

CHAPTER 1 / LAW 1968-1

APPROVED 12-30-68

SENATE, No. 1

STATE OF NEW JERSEY

INTRODUCED JANUARY 9, 1968

By Senators McDERMOTT, FORSYTHE, BATEMAN, WALL-
WORK, GIULIANO, DEL TUFO, DOWD, MATURRI,
WALDOR, DICKINSON, HAGEDORN, KNOWLTON, SCHI-
AFFO, WOODCOCK, STOUT, BEADLESTON, HIERING,
SEARS, MARAZITI, DUMONT, KAY, WHITE, MILLER,
H. A. KELLY and SCHOEM

(Without Reference)

AN ACT concerning unemployment compensation benefits and
amending section 43:21-5 of the Revised Statutes.

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

1 1. Section 43:21-5 of the Revised Statutes is amended to read as
2 follows:

3 43:21-5. An individual shall be disqualified for benefits:

4 (a) For the week in which he has left work voluntarily without
5 good cause attributable to such work, and for each week thereafter
6 until he has earned in employment (which may be with an employ-
7 ing unit having in employment one or more individuals) at least 4
8 times his weekly benefit rate, as determined in each case; provided,
9 however, that no disqualification shall be applicable to a woman
10 who left or was separated from her work solely by reason of her
11 pregnancy.

12 (b) For the week in which he has been finally discharged for
13 misconduct connected with his work, and for the 5 weeks which
14 immediately follow such week (in addition to the waiting period),
15 as determined in each case. In the event such discharge should be
16 rescinded by the employer voluntarily or as a result of mediation
17 or arbitration this subsection (b) shall not apply, provided, how-
18 ever, an individual who is restored to employment with back pay
19 shall return any benefits received under this chapter for any week
20 of unemployment for which he is subsequently compensated by his
21 employer.

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 (c) If it is found that he has failed, without good cause, either
23 to apply for available, suitable work when so directed by the em-
24 ployment office or the director or to accept suitable work when
25 offered him, or to return to his customary self-employment (if any)
26 when so directed by the director. Such disqualification shall con-
27 tinue for the week in which such failure occurred and for the 3
28 weeks which immediately follow such week (in addition to the
29 waiting period), as determined:

30 (1) In determining whether or not any work is suitable for
31 an individual, consideration shall be given to the degree of
32 risk involved to his health, safety and morals, his physical
33 fitness and prior training, his experience and prior earnings,
34 his length of unemployment and prospects for securing local
35 work in his customary occupation, and the distance of the avail-
36 able work from his residence.

37 (2) Notwithstanding any other provisions of this chapter, no
38 work shall be deemed suitable and benefits shall not be denied
39 under this chapter to any otherwise eligible individual for
40 refusing to accept new work under any of the following con-
41 ditions: (a) If the position offered is vacant due directly to a
42 strike, lockout, or other labor dispute; (b) If the remuneration,
43 hours, or other conditions of the work offered are substantially
44 less favorable to the individual than those prevailing for
45 similar work in the locality; (c) If as a condition of being em-
46 ployed the individual would be required to join a company
47 union or to resign from or refrain from joining any bona fide
48 labor organization.

49 (d) If it is found that his unemployment is due to a stoppage
50 of work [commencing on or after January 1, 1968] which exists
51 because of a labor dispute [(other than a lockout)] at the factory,
52 establishment or other premises at which he is or was last employed
53 [and such disqualification shall continue only for the first 42 days
54 thereof (in addition to the waiting period)]. [Benefits paid after
55 said period of disqualification shall only be paid out of, and to the
56 extent of, worker contributions to the Unemployment Trust Fund
57 made during the calendar year preceding the calendar year in which
58 benefits are claimed; provided, however, that no benefits shall be
59 paid under this subsection where the worker or workers unemployed
60 by reason of such labor dispute, or their representatives, have
61 refused to voluntarily arbitrate the dispute or, in the alternative,
62 have refused the services of a mediation agency of this State or the
63 Federal Government to mediate the dispute, and further provided
64 that no benefits shall be paid under this subsection for any week of

65 unemployment unless the Commissioner of Labor and Industry
66 certifies that, during the week in question, representatives of the
67 worker or workers claiming benefits, either were bargaining in good
68 faith or were prepared to bargain in good faith to resolve the
69 dispute.】 No disqualification under this subsection shall apply if it
70 is shown that:

71 (1) He is not participating in or financing or directly in-
72 terested in the labor dispute which caused the stoppage of
73 work; and

74 (2) He does not belong to a grade or class of workers of
75 which, immediately before the commencement of the stoppage,
76 there were members employed at the premises at which the
77 stoppage occurs, any of whom are participating in or financing
78 or directly interested in the dispute; provided, that if in any
79 case in which (1) or (2) above applies separate branches of
80 work which are commonly conducted as separate businesses in
81 separate premises are conducted in separate departments of
82 the same premises, each such department shall, for the pur-
83 poses of this subsection, be deemed to be a separate factory,
84 establishment, or other premises;

85 (e) For any week with respect to which he is receiving or has
86 received remuneration in lieu of notice.

87 (f) For any week with respect to which or a part of which he has
88 received or is seeking unemployment benefits under an unemploy-
89 ment compensation law of any other State or of the United States;
90 provided, that if the appropriate agency of such other State or of
91 the United States finally determines that he is not entitled to such
92 unemployment benefits, this disqualification shall not apply.

93 (g) (1) For a period of 17 weeks from the date of the discovery
94 by the division of the illegal receipt of benefits contrary to the pro-
95 visions of this chapter as the result of any false or fraudulent
96 representation and his maximum total benefits shall be reduced by
97 an amount equal to 17 times his weekly benefit rate in the benefit
98 year in existence at the time of the discovery and in a benefit year
99 established within 1 year thereafter, but the maximum reduction
100 shall not exceed 17 times the weekly benefit rate; provided, that
101 any such disqualification may be appealed in the same manner as
102 any other disqualification imposed hereunder; and, provided
103 further, that a conviction in the courts of this State arising out of
104 the illegal receipt of such benefits in any proceeding instituted
105 against him, under the provisions of this chapter or any other law
106 of this State, shall be conclusive upon the appeals tribunal and the
107 board of review.

108 (2) A disqualification under this subsection shall not preclude
109 the prosecution of any civil, criminal or administrative action or
110 proceeding to enforce other provisions of this chapter for the
111 assessment and collection of penalties or the refund of any amounts
112 collected as benefits under the provisions of section 43:21-16 of the
113 Revised Statutes, or to enforce any other law where an individual
114 obtains or attempts to obtain by theft or robbery or false state-
115 ments or representations any money from any fund created or
116 established under this chapter or any negotiable or nonnegotiable
117 instrument for the payment of money from such funds, or to recover
118 money erroneously or illegally obtained by an individual from any
119 fund created or established under this chapter.

1 2. This act shall take effect immediately.

STATEMENT

This proposed bill provides for the elimination from the Unemployment Compensation Law of those provisions which, as of January 1, 1968, permit compensation to workers under conditions not previously allowed.

Under the law now in effect workers unemployed due to a strike are eligible to receive full benefits after a 6-week waiting period. This act deletes this category of unemployment from the law entirely.

Additionally, the act would correct a dangerous imbalance presently existing in the procedures of free collective bargaining. By making this correction the State will once again permit employers and employees to negotiate without interference by the State in their efforts to achieve a satisfactory working contract.

With the aforementioned impediments removed the industrial climate of the State of New Jersey as well as the climate of labor will be visibly improved with its correlative advantages, such as increased jobs and increased tax revenues for the entire State.

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FROM: OFFICE OF THE GOVERNOR FOR RELEASE: JANUARY 31, 1968

STATEMENT BY GOVERNOR RICHARD J. HUGHES

ON SIGNING OF SENATE BILL 1

I have been presented with Senate Bill 1, which amends the Unemployment Compensation Law so as to remove the provision permitting the payment of benefits to those on strike after a work stoppage has continued for more than six weeks, subject to certain safeguards. Except for the inclusion of a provision concerning "lockouts," which I shall mention later, this repealer leaves untouched other beneficial improvements contained in the Act adopted last year which, considered together, constituted a broad-scale updating of our Unemployment Compensation Law.

I have reflected carefully upon this bill and have decided to sign it.

In reaching this decision, I have given full and sympathetic consideration to the viewpoint of labor as well as that of the business community and, as should always be the case, to the interest of the larger public.

The inclusion of strike benefits in the bill adopted last year caused in this State a certain polarization of views, sometimes strong and sharp in their expression, with regard not at all to the basic improvements in the Act, but to the single question of strike benefits. This dispute, and particularly the feelings of estrangement which accompanied it, should come to an end. Both labor and the business community, as well as the larger public to which I refer, have too much at stake in a prospering and progressive New Jersey to risk that progress in an unavailing stalemate.

When the strike benefit clause was included last year, I favored such legislation in total concept because it seemed to me -- and this is still my feeling -- to be not only correct in principle, but also in the best interest of the State. However, it was and is the sort of question upon which reasonable differences of opinion can exist and, moreover, can honestly exist.

This past Fall saw an election in which the question of strike benefits seemed to be projected as a clear, even a dominant, issue. And I believe the people by their vote indicated in unmistakable terms their belief and desire that individuals on strike -- even with the safeguards provided by the Act -- should not be paid unemployment compensation. Under our system of governmental checks and balances, without abandoning in any way the responsibility of executive authority with regard to legislation, the existence of such an apparently overwhelming consensus must be persuasive in the just exercise of that authority.

I am aware that Senate Bill 1 inadvertently has rescinded the beneficial provisions of last year's Act as to "locked out" workers, whose unemployment is involuntary as it is in the case, for instance, of a worker laid off for economic reasons. However, I also recall the oft-repeated statements of the majority leadership that the Legislature intends to study the Unemployment Compensation Law and correct any inequities. In view of these pledges, I am signing this bill with the expectation that this error with regard to "lockouts" will be corrected.

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