

44:8-108

LEGISLATIVE HISTORY CHECKLIST

NJSA 44:8-108
 Laws of 1977 Chapter 286 (Welfare--Differing Benefits for employable & unemployable persons)
 Bill No. S3075
 Sponsor(s) Dwyer & others
 Date Introduced February 1, 1977
 Committee: Assembly Institutions, Health & Welfare
Senate Revenue, Finance & Appropriations

Amended during passage Yes ~~NO~~ Amendments during passage denoted by asterisks
 Date of passage: Assembly Oct. 17, 1977
 Senate April 28, 1977
 Date of approval November 30, 1977

Following statements are attached if available:

Sponsor statement	Yes	NO	
Committee Statement: Assembly	Yes	NO	
Senate	Yes	NO	Not enclosed--identical to sponsor's statement
Fiscal Note	YES	No	
Veto message	YES	No	
Message on signing	Yes	NO	
Following were printed:			
Reports	YES	No	
Hearings	YES	No	

Checked card catalog under:
 NJ--Public Welfare
 Case mentioned in sponsor's statement:
 Pascucci v. Vagott, 71NJ40

APR 1978
 AB
 10/4/76

DEPOSITORY COPY
 Do Not Remove From Library

Chapter 286 Laws of NJ 1977
Approved 11/30/77

[OFFICIAL COPY REPRINT]

SENATE, No. 3075

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 1, 1977

By Senators DWYER, FAY, SCARDINO, AMMOND, MERLINO,
ZANE, LIPMAN, FELDMAN, McGAHN, ORECHIO, GREEN-
BERG, VREELAND, DUMONT, CAFIERO, GARRAMONE and
RUSSO

Referred to Committee on Institutions, Health and Welfare

AN ACT to amend the "General Public Assistance Law," approved
May 13, 1947 (P. L. 1947, c. 156).

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

1 1. Section 2 of P. L. 1947, c. 156 (C. 44:8-108) is amended to
2 read as follows:

3 2. As used in this act:

4 "Commissioner" means the **[Coordinator of the Department of**
5 **Economic Development]** *Commissioner of the Department of*
6 *Human Services;*

7 "Department" means the **[Department of Economic Develop-**
8 **ment]** *Department of Human Services;*

9 "Employable person" means any person applying for or re-
10 ceiving public assistance under this act who is not unable to per-
11 form work due to physical or mental disability as such terms shall
12 be defined in regulations established by the commissioner;

13 "Municipality" shall include any city, borough, township, town,
14 village or municipality governed by a board of commissioners or
15 an improvement commission;

16 "Public assistance" means assistance rendered to needy persons
17 not otherwise provided for under the laws of this State, where
18 such persons are willing to work but are unable to secure employ-
19 ment due either to physical or mental disability or inability to find
20 employment, and includes what is commonly called "relief" or
21 "emergency relief";

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

22 "State aid" means State aid for public assistance or relief as
23 in this act prescribed and provided for;

24 "*Unemployable person*" means any person applying for or re-
25 ceiving public assistance who is not an employable person as de-
26 fined by the commissioner;

27 "Year" means calendar year.

1 2. Section 3 of P. L. 1947, c. 156 (C. 44:8-109) is amended to
2 read as follows:

3 3. It is hereby declared to be the public policy of this State that
4 every needy person shall, while in this State, be entitled to receive
5 such public assistance as may be **[necessary]** *appropriate with*
6 *reference to need of a category of persons and whether or not such*
7 *persons are employable*, and that the furnishing of such public
8 assistance is primarily the duty of the municipalities and of civic
9 and charitable organizations but that all needy persons not other-
10 wise provided for under the laws of this State shall hereafter
11 receive public assistance pursuant to law and the provisions of
12 this act.

13 *It is also the public policy of this State that there are two dis-*
14 *tinct categories of persons who may be eligible for financial assist-*
15 *ance in accordance with the provisions of this act, those who are*
16 *employable and those who are unemployable, as those terms are*
17 *defined in section 2 of this act (C. 44:8-108). The commissioner*
18 *may set differing levels of assistance for these categories.*

1 3. Section 8 of P. L. 1947, c. 156 (C. 44:8-114) is amended to
2 read as follows:

3 8. Every municipality shall provide public assistance to the
4 persons eligible thereto, residing therein or otherwise when so
5 provided by law, which shall be administered by a local assistance
6 board according to law and in accordance with this act and with
7 such rules and regulations as may be promulgated by the com-
8 missioner.

9 *As hereinafter provided, employable persons receiving public*
10 *assistance shall be required**, *except when good cause exists** to
11 *perform such public work as shall be assigned to them by the New*
11A *Jersey Employment Service.*

12 *The New Jersey Employment Service shall provide for the*
13 *establishment of public work ***[projects]*** *programs* for the*
14 *assignment of employable persons in receipt of public assistance*
15 *to perform work for ***[such]*** *the* municipality *providing public*
16 *assistance*. Public work projects may include the performance of*
17 *work in the operation of or in an activity of a nonprofit agency or*

18 institution pursuant to a contract with the municipality. Public
 19 work projects shall be approved by the Commissioner of the Depart-
 19A ment of Labor and Industry. *No municipality or nonprofit agency
 19B or institution which has contracted with a municipality pursuant to
 19C this section shall be liable, except for gross negligence, for any
 19D injury received by a recipient while performing work required by
 19E this act, provided that such work is supervised by a State repre-
 19F sentative. Such liability shall be assumed by the State pursuant to
 19G the "New Jersey Tort Claims Act" (P. L. 1972, c. 45).*

20 The director of welfare in the municipality shall notify the New
 21 Jersey Employment Service of such employable persons in receipt
 22 of public assistance who, ***[in his judgment, and]*** in accordance
 23 with the regulations established by the commissioner, are able to
 24 perform the work required in a public work project. The New Jersey
 25 Employment Service shall assign such persons to perform work
 26 in a public work project provided that such work is available, and
 27 provided further that it is satisfied that such persons will not be
 28 used to replace, or to perform any work ordinarily and actually
 29 performed by regular employees of any department or unit of such
 30 municipality.

31 In assigning persons to public work projects operated by a non-
 32 profit agency or institution, the New Jersey Employment Service
 33 shall also be satisfied that such assignment will not result in the
 34 displacement of regular employees of the agency or institution or
 35 in the performance of work that is ordinarily and actually per-
 36 formed by such regular employees.

37 Persons shall be assigned to perform only such work as they are
 38 able ***[in the judgment of the New Jersey Employment Service]*** to
 39 perform*, in accordance with regulations established by the Com-
 39A missioner of Labor and Industry*.

40 Persons performing such work assigned by the New Jersey Em-
 41 ployment Service shall ***[be compensated at an hourly wage rate**
 42 **commensurate with other employees similarly employed but shall]***
 43 work only ***[as many]*** *the number of* hours *equal to the amount
 44 of their grant divided by an hourly wage rate commensurate with
 45 other employees similarly employed.* ***[as will result in net com-**
 46 **pensation no greater than the public assistance grant to which**
 47 **such persons are eligible. Such hourly compensation may take the**
 48 **form of direct payment of wages, or by]*** *Performance of such
 49 work shall result in* payment to the person of his public assist-
 50 ance grant ***[as the New Jersey Employment Service may direct**
 51 **according to regulations established by the Commissioner of Labor**

52 *and Industry in consultation with the Commissioner of Human*
53 *Services].**

54 *Any person who refuses *without good cause* to report for or to*
55 *perform work to which he has been assigned by the New Jersey*
56 *Employment Service, shall thereupon become ineligible for public*
57 *assistance *until he reports for and performs work to which he*
58 *has been assigned or shows his willingness to do so according to*
59 *regulations established by the Commissioner of Human Services*
60 *in consultation with the Commissioner of Labor and Industry*.*

61 **Good cause for refusal to report for or to perform work shall*
62 *include, but shall not be limited to: working conditions which are a*
63 *substantial risk to health and safety; physical inability to engage*
64 *in a particular type of work; or lack of a reasonable means of*
65 *transportation.**

1 4. Sections 1 and 3 of this act shall take effect on the first day
2 of the fourth month following its enactment. Section 2 shall take
3 effect immediately.

STATEMENT

In *Pascucci v. Vagott* (decided June 25, 1976), the New Jersey Supreme Court ruled that the New Jersey statutes concerning general assistance did not permit the Commissioner of the Department of Institutions and Agencies (now the Commissioner of the Department of Human Services) to establish different benefit levels based on the categorization of individuals as employable or unemployable. Using that distinction, the commissioner permitted recipients categorized as unemployable, that is, unable to secure employment due either to physical or mental disability, to receive \$178 per month, while recipients categorized as employable, that is, unable to secure employment not because of physical disability but simply because of the inability to find employment, were only entitled to \$119 per month. The Court ruled that the applicable general assistance statutes did not authorize such a distinction; the court therefore ordered the litigant-recipient in *Pascucci* to be entitled to the same benefits as unemployables. As to all others similarly situated, the court's decision was made prospective in nature. The court suggested it was affording time for a solution of the legislative, executive and administrative problems which might arise from the court's decision.

This bill would make clear the authority of the Commissioner of Human Services to establish two differing levels of benefits for employable and unemployable persons as those terms are defined by the bill. The bill would also require that employable persons receiving public assistance be required to perform such public work as the New Jersey Employment Service would assign to them. Thus, able-bodied individuals who have no mental or emotional handicaps which make them unemployable, would be required to render service to the community in return for assistance payments. In addition, it is possible that by developing other sources of income other than general assistance funds, currently available general assistance funds may be used to increase the current \$119 grant to the employable segment of the general assistance recipients. This bill will not affect recipients in welfare programs other than the General Assistance program. Thus, for example, this bill does not apply to recipients of benefits under the Aid to Dependent Children Program.

ASSEMBLY INSTITUTIONS, HEALTH AND
WELFARE COMMITTEE

STATEMENT TO
SENATE, No. 3075

—◆—
STATE OF NEW JERSEY
—◆—

DATED: OCTOBER 3, 1977

The committee agreed with the purpose of this bill and released it without amendment. They also determined that the Senate committee statement adequately explained the provisions and intent of the bill.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

DECEMBER 1, 1977

ANNE BURNS

Governor Brendan Byrne has signed the following bills into law:

S-3075, sponsored by Senator Joseph P. Merlino, which allows the Commissioner of Human Services to establish two different levels of public assistance, one for employable persons, the other for unemployable persons.

The bill defines "unemployable" general assistance recipients as those people unable to perform work due to a physical or mental disability. Welfare recipients who are not disabled but who are unable to find work are termed "employable."

The legislation authorizes, but does not require, the Commissioner of Human Services to set different benefit levels for these two categories.

In order to receive general assistance benefits under this legislation, employables must be willing to participate in a public works program. Employable persons will be referred to the New Jersey Employment Service which will then assign them to public works projects approved by the Commissioner of the Department of Labor and Industry.

These people will be allowed to work only as many hours as will result in their receiving the amount of their public assistance grant. None of these individuals will be assigned to displace current regular employees.

S-3148, sponsored by Senator John F. Russo (D-Ocean), which authorizes the transfer of certain lands by the Township of Dover (Ocean County) to Earl and Frances Mae Hand.

This bill is necessary to remove a cloud on the title to the property created by discrepancies in two versions of the township tax map.