

# 34:15-94

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2003                    **CHAPTER:** 111  
**NJSA:** 34:15-94                (Second injury fund)  
**BILL NO:** A3707                (Substituted for S2584)  
**SPONSOR(S):** Payne

**DATE INTRODUCED:** June 12, 2003

**COMMITTEE:**                    **ASSEMBLY:** Budget

**SENATE:**                        ---

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**            **ASSEMBLY:** June 23, 2003

**SENATE:** June 30, 2003

**DATE OF APPROVAL:** July 1, 2003

### FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of law enacted)

#### A3707

[SPONSORS STATEMENT](#): (Begins on page 6 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    [ASSEMBLY:](#) [Yes](#)

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

#### S2584

[SPONSORS STATEMENT](#): (Begins on page 6 of original bill) [Yes](#)

Bill and Sponsors Statement identical to A3707

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

Identical to Assembly Statement for A3707

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

P.L. 2003, CHAPTER 111, *approved July 1, 2003*  
Assembly, No. 3707

1 **AN ACT** concerning the calculation of certain surcharges pursuant to  
2 Title 34 of the Revised Statutes and amending R.S.34:15-94.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. R.S.34:15-94 is amended to read as follows:

8 34:15-94. a. (Deleted by amendment, P.L.1999, c.408).

9 b. Commencing January 1, 1989 and on the first day of each year  
10 thereafter, the Commissioner of Labor shall levy an annual surcharge  
11 upon all policyholders and self-insured employers for the purpose of  
12 providing moneys to the Second Injury Fund. Each policyholder and  
13 self-insured employer shall be liable for payment of the annual  
14 surcharge in accordance with the provisions of this section and all  
15 regulations promulgated pursuant hereto. The annual surcharge levied  
16 under this section shall be applied to all workers' compensation and  
17 employer's liability insurance policies providing coverage on or after  
18 January 1, 1989 and, in the case of self-insured employers, to coverage  
19 provided on or after January 1, 1989. Notwithstanding any law to the  
20 contrary, the surcharge levied pursuant to this section shall not apply:  
21 to any reinsurance or retrocessional transaction; to the State or any  
22 political subdivision thereof which acts as a self-insured employer; or  
23 to any workers' compensation endorsement required pursuant to  
24 section 1 of P.L.1979, c.380 (C.17:36-5.29).

25 c. On or before July 31 of 1988 and of each year thereafter:

26 (1) Each insurer and self-insured employer shall submit to the  
27 Commissioner of Labor, in a form and manner prescribed by the  
28 Commissioner of Labor, a report of the total compensation payments  
29 made by the insurer or self-insured employer during the 12-month  
30 period ending on the immediately preceding June 30th;

31 (2) Each insurer shall submit to the Commissioner of Banking and  
32 Insurance, in a form and manner prescribed by the Commissioner of  
33 Banking and Insurance, a report of the total earned premiums  
34 collected by the insurer on all workers' compensation or employer's  
35 liability policies written on risks located in this State pursuant to the  
36 provisions of R.S.17:17-1 et seq., during the 12-month period ending  
37 on the immediately preceding June 30th;

38 (3) The Commissioner of Labor shall estimate the amount of  
39 special adjustment and supplemental benefits payable by each insurer  
40 writing workers' compensation or employer's liability insurance in the  
41 State and by each self-insured employer pursuant to R.S.34:15-95

**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 underlined thus is new matter.**

1 during the then current fiscal year;

2 (4) The Commissioner of Labor shall make a determination of the  
3 aggregate annual surcharge to be levied upon policyholders and  
4 self-insured employers during the next following calendar year, which  
5 shall be an amount equal to (a) 150%, in the case of any calendar  
6 year commencing prior to January 1, 2000, and (b) 125%, in the case  
7 of any calendar year commencing after December 31, 1999, of the  
8 compensation and benefits estimated by the Commissioner of Labor to  
9 be payable from the Second Injury Fund during the next following  
10 calendar year plus 100% of the amount estimated by the Commissioner  
11 of Labor to be necessary for the cost of administration of the Division  
12 of Workers' Compensation in the Department of Labor, less the  
13 estimated amount of net assets exceeding \$5,000,000.00 which will  
14 remain in the Second Injury Fund on December 31st of the then  
15 current calendar year, and the Commissioner of Labor shall submit an  
16 informational copy to the Joint Budget Oversight Committee. For the  
17 purpose of determining the annual surcharge to be levied upon  
18 policyholders and self-insured employers as prescribed herein, any  
19 amount transferred from the Second Injury Fund to the General Fund  
20 pursuant to P.L.2002, c.12 and pursuant to P.L.2002, c.38 shall be  
21 added back to the Second Injury Fund for computational purposes  
22 only;

23 (5) The Commissioner of Labor shall apportion the aggregate  
24 annual surcharge calculated pursuant to paragraph (4) of this  
25 subsection among policyholders as a group and self-insured employers  
26 as a separate group. Policyholders shall be liable to pay that portion of  
27 the aggregate annual surcharge that is equal to the proportion that the  
28 compensation payments made by all policyholders during the 12-month  
29 period ending on the immediately preceding June 30th bear to the total  
30 compensation payments made by all policyholders and self-insured  
31 employers during the 12-month period ending on the immediately  
32 preceding June 30th. Self-insured employers shall be liable to pay that  
33 portion of the aggregate annual surcharge that is equal to the  
34 proportion that the compensation payments made by all self-insured  
35 employers during the 12-month period ending on the immediately  
36 preceding June 30th bear to the total compensation payments made by  
37 all policyholders and self-insured employers during the 12-month  
38 period ending on the immediately preceding June 30th; and

39 (6) The Commissioner of Labor shall notify the Commissioner of  
40 Banking and Insurance of the aggregate annual surcharge amount  
41 applicable to policyholders during the next following calendar year.

42 d. On or before September 15 of 1988 and of each year thereafter:

43 (1) In consultation with the Commissioner of Labor, the  
44 Commissioner of Banking and Insurance shall determine the annual  
45 policyholder surcharge rate to be applied to each workers'  
46 compensation and employer's liability policy during the next following

1 calendar year, and shall notify insurers of the annual policyholder  
2 surcharge rate to be applied to policy premiums during the next  
3 following calendar year. The annual policyholder surcharge rate shall  
4 be established as a percentage, which shall be equal to the percentage  
5 relationship that the annual surcharge amount which is applicable to all  
6 policyholders bears to the total earned premiums for workers'  
7 compensation and employer's liability coverage written on risks  
8 located in this State for the 12-month period ending on the  
9 immediately preceding June 30th.

10 (2) The Commissioner of Labor shall notify each self-insured  
11 employer of the amount of the annual surcharge applicable to that  
12 self-insured employer during the next following calendar year. The net  
13 annual surcharge for each self-insured employer shall be established as  
14 a pro rata portion of the annual surcharge applicable to all self-insured  
15 employers, which shall be chargeable to the self-insured employer in  
16 the proportion that the self-insured employer's compensation payments  
17 during the 12-month period ending on the immediately preceding June  
18 30th bear to the total compensation payments made by all self-insured  
19 employers during the 12-month period ending on the immediately  
20 preceding June 30th, less the estimated amount of special adjustment  
21 and supplemental benefits payable by that self-insured employer  
22 pursuant to R.S.34:15-95 during the then current fiscal year.

23 e. (1) Every insurer providing workers' compensation and  
24 employer's liability insurance shall collect from each of its  
25 policyholders, on behalf of the Commissioner of Labor and in  
26 accordance with subsections b., c. and d. of this section, an amount  
27 equal to the annual policyholder surcharge rate established by the  
28 Commissioner of Banking and Insurance pursuant to subsection d. of  
29 this section, multiplied by the amount of the policyholder's premium.  
30 The surcharge to be collected from the policyholder shall be stated  
31 separately on the policy or billing statement and be collected at the  
32 same time and in the same manner that the premium or other charges  
33 for the coverage are collected. On or before the 30th day after the end  
34 of the calendar quarter commencing January 1, 1989, and on or before  
35 the 30th day following the end of each calendar quarter thereafter,  
36 each insurer shall report to the Commissioner of Labor, on forms as  
37 the commissioner may require, the total amount of its workers'  
38 compensation and employer's liability insurance earned premiums for  
39 the preceding quarterly accounting period, and remit the surcharge  
40 collected from policyholders on those premiums, less special  
41 adjustment and supplemental benefits paid during the preceding  
42 calendar quarter by the insurer pursuant to the workers' compensation  
43 law, R.S.34:15-1 et seq. No insurer or its agent shall be entitled to  
44 any portion of any surcharge imposed pursuant to this section as a fee  
45 or commission for its collection nor shall that surcharge be subject to  
46 any taxes, licenses or fees.

1       (2) On or before the 30th day after the end of each calendar  
2 quarter commencing January 1, 1989, and on or before the 30th day  
3 following the end of each calendar quarter thereafter, each self-insured  
4 employer shall remit to the Commissioner of Labor an amount equal  
5 to one-fourth of the effective net annual surcharge as established for  
6 that self-insured employer during the then current calendar year  
7 pursuant to subsection d. of this section, less special adjustment and  
8 supplemental benefits paid during the preceding calendar quarter by  
9 the self-insured employer pursuant to the workers' compensation law,  
10 R.S.34:15-1 et seq.

11       f. The Commissioner of Labor shall promulgate within 180 days of  
12 the effective date of this act and in accordance with the  
13 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
14 seq.), any rules and regulations as may be necessary for the  
15 apportionment and collection of annual surcharges from policyholders  
16 and self-insured employers covered by this section.

17       g. The Commissioner of Banking and Insurance shall promulgate  
18 within 180 days of the effective date of this act and in accordance with  
19 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
20 seq.), any rules and regulations as may be necessary for the collection,  
21 and provision to the Commissioner of Labor, of information with  
22 respect to earned premiums of insurers and the establishment of the  
23 annual surcharge rate for policyholders.

24       h. For each 30-day period or part thereof during which a  
25 policyholder, self-insured employer, or insurer fails to make a payment  
26 or transfer of payment as required by this section or regulations  
27 promulgated pursuant hereto, a penalty of one-half of one percent  
28 (0.5%) of the amount of delinquent payment or transfer of payment  
29 shall be assessed against the delinquent policyholder, self-insured  
30 employer or insurer. In no case of single failure, however, shall  
31 penalties assessed under this section exceed five percent (5.0%) of the  
32 amount of surcharge unpaid or untransferred. Penalties assessed under  
33 this subsection shall be collected in a civil action by a summary  
34 proceeding brought by the Commissioner of Labor pursuant to "The  
35 Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et  
36 seq.), and shall be deposited by the commissioner in the Second Injury  
37 Fund.

38       i. For each 30-day period during which an insurer or self-insured  
39 employer fails to file a report as required by this section, the  
40 Commissioner of Labor shall assess a penalty of \$100.00 against the  
41 insurer or self-insured employer and, upon collection thereof, shall  
42 deposit those moneys in the "uninsured employer's fund." As a result  
43 of any single failure, however, no such penalty shall exceed a total of  
44 \$500.00. During the period of any such failure to file this report, the  
45 estimate by the Department of Labor of the amounts of such  
46 compensation payments or earned premiums shall be used for the

1 purposes cited in the workers' compensation law, R.S.34:15-1 et seq.  
2 j. The Commissioner of Labor may, with the authorization of and  
3 appropriation by the Legislature, transfer from the Second Injury Fund  
4 an amount necessary for the cost of administration of the Division of  
5 Workers' Compensation in the Department of Labor.

6 k. As used in this section, "policyholder" means a holder of a  
7 policy of workers' compensation or employer's liability insurance  
8 issued by an insurer. "Insurer" means a domestic, foreign or alien  
9 mutual association or stock company writing workers' compensation  
10 or employer's liability insurance on risks located in this State and  
11 subject to premium taxes pursuant to P.L.1945, c.132 (C.54:18A-1 et  
12 seq.). "Self-insured employer" means an employer which self-insures  
13 for workers' compensation or employer's liability insurance pursuant  
14 to the provisions of R.S.34:15-77.  
15 (cf: P.L.2002, c.5)

16

17 2. This act shall take effect immediately.

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#### STATEMENT

21

22 This bill provides that the transfer of any funds from the Second  
23 Injury Fund (SIF) to the General Fund under P.L.2003, c.38, the FY  
24 2003 appropriations act, shall be disregarded for purposes of  
25 calculating the amount of the assessment to be levied on employers  
26 and insurers to support the fund. Current language in the FY 2003  
27 appropriations act authorizes the appropriation of unexpended  
28 balances as of June 30, 2002, upon approval of the Director of the  
29 Division of Budget and Accounting. The Administration has indicated  
30 that it intends to lapse \$20 million from the SIF to the General Fund  
31 at the end of FY 2003. This bill will have the effect of exempting SIF  
32 contributors from the assessment increase that would otherwise be  
33 required for calendar year 2003 to offset the \$20 million transfer or  
34 any other transfer approved by the director. The current unexpended  
35 balance is \$61.0 million.

36

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39

40 Concerns calculation of Second Injury Fund surcharges.

# ASSEMBLY, No. 3707

## STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 12, 2003

**Sponsored by:**

**Assemblyman WILLIAM D. PAYNE**  
**District 29 (Essex and Union)**

**Co-Sponsored by:**

**Senator Lesniak**

**SYNOPSIS**

Concerns calculation of Second Injury Fund surcharges.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 7/1/2003)**



A3707 PAYNE

2

1 AN ACT concerning the calculation of certain surcharges pursuant to  
2 Title 34 of the Revised Statutes and amending R.S.34:15-94.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. R.S.34:15-94 is amended to read as follows:

8 34:15-94. a. (Deleted by amendment, P.L.1999, c.408).

9 b. Commencing January 1, 1989 and on the first day of each year  
10 thereafter, the Commissioner of Labor shall levy an annual surcharge  
11 upon all policyholders and self-insured employers for the purpose of  
12 providing moneys to the Second Injury Fund. Each policyholder and  
13 self-insured employer shall be liable for payment of the annual  
14 surcharge in accordance with the provisions of this section and all  
15 regulations promulgated pursuant hereto. The annual surcharge levied  
16 under this section shall be applied to all workers' compensation and  
17 employer's liability insurance policies providing coverage on or after  
18 January 1, 1989 and, in the case of self-insured employers, to coverage  
19 provided on or after January 1, 1989. Notwithstanding any law to the  
20 contrary, the surcharge levied pursuant to this section shall not apply:  
21 to any reinsurance or retrocessional transaction; to the State or any  
22 political subdivision thereof which acts as a self-insured employer; or  
23 to any workers' compensation endorsement required pursuant to  
24 section 1 of P.L.1979, c.380 (C.17:36-5.29).

25 c. On or before July 31 of 1988 and of each year thereafter:

26 (1) Each insurer and self-insured employer shall submit to the  
27 Commissioner of Labor, in a form and manner prescribed by the  
28 Commissioner of Labor, a report of the total compensation payments  
29 made by the insurer or self-insured employer during the 12-month  
30 period ending on the immediately preceding June 30th;

31 (2) Each insurer shall submit to the Commissioner of Banking and  
32 Insurance, in a form and manner prescribed by the Commissioner of  
33 Banking and Insurance, a report of the total earned premiums  
34 collected by the insurer on all workers' compensation or employer's  
35 liability policies written on risks located in this State pursuant to the  
36 provisions of R.S.17:17-1 et seq., during the 12-month period ending  
37 on the immediately preceding June 30th;

38 (3) The Commissioner of Labor shall estimate the amount of  
39 special adjustment and supplemental benefits payable by each insurer  
40 writing workers' compensation or employer's liability insurance in the  
41 State and by each self-insured employer pursuant to R.S.34:15-95  
42 during the then current fiscal year;

43 (4) The Commissioner of Labor shall make a determination of 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.**

**Matter underlined thus is new matter.**

1 aggregate annual surcharge to be levied upon policyholders and  
2 self-insured employers during the next following calendar year, which  
3 shall be an amount equal to (a) 150%, in the case of any calendar  
4 year commencing prior to January 1, 2000, and (b) 125%, in the case  
5 of any calendar year commencing after December 31, 1999, of the  
6 compensation and benefits estimated by the Commissioner of Labor to  
7 be payable from the Second Injury Fund during the next following  
8 calendar year plus 100% of the amount estimated by the Commissioner  
9 of Labor to be necessary for the cost of administration of the Division  
10 of Workers' Compensation in the Department of Labor, less the  
11 estimated amount of net assets exceeding \$5,000,000.00 which will  
12 remain in the Second Injury Fund on December 31st of the then  
13 current calendar year, and the Commissioner of Labor shall submit an  
14 informational copy to the Joint Budget Oversight Committee. For the  
15 purpose of determining the annual surcharge to be levied upon  
16 policyholders and self-insured employers as prescribed herein, any  
17 amount transferred from the Second Injury Fund to the General Fund  
18 pursuant to P.L.2002, c.12 and pursuant to P.L.2002, c.38 shall be  
19 added back to the Second Injury Fund for computational purposes  
20 only;

21 (5) The Commissioner of Labor shall apportion the aggregate  
22 annual surcharge calculated pursuant to paragraph (4) of this  
23 subsection among policyholders as a group and self-insured employers  
24 as a separate group. Policyholders shall be liable to pay that portion of  
25 the aggregate annual surcharge that is equal to the proportion that the  
26 compensation payments made by all policyholders during the 12-month  
27 period ending on the immediately preceding June 30th bear to the total  
28 compensation payments made by all policyholders and self-insured  
29 employers during the 12-month period ending on the immediately  
30 preceding June 30th. Self-insured employers shall be liable to pay that  
31 portion of the aggregate annual surcharge that is equal to the  
32 proportion that the compensation payments made by all self-insured  
33 employers during the 12-month period ending on the immediately  
34 preceding June 30th bear to the total compensation payments made by  
35 all policyholders and self-insured employers during the 12-month  
36 period ending on the immediately preceding June 30th; and

37 (6) The Commissioner of Labor shall notify the Commissioner of  
38 Banking and Insurance of the aggregate annual surcharge amount  
39 applicable to policyholders during the next following calendar year.

40 d. On or before September 15 of 1988 and of each year thereafter:

41 (1) In consultation with the Commissioner of Labor, the  
42 Commissioner of Banking and Insurance shall determine the annual  
43 policyholder surcharge rate to be applied to each workers'  
44 compensation and employer's liability policy during the next following  
45 calendar year, and shall notify insurers of the annual policyholder  
46 surcharge rate to be applied to policy premiums during the next

1 following calendar year. The annual policyholder surcharge rate shall  
2 be established as a percentage, which shall be equal to the percentage  
3 relationship that the annual surcharge amount which is applicable to all  
4 policyholders bears to the total earned premiums for workers'  
5 compensation and employer's liability coverage written on risks  
6 located in this State for the 12-month period ending on the  
7 immediately preceding June 30th.

8 (2) The Commissioner of Labor shall notify each self-insured  
9 employer of the amount of the annual surcharge applicable to that  
10 self-insured employer during the next following calendar year. The net  
11 annual surcharge for each self-insured employer shall be established as  
12 a pro rata portion of the annual surcharge applicable to all self-insured  
13 employers, which shall be chargeable to the self-insured employer in  
14 the proportion that the self-insured employer's compensation payments  
15 during the 12-month period ending on the immediately preceding June  
16 30th bear to the total compensation payments made by all self-insured  
17 employers during the 12-month period ending on the immediately  
18 preceding June 30th, less the estimated amount of special adjustment  
19 and supplemental benefits payable by that self-insured employer  
20 pursuant to R.S.34:15-95 during the then current fiscal year.

21 e. (1) Every insurer providing workers' compensation and  
22 employer's liability insurance shall collect from each of its  
23 policyholders, on behalf of the Commissioner of Labor and in  
24 accordance with subsections b., c. and d. of this section, an amount  
25 equal to the annual policyholder surcharge rate established by the  
26 Commissioner of Banking and Insurance pursuant to subsection d. of  
27 this section, multiplied by the amount of the policyholder's premium.  
28 The surcharge to be collected from the policyholder shall be stated  
29 separately on the policy or billing statement and be collected at the  
30 same time and in the same manner that the premium or other charges  
31 for the coverage are collected. On or before the 30th day after the end  
32 of the calendar quarter commencing January 1, 1989, and on or before  
33 the 30th day following the end of each calendar quarter thereafter,  
34 each insurer shall report to the Commissioner of Labor, on forms as  
35 the commissioner may require, the total amount of its workers'  
36 compensation and employer's liability insurance earned premiums for  
37 the preceding quarterly accounting period, and remit the surcharge  
38 collected from policyholders on those premiums, less special  
39 adjustment and supplemental benefits paid during the preceding  
40 calendar quarter by the insurer pursuant to the workers' compensation  
41 law, R.S.34:15-1 et seq. No insurer or its agent shall be entitled to  
42 any portion of any surcharge imposed pursuant to this section as a fee  
43 or commission for its collection nor shall that surcharge be subject to  
44 any taxes, licenses or fees.

45 (2) On or before the 30th day after the end of each calendar  
46 quarter commencing January 1, 1989, and on or before the 30th day

1 following the end of each calendar quarter thereafter, each self-insured  
2 employer shall remit to the Commissioner of Labor an amount equal  
3 to one-fourth of the effective net annual surcharge as established for  
4 that self-insured employer during the then current calendar year  
5 pursuant to subsection d. of this section, less special adjustment and  
6 supplemental benefits paid during the preceding calendar quarter by  
7 the self-insured employer pursuant to the workers' compensation law,  
8 R.S.34:15-1 et seq.

9 f. The Commissioner of Labor shall promulgate within 180 days of  
10 the effective date of this act and in accordance with the  
11 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
12 seq.), any rules and regulations as may be necessary for the  
13 apportionment and collection of annual surcharges from policyholders  
14 and self-insured employers covered by this section.

15 g. The Commissioner of Banking and Insurance shall promulgate  
16 within 180 days of the effective date of this act and in accordance with  
17 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
18 seq.), any rules and regulations as may be necessary for the collection,  
19 and provision to the Commissioner of Labor, of information with  
20 respect to earned premiums of insurers and the establishment of the  
21 annual surcharge rate for policyholders.

22 h. For each 30-day period or part thereof during which a  
23 policyholder, self-insured employer, or insurer fails to make a payment  
24 or transfer of payment as required by this section or regulations  
25 promulgated pursuant hereto, a penalty of one-half of one percent  
26 (0.5%) of the amount of delinquent payment or transfer of payment  
27 shall be assessed against the delinquent policyholder, self-insured  
28 employer or insurer. In no case of single failure, however, shall  
29 penalties assessed under this section exceed five percent (5.0%) of the  
30 amount of surcharge unpaid or untransferred. Penalties assessed under  
31 this subsection shall be collected in a civil action by a summary  
32 proceeding brought by the Commissioner of Labor pursuant to "The  
33 Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et  
34 seq.), and shall be deposited by the commissioner in the Second Injury  
35 Fund.

36 i. For each 30-day period during which an insurer or self-insured  
37 employer fails to file a report as required by this section, the  
38 Commissioner of Labor shall assess a penalty of \$100.00 against the  
39 insurer or self-insured employer and, upon collection thereof, shall  
40 deposit those moneys in the "uninsured employer's fund." As a result  
41 of any single failure, however, no such penalty shall exceed a total of  
42 \$500.00. During the period of any such failure to file this report, the  
43 estimate by the Department of Labor of the amounts of such  
44 compensation payments or earned premiums shall be used for the  
45 purposes cited in the workers' compensation law, R.S.34:15-1 et seq.

46 j. The Commissioner of Labor may, with the authorization of and

1 appropriation by the Legislature, transfer from the Second Injury Fund  
2 an amount necessary for the cost of administration of the Division of  
3 Workers' Compensation in the Department of Labor.

4 k. As used in this section, "policyholder" means a holder of a  
5 policy of workers' compensation or employer's liability insurance  
6 issued by an insurer. "Insurer" means a domestic, foreign or alien  
7 mutual association or stock company writing workers' compensation  
8 or employer's liability insurance on risks located in this State and  
9 subject to premium taxes pursuant to P.L.1945, c.132 (C.54:18A-1 et  
10 seq.). "Self-insured employer" means an employer which self-insures  
11 for workers' compensation or employer's liability insurance pursuant  
12 to the provisions of R.S.34:15-77.  
13 (cf: P.L.2002, c.5)

14

15 2. This act shall take effect immediately.

16

17

18

#### STATEMENT

19

20 This bill provides that the transfer of any funds from the Second  
21 Injury Fund (SIF) to the General Fund under P.L.2003, c.38, the FY  
22 2003 appropriations act, shall be disregarded for purposes of  
23 calculating the amount of the assessment to be levied on employers  
24 and insurers to support the fund. Current language in the FY 2003  
25 appropriations act authorizes the appropriation of unexpended  
26 balances as of June 30, 2002, upon approval of the Director of the  
27 Division of Budget and Accounting. The Administration has indicated  
28 that it intends to lapse \$20 million from the SIF to the General Fund  
29 at the end of FY 2003. This bill will have the effect of exempting SIF  
30 contributors from the assessment increase that would otherwise be  
31 required for calendar year 2003 to offset the \$20 million transfer or  
32 any other transfer approved by the director. The current unexpended  
33 balance is \$61.0 million.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3707**

**STATE OF NEW JERSEY**

DATED: JUNE 16, 2003

The Assembly Budget Committee reports favorably Assembly Bill No. 3707.

Assembly Bill No. 3707 provides that the transfer of any funds from the Second Injury Fund (SIF) to the General Fund under P.L.2003, c.38, the FY 2003 appropriations act, shall be disregarded for purposes of calculating the amount of the assessment to be levied on employers and insurers to support the fund.

FISCAL IMPACT:

Current language in the FY 2003 appropriations act authorizes the appropriation of unexpended balances as of June 30, 2002, upon approval of the Director of the Division of Budget and Accounting. The Administration has indicated that it intends to lapse \$20 million from the SIF to the General Fund at the end of FY 2003. This bill will have the effect of exempting SIF contributors from the assessment increase that would otherwise be required for calendar year 2003 to offset the \$20 million transfer or any other transfer approved by the director. The current unexpended balance in the fund is approximately \$61 million.

**SENATE, No. 2584**

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**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

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INTRODUCED MAY 29, 2003

**Sponsored by:**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**SYNOPSIS**

Concerns calculation of Second Injury Fund surcharges.

**CURRENT VERSION OF TEXT**

As introduced.



S2584 LESNIAK

2

1 AN ACT concerning the calculation of certain surcharges pursuant to  
2 Title 34 of the Revised Statutes and amending R.S.34:15-94.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. R.S.34:15-94 is amended to read as follows:

8 34:15-94. a. (Deleted by amendment, P.L.1999, c.408).

9 b. Commencing January 1, 1989 and on the first day of each year  
10 thereafter, the Commissioner of Labor shall levy an annual surcharge  
11 upon all policyholders and self-insured employers for the purpose of  
12 providing moneys to the Second Injury Fund. Each policyholder and  
13 self-insured employer shall be liable for payment of the annual  
14 surcharge in accordance with the provisions of this section and all  
15 regulations promulgated pursuant hereto. The annual surcharge levied  
16 under this section shall be applied to all workers' compensation and  
17 employer's liability insurance policies providing coverage on or after  
18 January 1, 1989 and, in the case of self-insured employers, to coverage  
19 provided on or after January 1, 1989. Notwithstanding any law to the  
20 contrary, the surcharge levied pursuant to this section shall not apply:  
21 to any reinsurance or retrocessional transaction; to the State or any  
22 political subdivision thereof which acts as a self-insured employer; or  
23 to any workers' compensation endorsement required pursuant to  
24 section 1 of P.L.1979, c.380 (C.17:36-5.29).

25 c. On or before July 31 of 1988 and of each year thereafter:

26 (1) Each insurer and self-insured employer shall submit to the  
27 Commissioner of Labor, in a form and manner prescribed by the  
28 Commissioner of Labor, a report of the total compensation payments  
29 made by the insurer or self-insured employer during the 12-month  
30 period ending on the immediately preceding June 30th;

31 (2) Each insurer shall submit to the Commissioner of Banking and  
32 Insurance, in a form and manner prescribed by the Commissioner of  
33 Banking and Insurance, a report of the total earned premiums  
34 collected by the insurer on all workers' compensation or employer's  
35 liability policies written on risks located in this State pursuant to the  
36 provisions of R.S.17:17-1 et seq., during the 12-month period ending  
37 on the immediately preceding June 30th;

38 (3) The Commissioner of Labor shall estimate the amount of special  
39 adjustment and supplemental benefits payable by each insurer writing  
40 workers' compensation or employer's liability insurance in the State  
41 and by each self-insured employer pursuant to R.S.34:15-95 during the  
42 then current fiscal year;

43 (4) The Commissioner of Labor shall make a determination of 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.**

**Matter underlined thus is new matter.**



1 aggregate annual surcharge to be levied upon policyholders and  
2 self-insured employers during the next following calendar year, which  
3 shall be an amount equal to (a) 150%, in the case of any calendar year  
4 commencing prior to January 1, 2000, and (b) 125%, in the case of  
5 any calendar year commencing after December 31, 1999, of the  
6 compensation and benefits estimated by the Commissioner of Labor to  
7 be payable from the Second Injury Fund during the next following  
8 calendar year plus 100% of the amount estimated by the Commissioner  
9 of Labor to be necessary for the cost of administration of the Division  
10 of Workers' Compensation in the Department of Labor, less the  
11 estimated amount of net assets exceeding \$5,000,000.00 which will  
12 remain in the Second Injury Fund on December 31st of the then  
13 current calendar year, and the Commissioner of Labor shall submit an  
14 informational copy to the Joint Budget Oversight Committee. For the  
15 purpose of determining the annual surcharge to be levied upon  
16 policyholders and self-insured employers as prescribed herein, any  
17 amount transferred from the Second Injury Fund to the General Fund  
18 pursuant to P.L.2002, c.12 and pursuant to P.L.2002, c.38 shall be  
19 added back to the Second Injury Fund for computational purposes  
20 only;

21 (5) The Commissioner of Labor shall apportion the aggregate  
22 annual surcharge calculated pursuant to paragraph (4) of this  
23 subsection among policyholders as a group and self-insured employers  
24 as a separate group. Policyholders shall be liable to pay that portion of  
25 the aggregate annual surcharge that is equal to the proportion that the  
26 compensation payments made by all policyholders during the 12-month  
27 period ending on the immediately preceding June 30th bear to the total  
28 compensation payments made by all policyholders and self-insured  
29 employers during the 12-month period ending on the immediately  
30 preceding June 30th. Self-insured employers shall be liable to pay that  
31 portion of the aggregate annual surcharge that is equal to the  
32 proportion that the compensation payments made by all self-insured  
33 employers during the 12-month period ending on the immediately  
34 preceding June 30th bear to the total compensation payments made by  
35 all policyholders and self-insured employers during the 12-month  
36 period ending on the immediately preceding June 30th; and

37 (6) The Commissioner of Labor shall notify the Commissioner of  
38 Banking and Insurance of the aggregate annual surcharge amount  
39 applicable to policyholders during the next following calendar year.

40 d. On or before September 15 of 1988 and of each year thereafter:

41 (1) In consultation with the Commissioner of Labor, the  
42 Commissioner of Banking and Insurance shall determine the annual  
43 policyholder surcharge rate to be applied to each workers'  
44 compensation and employer's liability policy during the next following  
45 calendar year, and shall notify insurers of the annual policyholder  
46 surcharge rate to be applied to policy premiums during the next

1 following calendar year. The annual policyholder surcharge rate shall  
2 be established as a percentage, which shall be equal to the percentage  
3 relationship that the annual surcharge amount which is applicable to all  
4 policyholders bears to the total earned premiums for workers'  
5 compensation and employer's liability coverage written on risks  
6 located in this State for the 12-month period ending on the  
7 immediately preceding June 30th.

8 (2) The Commissioner of Labor shall notify each self-insured  
9 employer of the amount of the annual surcharge applicable to that  
10 self-insured employer during the next following calendar year. The net  
11 annual surcharge for each self-insured employer shall be established as  
12 a pro rata portion of the annual surcharge applicable to all self-insured  
13 employers, which shall be chargeable to the self-insured employer in  
14 the proportion that the self-insured employer's compensation payments  
15 during the 12-month period ending on the immediately preceding June  
16 30th bear to the total compensation payments made by all self-insured  
17 employers during the 12-month period ending on the immediately  
18 preceding June 30th, less the estimated amount of special adjustment  
19 and supplemental benefits payable by that self-insured employer  
20 pursuant to R.S.34:15-95 during the then current fiscal year.

21 e. (1) Every insurer providing workers' compensation and  
22 employer's liability insurance shall collect from each of its  
23 policyholders, on behalf of the Commissioner of Labor and in  
24 accordance with subsections b., c. and d. of this section, an amount  
25 equal to the annual policyholder surcharge rate established by the  
26 Commissioner of Banking and Insurance pursuant to subsection d. of  
27 this section, multiplied by the amount of the policyholder's premium.  
28 The surcharge to be collected from the policyholder shall be stated  
29 separately on the policy or billing statement and be collected at the  
30 same time and in the same manner that the premium or other charges  
31 for the coverage are collected. On or before the 30th day after the end  
32 of the calendar quarter commencing January 1, 1989, and on or before  
33 the 30th day following the end of each calendar quarter thereafter,  
34 each insurer shall report to the Commissioner of Labor, on forms as  
35 the commissioner may require, the total amount of its workers'  
36 compensation and employer's liability insurance earned premiums for  
37 the preceding quarterly accounting period, and remit the surcharge  
38 collected from policyholders on those premiums, less special  
39 adjustment and supplemental benefits paid during the preceding  
40 calendar quarter by the insurer pursuant to the workers' compensation  
41 law, R.S.34:15-1 et seq. No insurer or its agent shall be entitled to  
42 any portion of any surcharge imposed pursuant to this section as a fee  
43 or commission for its collection nor shall that surcharge be subject to  
44 any taxes, licenses or fees.

45 (2) On or before the 30th day after the end of each calendar quarter  
46 commencing January 1, 1989, and on or before the 30th day following

1 the end of each calendar quarter thereafter, each self-insured employer  
2 shall remit to the Commissioner of Labor an amount equal to  
3 one-fourth of the effective net annual surcharge as established for that  
4 self-insured employer during the then current calendar year pursuant  
5 to subsection d. of this section, less special adjustment and  
6 supplemental benefits paid during the preceding calendar quarter by  
7 the self-insured employer pursuant to the workers' compensation law,  
8 R.S.34:15-1 et seq.

9 f. The Commissioner of Labor shall promulgate within 180 days of  
10 the effective date of this act and in accordance with the  
11 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
12 seq.), any rules and regulations as may be necessary for the  
13 apportionment and collection of annual surcharges from policyholders  
14 and self-insured employers covered by this section.

15 g. The Commissioner of Banking and Insurance shall promulgate  
16 within 180 days of the effective date of this act and in accordance with  
17 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
18 seq.), any rules and regulations as may be necessary for the collection,  
19 and provision to the Commissioner of Labor, of information with  
20 respect to earned premiums of insurers and the establishment of the  
21 annual surcharge rate for policyholders.

22 h. For each 30-day period or part thereof during which a  
23 policyholder, self-insured employer, or insurer fails to make a payment  
24 or transfer of payment as required by this section or regulations  
25 promulgated pursuant hereto, a penalty of one-half of one percent  
26 (0.5%) of the amount of delinquent payment or transfer of payment  
27 shall be assessed against the delinquent policyholder, self-insured  
28 employer or insurer. In no case of single failure, however, shall  
29 penalties assessed under this section exceed five percent (5.0%) of the  
30 amount of surcharge unpaid or untransferred. Penalties assessed under  
31 this subsection shall be collected in a civil action by a summary  
32 proceeding brought by the Commissioner of Labor pursuant to "The  
33 Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et  
34 seq.), and shall be deposited by the commissioner in the Second Injury  
35 Fund.

36 i. For each 30-day period during which an insurer or self-insured  
37 employer fails to file a report as required by this section, the  
38 Commissioner of Labor shall assess a penalty of \$100.00 against the  
39 insurer or self-insured employer and, upon collection thereof, shall  
40 deposit those moneys in the "uninsured employer's fund." As a result  
41 of any single failure, however, no such penalty shall exceed a total of  
42 \$500.00. During the period of any such failure to file this report, the  
43 estimate by the Department of Labor of the amounts of such  
44 compensation payments or earned premiums shall be used for the  
45 purposes cited in the workers' compensation law, R.S.34:15-1 et seq.

46 j. The Commissioner of Labor may, with the authorization of and

1 appropriation by the Legislature, transfer from the Second Injury Fund  
2 an amount necessary for the cost of administration of the Division of  
3 Workers' Compensation in the Department of Labor.

4 k. As used in this section, "policyholder" means a holder of a  
5 policy of workers' compensation or employer's liability insurance  
6 issued by an insurer. "Insurer" means a domestic, foreign or alien  
7 mutual association or stock company writing workers' compensation  
8 or employer's liability insurance on risks located in this State and  
9 subject to premium taxes pursuant to P.L.1945, c.132 (C.54:18A-1 et  
10 seq.). "Self-insured employer" means an employer which self-insures  
11 for workers' compensation or employer's liability insurance pursuant  
12 to the provisions of R.S.34:15-77.  
13 (cf: P.L.2002, c.5)

14

15 2. This act shall take effect immediately.

16

17

18

#### STATEMENT

19

20 This bill provides that the transfer of any funds from the Second  
21 Injury Fund (SIF) to the General Fund under P.L.2003, c.38, the FY  
22 2003 appropriations act, shall be disregarded for purposes of  
23 calculating the amount of the assessment to be levied on employers  
24 and insurers to support the fund. Current language in the FY 2003  
25 appropriations act authorizes the appropriation of unexpended  
26 balances as of June 30, 2002, upon approval of the Director of the  
27 Division of Budget and Accounting. The Administration has indicated  
28 that it intends to lapse \$20 million from the SIF to the General Fund  
29 at the end of FY 2003. This bill will have the effect of exempting SIF  
30 contributors from the assessment increase that would otherwise be  
31 required for calendar year 2003 to offset the \$20 million transfer or  
32 any other transfer approved by the director. The current unexpended  
33 balance is \$61.0 million.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2584**

# **STATE OF NEW JERSEY**

DATED: JUNE 17, 2003

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2584.

This bill provides that the transfer of any funds from the Second Injury Fund (SIF) to the General Fund under P.L.2003, c.38, the FY2003 annual appropriations act, shall be disregarded for purposes of calculating the amount of the assessment to be levied on employers and insurers to support the fund.

#### FISCAL IMPACT

Current language in the FY2003 appropriations act authorizes the appropriation of unexpended balances as of June 30, 2002, upon approval of the Director of the Division of Budget and Accounting. The Administration has indicated that it intends to lapse \$20 million from the SIF to the General Fund at the end of FY 2003. This bill will have the effect of exempting SIF contributors from the assessment increase that would otherwise be required for calendar year 2003 to offset the \$20 million transfer or any other transfer approved by the director. The current unexpended balance in the fund is approximately \$61 million.