. 48:2-21.2), the board shall provide that any  
4 costs, including those for replacement energy, which directly result  
5 from any design defects, equipment failure, mechanical malfunc-  
6 tion, or employee error of omission or commission which are  
7 subsequently reimbursed by any insurance carrier or as a result  
8 of any court action shall be accounted for as moneys available  
9 to the public utility.

1 2. This act shall take effect immediately.

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STATEMENT

The purpose of this bill is to provide that when a public utility is reimbursed for costs incurred due to technical malfunction or personnel error, the reimbursement to the utility is reflected in the rates charged the utility customer.

ASSEMBLY COMMERCE AND INDUSTRY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 379**

**STATE OF NEW JERSEY**

DATED: MAY 17, 1982

The Assembly Commerce and Industry Committee favorably reports this committee substitute which requires that any reimbursements to utility companies from such sources as utility contractors or insurers or moneys received as a result of any legal actions or settlements be reflected in customers' rates in those cases where rate payers have been charged for costs incurred.

The reported substitute bill represents a broadening of the original bill, which was directed largely at the costs associated with the Three Mile Island accident on March 28, 1979 and which only addressed design defects, equipment failure, mechanical malfunction, or employee errors. The language of the substitute avoids referring to the aforesaid reimbursements and other moneys as "revenues" so that they will not be made subject to the State's gross receipts and franchise tax.

It is the intent of this bill to include in the statutory law what has, in the past, been decided as a matter of flexible administrative policy by the Board of Public Utilities.

SENATE TRANSPORTATION AND COMMUNICATIONS  
COMMITTEE

STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 379**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 24, 1983

The Assembly Committee Substitute for Assembly Bill No. 379 as amended by the committee provides that moneys received by an electric utility as reimbursement for costs received, including replacement energy costs, shall be accounted for as moneys available to the utility. The moneys are those received from any insurance carrier, or as a result of any legal action or settlement. The Board of Public Utilities is required to make an appropriate adjustment to customers' rates providing that the moneys received are applied properly to reduce utility rates at the first rate hearing following the reimbursement. A minimum level of \$100,000.00 is set for the reimbursement.

The intent of this amended bill is that moneys received by the utility as reimbursement shall be considered by the board in setting utility rates in order to prevent a situation in which moneys reimbursed are used by the utility for costs incurred and, at the same time, the rate payers are also charged for the cost. This amended bill would prevent such "double-dipping."

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

November 21, 1983

ASSEMBLY BILL NO. 379 (ACS)(OCR)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 379 (Acs)(OCR) with my recommendations for reconsideration by the Legislature.

This bill would provide that monies received by an electric utility as a reimbursement for costs incurred by the utility must be accounted for as money available to the utility for rate making purposes. The bill would specifically require that monies received by a utility from an insurance company or as the result of a legal action or settlement be applied to reductions in customer rates.

While I am in total agreement with the intention of this bill, the language of the bill does not clearly indicate that money should only be passed through to rate payers when it is appropriate to do so. For example, if a utility facility is destroyed as the result of an accident, the monies received from an insurance company by the utility are needed to rebuild the facility and should only be passed through to rate payers if the rate payers had previously been charged for the cost of rebuilding. A literal reading of the bill as presently written would seem to indicate that the monies must be passed through to rate payers in every case. This contradicts the intention of the bill as stated by the Assembly Commerce and Industry and Senate Transportation and Communications Committees. The Assembly Committee statement to Assembly Bill No. 379 says specifically that the money should be passed through where rate payers have already been charged for the costs incurred. Additionally, the Senate Committee statement says that the intent of the bill is to prevent situations in which monies reimbursed to the utility are used by the utility for costs incurred while at the same time the rate payers are also charged for the costs. Unfortunately, however, the language of the bill does not make this legislative intent clear and appears to mandate a pass through of the monies reimbursed regardless of whether the rate payers have already been charged for the costs.

Accordingly, I herewith return Assembly Bill No. 379 (Acs)(OCR) with the following amendments for enactment by the Legislature:

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

2

Page 1, Section 1, Line 4: After "received" INSERT "by the utility"

Page 1, Section 1, Line 4: After "reimbursement" DELETE "to the utility"

Page 1, Section 1, Lines 5-6: DELETE "to the utility by" and INSERT  
"from"

Page 1, Section 2, Line 3: DELETE "providing" and INSERT "to provide"

Page 2, Section 2, Line 5: After "receipt of" INSERT "those"

Page 2, Section 2, Line 6: After "moneys" INSERT "if the board determines  
that those reimbursed costs are also being charged to rate payers"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

(seal)

Attest:

/s/ W. Cary Edwards  
Chief Counsel