

ASSEMBLY, No. 584

STATE OF NEW JERSEY

INTRODUCED APRIL 1, 1968

By Assemblymen DICKEY, PEDERSEN and KASER

Referred to Committee on County and Municipal Government

AN ACT amending Revised Statutes 43:21-19 and supplementing the Unemployment Compensation Act and the Temporary Disability Benefits Law (Revised Statutes, Title 43, chapter 21) and providing coverage under these acts for employees of the South Jersey Port Commission, a political subdivision of the State of New Jersey.

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

1 1. Section 43:21-19 of the Revised Statutes is amended to read  
2 as follows:

3 43:21-19. As used in this chapter (R. S. 43:21-1 et seq.), unless  
4 the context clearly requires otherwise:

5 (a) (1) "Annual payroll" means the total amount of wages paid  
6 during a calendar year (regardless of when earned) by an employer  
7 for employment.

8 (2) "Average annual payroll" means the average of the annual  
9 payrolls of any employer for the last 3 or 5 preceding calendar  
10 years, whichever average is higher, except that any year or years  
11 throughout which an employer has had no "annual payroll" be-  
12 cause of military service shall be deleted from the reckoning;  
13 the "average annual payroll" in such case is to be determined on  
14 the basis of the prior 3 to 5 calendar years in each of which the  
15 employer had an "annual payroll" in the operation of his busi-  
16 ness, if the employer resumes his business within 12 months after  
17 separation, discharge or release from such service, under con-  
18 ditions other than dishonorable, and makes application to have  
19 his "average annual payroll" determined on the basis of such  
20 deletion within 12 months after he resumes his business; provided,  
21 however, that "average annual payroll" solely for the purposes  
22 of paragraph (3) of subsection (e) of section 43:21-7 of this Title

23 means the average of the annual payrolls of any employer on  
24 which he paid contributions to the State disability benefits fund,  
25 for the last 3 to 5 preceding calendar years, whichever average  
26 is higher; provided further, that only those wages be included on  
27 which employer contributions have been paid on or before January  
28 31 (or the next succeeding day if such January 31 is a Saturday  
29 or Sunday) immediately preceding the beginning of the 12 months'  
30 period for which the employer's contribution rate is computed.

31 (b) "Benefits" means the money payments payable to an in-  
32 dividual, as provided in this chapter (R. S. 43:21-1 et seq.), with  
33 respect to his unemployment.

34 (c) "Base year" with respect to benefit years commencing on or  
35 after January 1, 1953, shall mean the 52 calendar weeks ending  
36 with the second week immediately preceding an individual's benefit  
37 year.

38 (d) "Benefit year" with respect to any individual means the  
39 364 consecutive calendar days beginning with the day on, or as of,  
40 which he first files a valid claim for benefits, and thereafter begin-  
41 ning with the day on, or as of, which the individual next files a  
42 valid claim for benefits after the termination of his last preceding  
43 benefit year. Any claim for benefits made in accordance with sub-  
44 section (a) of section 43:21-6 of this Title shall be deemed to be  
45 a "valid claim" for the purpose of this subsection if (1) no re-  
46 muneration was paid or is payable for the day on which, or as of  
47 which he files a claim for benefits, and no work is available to him  
48 with his current employing unit on such day, or, he is unemployed  
49 for the week in which, or as of which, he files a claim for benefits;  
50 and (2) he has fulfilled the conditions imposed by subsection (e)  
51 of section 43:21-4 of this Title.

52 (e) "Division" means the Division of Employment Security of  
53 the Department of Labor and Industry established by chapter  
54 446, P. L. 1948, and any transaction or exercise of authority by  
55 the director of the division thereunder, or under this chapter  
56 (R. S. 43:21-1 et seq.), shall be deemed to be performed by the  
57 division.

58 (f) "Contributions" means the money payments to the State  
59 unemployment compensation fund required by this chapter (R. S.  
60 43:21-1 et seq.).

61 (g) "Employing unit" means any individual or type of organ-  
62 ization, including any partnership, association, trust, estate, joint-  
63 stock company, insurance company or corporation, whether domes-  
64 tic or foreign, or the receiver, trustee in bankruptcy, trustee or

65 successor thereof, or the legal representative of a deceased person,  
66 which has or subsequent to January 1, 1936, had in its employ one  
67 or more individuals performing services for it within this State.  
68 All individuals performing services within this State for any em-  
69 ploying unit which maintains 2 or more separate establishments  
70 within this State shall be deemed to be employed by a single  
71 employing unit for all the purposes of this chapter (R. S. 43:21-1  
72 et seq.). Whenever any employing unit contracts with or has under  
73 it any contractor or subcontractor for any employment which  
74 is part of its usual trade, occupation, profession, or business,  
75 unless the employing unit as well as each such contractor or sub-  
76 contractor is an employer by reason of subsection (c) of section  
77 43:21-8 of this Title or subsection (h) of this section, the employ-  
78 ing unit shall for all the purposes of this chapter be deemed to  
79 employ each individual in the employ of each such contractor or  
80 subcontractor for each day during which such individual is engaged  
81 in performing such employment; except that each such contractor  
82 or subcontractor who is an employer by reason of subsection (c)  
83 of section 43:21-8 of this Title or subsection (h) of this section,  
84 shall alone be liable for the contributions measured by wages  
85 payable to individuals in his employ, and except that any employ-  
86 ing unit who shall become liable for and pay contributions with  
87 respect to individuals in the employ of any such contractor or  
88 subcontractor who is not an employer by reason of subsection (c)  
89 of section 43:21-8 of this Title or subsection (h) of this section,  
90 may recover the same from such contractor or subcontractor. Each  
91 individual employed to perform or to assist in performing the  
92 work of any agent or employee of an employing unit shall be  
93 deemed to be employed by such employing unit for all the purposes  
94 of this chapter (R. S. 43:21-1 et seq.), whether such individual  
95 was hired or paid directly by such employing unit or by such agent  
96 or employee; provided, the employing unit had actual or construc-  
97 tive knowledge of the work.

98 (h) "Employer" means:

99 (1) Any employing unit which for some portion of a day, but not  
100 necessarily simultaneously, in each of 20 different weeks, whether  
101 or not such weeks are or were consecutive, within either the current  
102 or the preceding calendar year has or had in employment 4 or more  
103 individuals (irrespective of whether the same individuals are or  
104 were employed in each such day);

105 (2) Any employing unit (whether or not an employing unit at  
106 the time of acquisition) which acquired the organization, trade or

107 business, or substantially all the assets thereof, of another which  
108 at the time of such acquisition was an employer subject to this  
109 chapter (R. S. 43:21-1 et seq.);

110 (3) Any employing unit which acquired the organization, trade  
111 or business, or substantially all the assets thereof, of another em-  
112 ploying unit and which, if treated as a single unit with such other  
113 employing unit, would be an employer under paragraph (1) of this  
114 subsection;

115 (4) Any employing unit which together with one or more other  
116 employing units is owned or controlled (by legally enforceable  
117 means or otherwise), directly or indirectly by the same interests,  
118 or which owns or controls one or more other employing units (by  
119 legally enforceable means or otherwise), and which, if treated as a  
120 single unit with such other employing unit or interest, would be  
121 an employer under paragraph (1) of this subsection;

122 (5) Any employing unit which, having become an employer  
123 under paragraphs (1), (2), (3) or (4) has not, under section 43:21-8  
124 of this chapter (R. S. 43:21-1 et seq.) ceased to be an employer  
125 subject to this chapter (R. S. 43:21-1 et seq.); or

126 (6) For the effective period of its election pursuant to subsection  
127 (c) of section 43:21-8 of this chapter (R. S. 43:21-1 et seq.) any  
128 other employing unit which has elected to become fully subject to  
129 this chapter (R. S. 43:21-1 et seq.).

130 (i) (1) "Employment" means service, including service in inter-  
131 state commerce performed for remuneration or under any contract  
132 of hire, written or oral, express or implied.

133 (2) The term "employment" shall include an individual's entire  
134 service performed within or both within and without this State if:

135 (A) The service is localized in this State; or

136 (B) The service is not localized in any State but some of  
137 the service is performed in this State, and (i) the base of  
138 operations, or, if there is no base of operations, then the place  
139 from which such service is directed or controlled, is in this  
140 State; or (ii) the base of operations or place from which such  
141 service is directed or controlled is not in any State in which  
142 some part of the service is performed, but the individual's  
143 residence is in this State.

144 (3) Services performed within this State but not covered under  
145 paragraph (2) of this subsection shall be deemed to be employment  
146 subject to this chapter (R. S. 43:21-1 et seq.) if contributions  
147 are not required and paid with respect to such services under an  
148 unemployment compensation law of any other State or of the  
149 Federal Government.

150 (4) Services not covered under paragraph (2) of this subsection,  
151 and performed entirely without this State, with respect to no part  
152 of which contributions are required and paid under an unemploy-  
153 ment compensation law of any other State or of the Federal Gov-  
154 ernment, shall be deemed to be employment subject to this chapter  
155 (R. S. 43:21-1 et seq.) if the individual performing such services  
156 is a resident of this State and the employing unit for whom such  
157 services are performed files with the division an election that the  
158 entire service of such individual shall be deemed to be employment  
159 subject to this chapter (R. S. 43:21-1 et seq).

160 (5) Service shall be deemed to be localized within a State if

161 (A) The service is performed entirely within such State; or

162 (B) The service is performed both within and without such  
163 State, but the service performed without such State is in-  
164 cidental to the individual's service within the State, for ex-  
165 ample, is temporary or transitory in nature or consists of  
166 isolated transactions.

167 (6) Services performed by an individual for remuneration shall  
168 be deemed to be employment subject to this chapter (R. S. 43:21-1  
169 et seq.) unless and until it is shown to the satisfaction of the  
170 division that

171 (A) Such individual has been and will continue to be free  
172 from control or direction over the performance of such service,  
173 both under his contract of service and in fact; and

174 (B) Such service is either outside the usual course of the  
175 business for which such service is performed, or that such  
176 service is performed outside of all the places of business of  
177 the enterprise for which such service is performed; and

178 (C) Such individual is customarily engaged in an independ-  
179 ently established trade, occupation, profession or business.

180 (7) The term "employment" shall not include:

181 (A) Agricultural labor;

182 (B) Domestic service in a private home;

183 (C) Service performed by an individual in the employ of  
184 his son, daughter or spouse, and service performed by a child  
185 under the age of 21 in the employ of his father or mother;

186 (D) Service performed in the employ of this State or of any  
187 political subdivision thereof or of any instrumentality of this  
188 State or its political subdivision *except those services per-*  
189 *formed in the employ of the South Jersey Port Commission;*

190 (E) Service performed in the employ of any other State or  
191 its political subdivisions, or of the United States Government,

192 or of an instrumentality of any other State or States or their  
193 political subdivisions or of the United States;

194 (F) Services performed in the employ of a corporation,  
195 community chest, fund, or foundation, organized and operated  
196 exclusively for religious, charitable, scientific, literary, hos-  
197 pital, benevolent, philanthropic, or educational purposes, or  
198 for the prevention of cruelty to children or animals, no part  
199 of the net earnings of which inures to the benefit of any private  
200 shareholder or individual;

201 (G) Services performed in the employ of fraternal, bene-  
202 ficiary societies, orders, or associations operating under the  
203 lodge system or for the exclusive benefit of the members of a  
204 fraternity itself operating under the lodge system and pro-  
205 viding for the payment of life, sick, accident, or other benefits  
206 to the members of such society, order, or association, or their  
207 dependents;

208 (H) Services performed as an officer or other employee  
209 of any building and loan association of this State, except  
210 where such services constitute the principal employment of  
211 the individual; services performed as an officer or other em-  
212 ployee of any building and loan association where such as-  
213 sociation is a member of the Federal Home Loan Bank System;  
214 services performed as an officer or other employee of any  
215 bank which is a member of the Federal Reserve System;  
216 services performed by a director or member of a committee  
217 of a savings and loan association incorporated or organized  
218 under the laws of this State or of the United States;

219 (I) Service with respect to which unemployment insurance  
220 is payable under an unemployment insurance program estab-  
221 lished by an Act of Congress;

222 (J) Service performed by agents of mutual fund brokers or  
223 dealers in the sale of mutual funds or other securities, by  
224 agents of insurance companies, exclusive of industrial in-  
225 surance agents, or by agents of investment companies, if the  
226 compensation to such agents for such services is wholly on a  
227 commission basis;

228 (K) Services performed by real estate salesmen or brokers  
229 who are compensated wholly on a commission basis;

230 (L) Services performed in the employ of any veterans'  
231 organization chartered by Act of Congress or of any auxiliary  
232 thereof, no part of the net earnings of which organization, or  
233 auxiliary thereof, inures to the benefit of any private share-  
234 holder or individual;

235 (M) Service performed for or in behalf of the owner or  
236 operator of any theatre, ballroom, amusement hall or other  
237 place of entertainment, not in excess of 10 weeks in any calen-  
238 dar year for the same owner or operator, by any leader or  
239 musician of a band or orchestra, commonly called a "name  
240 band," entertainer, vaudeville artist, actor, actress, singer or  
241 other entertainer;

242 (N) Services performed by an individual for a labor union  
243 organization, known and recognized as a union local, as a  
244 member of a committee or committees reimbursed by the union  
245 local for time lost from regular employment, or as a part-time  
246 officer of a union local and the remuneration for such services  
247 is less than \$250.00 in a calendar year;

248 (O) Services performed in the sale or distribution of mer-  
249 chandise by home-to-home salespersons or in-the-home demon-  
250 strators whose remuneration consists wholly of commissions  
251 or commissions and bonuses.

252 (j) "Employment office" means a free public employment office,  
253 or branch thereof operated by this State or maintained as a part of  
254 a State-controlled system of public employment offices.

255 (k) "Fund" means the unemployment compensation fund estab-  
256 lished by this chapter (R. S. 43:21-1 et seq.), to which all contribu-  
257 tions required and from which all benefits provided under this  
258 chapter (R. S. 43:21-1 et seq.) shall be paid.

259 (l) "State" includes, in addition to the States of the United  
260 States of America, the District of Columbia, the Virgin Islands and  
261 Puerto Rico.

262 (m) Unemployment.

263 (1) An individual shall be deemed "unemployed" for any week  
264 during which he is not engaged in full-time work and with respect  
265 to which his remuneration is less than his weekly benefit rate,  
266 including any week during which he is on vacation without pay;  
267 provided, such vacation is not the result of the individual's volun-  
268 tary action.

269 (2) The term "remuneration," with respect to any individual  
270 for benefit years commencing on or after July 1, 1961, and as used  
271 in this subsection, shall include only that part of the same which  
272 in any week exceeds 20% of his weekly benefit rate (fractional parts  
273 of a dollar omitted) or \$5.00 whichever is the larger.

274 (3) An individual's week of unemployment shall be deemed to  
275 commence only after his registration at an employment office,  
276 except as the division may by regulation otherwise prescribe.

277 (n) "Unemployment compensation administration fund" means  
278 the unemployment compensation administration fund established  
279 by this chapter (R. S. 43:21-1 et seq.), from which administrative  
280 expenses under this chapter (R. S. 43:21-1 et seq.) shall be paid.

281 (o) "Wages" means remuneration paid subsequent to December  
282 31, 1946, by employers for employment; provided, however, that  
283 for eligibility and benefit purposes wages earned but not paid when  
284 the amount thereof has been calculated and is due as determined  
285 by the established and customary practices of the employer shall be  
286 construed as having been paid when earned.

287 (p) "Remuneration" means all compensation for personal  
288 services, including commissions and bonuses and the cash value of  
289 all compensation in any medium other than cash.

290 (q) "Week" means such period or periods of 7 consecutive days  
291 ending at midnight, as the division may by regulation prescribe.

292 (r) "Calendar quarter" means the period of 3 consecutive  
293 calendar months ending on March 31, June 30, September 30, or  
294 December 31.

295 (s) "Investment company" means any company as defined in  
296 paragraph 1-a of chapter 322 of the laws of 1938, entitled "An act  
297 concerning investment companies, and supplementing Title 17 of  
298 the Revised Statutes by adding thereto a new chapter entitled  
299 'investment companies.' "

300 (t) "Base week" means any calendar week of an individual's  
301 base year during which he earned in employment from an employer  
302 remuneration equal to not less than \$15.00; provided, if in any  
303 calendar week, an individual is in employment with more than one  
304 employer, he may in such calendar week establish a base week with  
305 respect to each such employer from whom the individual earns  
306 remuneration equal to not less than \$15.00 during such week.

307 (u) "Average weekly wage" means the amount derived by divid-  
308 ing an individual's total wages received during his base year base  
309 weeks (as defined in subsection (t) of this section) from that most  
310 recent base year employer with whom he had established at least 17  
311 base weeks, by the number of base weeks in which such wages were  
312 earned. In the event that such claimant had no employer in his  
313 base year with whom he had established at least 17 base weeks,  
314 then such individual's average weekly wage shall be computed as if  
315 all of his base week wages were received from one employer and as  
316 if all his base weeks of employment had been performed in the em-  
317 ploy of one employer.



318 If on application of a claimant it is determined that he has been  
319 employed during at least the 4 weeks immediately preceding his  
320 separation from employment by an employer on a substantially  
321 reduced schedule of weekly hours due to lack of work, all weeks of  
322 substantially reduced schedule within the base period and his wages  
323 therefor shall be disregarded in computing his average weekly  
324 wage.

325 (v) "Initial determination" means, subject to the provisions of  
326 R. S. 43:21-6 (b) (2) and (3), a determination of benefit rights as  
327 measured by an eligible individual's base year employment with a  
328 single employer covering all periods of employment with that em-  
329 ployer during the base year. Subject to the provisions of Revised  
330 Statute 43:21-3 (d) (3) if a individual has been in employment in  
331 his base year with more than one employer, no benefits shall be paid  
332 to that individual under any successive initial determination until  
333 his benefit rights have been exhausted under the next preceding  
334 initial determination.

335 (w) "Last date of employment" means the last calendar day in  
336 the base year of an individual on which he performed services in  
337 employment for a given employer.

338 (x) "Most recent base year employer" means that employer with  
339 whom the individual most recently, in point of time, performed  
340 services in employment in the base year.

1 2. With respect to service performed in the employ of the South  
2 Jersey Port Commission which is not excluded from the definition  
3 of "employment" by the provisions of Revised Statutes 43:21-19  
4 (i) (7) (D), as amended, the employing authority, the South Jersey  
5 Port Commission, shall be considered as an employer, as defined by  
6 Revised Statutes 43:21-19 (h), and shall make all payments and  
7 perform all acts, with regard to employees performing such serv-  
8 ice, as may be required by the provisions of Title 43 of any other  
9 employer.

1 3. This act shall take effect on January 1 following the adoption  
2 of this act.

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#### STATEMENT

The employees of the South Jersey Port Commission who work at the Camden Marine Terminals are confronted with periods of unemployment as are other dock workers and longshoremen. This bill would extend the provisions of the unemployment compensation and temporary disability benefits law to these workers.

ASSEMBLY COMMITTEE AMENDMENTS TO

**ASSEMBLY, No. 584**

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**STATE OF NEW JERSEY**

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ADOPTED MAY 20, 1968

Amend page 1, title, line 5, after "Commission", insert "or its successors".

Amend page 5, section 1, line 189, after "Commission", insert "or its successors".

Amend page 9, section 2, line 5, after "Commission", insert "or its successors".

*revised 9/10/68*  
[OFFICIAL COPY REPRINT]

**ASSEMBLY, No. 584**

**STATE OF NEW JERSEY**

INTRODUCED APRIL 1, 1968

By Assemblymen DICKEY, PEDERSEN and KASER

Referred to Committee on County and Municipal Government

AN ACT amending Revised Statutes 43:21-19 and supplementing the Unemployment Compensation Act and the Temporary Disability Benefits Law (Revised Statutes, Title 43, chapter 21) and providing coverage under these acts for employees of the South Jersey Port Commission *\*or its successors\**, a political subdivision of the State of New Jersey.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
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4 the context clearly requires otherwise:

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6 during a calendar year (regardless of when earned) by an employer  
7 for employment.

8 (2) "Average annual payroll" means the average of the annual  
9 payrolls of any employer for the last 3 or 5 preceding calendar  
10 years, whichever average is higher, except that any year or years  
11 throughout which an employer has had no "annual payroll" be-  
12 cause of military service shall be deleted from the reckoning;  
13 the "average annual payroll" in such case is to be determined on  
14 the basis of the prior 3 to 5 calendar years in each of which the  
15 employer had an "annual payroll" in the operation of his busi-  
16 ness, if the employer resumes his business within 12 months after  
17 separation, discharge or release from such service, under con-  
18 ditions other than dishonorable, and makes application to have  
19 his "average annual payroll" determined on the basis of such  
20 deletion within 12 months after he resumes his business; provided,  
21 however, that "average annual payroll" solely for the purposes  
22 of paragraph (3) of subsection (e) of section 43:21-7 of this Title

23 means the average of the annual payrolls of any employer on  
24 which he paid contributions to the State disability benefits fund,  
25 for the last 3 to 5 preceding calendar years, whichever average  
26 is higher; provided further, that only those wages be included on  
27 which employer contributions have been paid on or before January  
28 31 (or the next succeeding day if such January 31 is a Saturday  
29 or Sunday) immediately preceding the beginning of the 12 months'  
30 period for which the employer's contribution rate is computed.

31 (b) "Benefits" means the money payments payable to an in-  
32 dividual, as provided in this chapter (R. S. 43:21-1 et seq.), with  
33 respect to his unemployment.

34 (c) "Base year" with respect to benefit years commencing on or  
35 after January 1, 1953, shall mean the 52 calendar weeks ending  
36 with the second week immediately preceding an individual's benefit  
37 year.

38 (d) "Benefit year" with respect to any individual means the  
39 364 consecutive calendar days beginning with the day on, or as of,  
40 which he first files a valid claim for benefits, and thereafter begin-  
41 ning with the day on, or as of, which the individual next files a  
42 valid claim for benefits after the termination of his last preceding  
43 benefit year. Any claim for benefits made in accordance with sub-  
44 section (a) of section 43:21-6 of this Title shall be deemed to be  
45 a "valid claim" for the purpose of this subsection if (1) no re-  
46 muneration was paid or is payable for the day on which, or as of  
47 which he files a claim for benefits, and no work is available to him  
48 with his current employing unit on such day, or, he is unemployed  
49 for the week in which, or as of which, he files a claim for benefits;  
50 and (2) he has fulfilled the conditions imposed by subsection (e)  
51 of section 43:21-4 of this Title.

52 (e) "Division" means the Division of Employment Security of  
53 the Department of Labor and Industry established by chapter  
54 446, P. L. 1948, and any transaction or exercise of authority by  
55 the director of the division thereunder, or under this chapter  
56 (R. S. 43:21-1 et seq.), shall be deemed to be performed by the  
57 division.

58 (f) "Contributions" means the money payments to the State  
59 unemployment compensation fund required by this chapter (R. S.  
60 43:21-1 et seq.).

61 (g) "Employing unit" means any individual or type of organ-  
62 ization, including any partnership, association, trust, estate, joint-  
63 stock company, insurance company or corporation, whether domes-  
64 tic or foreign, or the receiver, trustee in bankruptcy, trustee or

65 successor thereof, or the legal representative of a deceased person,  
66 which has or subsequent to January 1, 1936, had in its employ one  
67 or more individuals performing services for it within this State.  
68 All individuals performing services within this State for any em-  
69 ploying unit which maintains 2 or more separate establishments  
70 within this State shall be deemed to be employed by a single  
71 employing unit for all the purposes of this chapter (R. S. 43:21-1  
72 et seq.). Whenever any employing unit contracts with or has under  
73 it any contractor or subcontractor for any employment which  
74 is part of its usual trade, occupation, profession, or business,  
75 unless the employing unit as well as each such contractor or sub-  
76 contractor is an employer by reason of subsection (c) of section  
77 43:21-8 of this Title or subsection (h) of this section, the employ-  
78 ing unit shall for all the purposes of this chapter be deemed to  
79 employ each individual in the employ of each such contractor or  
80 subcontractor for each day during which such individual is engaged  
81 in performing such employment; except that each such contractor  
82 or subcontractor who is an employer by reason of subsection (c)  
83 of section 43:21-8 of this Title or subsection (h) of this section,  
84 shall alone be liable for the contributions measured by wages  
85 payable to individuals in his employ, and except that any employ-  
86 ing unit who shall become liable for and pay contributions with  
87 respect to individuals in the employ of any such contractor or  
88 subcontractor who is not an employer by reason of subsection (c)  
89 of section 43:21-8 of this Title or subsection (h) of this section,  
90 may recover the same from such contractor or subcontractor. Each  
91 individual employed to perform or to assist in performing the  
92 work of any agent or employee of an employing unit shall be  
93 deemed to be employed by such employing unit for all the purposes  
94 of this chapter (R. S. 43:21-1 et seq.), whether such individual  
95 was hired or paid directly by such employing unit or by such agent  
96 or employee; provided, the employing unit had actual or construc-  
97 tive knowledge of the work.

98 (h) "Employer" means:

99 (1) Any employing unit which for some portion of a day, but not  
100 necessarily simultaneously, in each of 20 different weeks, whether  
101 or not such weeks are or were consecutive, within either the current  
102 or the preceding calendar year has or had in employment 4 or more  
103 individuals (irrespective of whether the same individuals are or  
104 were employed in each such day);

105 (2) Any employing unit (whether or not an employing unit at  
106 the time of acquisition) which acquired the organization, trade or

107 business, or substantially all the assets thereof, of another which  
108 at the time of such acquisition was an employer subject to this  
109 chapter (R. S. 43:21-1 et seq.);

110 (3) Any employing unit which acquired the organization, trade  
111 or business, or substantially all the assets thereof, of another em-  
112 ploying unit and which, if treated as a single unit with such other  
113 employing unit, would be an employer under paragraph (1) of this  
114 subsection;

115 (4) Any employing unit which together with one or more other  
116 employing units is owned or controlled (by legally enforceable  
117 means or otherwise), directly or indirectly by the same interests,  
118 or which owns or controls one or more other employing units (by  
119 legally enforceable means or otherwise), and which, if treated as a  
120 single unit with such other employing unit or interest, would be  
121 an employer under paragraph (1) of this subsection;

122 (5) Any employing unit which, having become an employer  
123 under paragraphs (1), (2), (3) or (4) has not, under section 43:21-8  
124 of this chapter (R. S. 43:21-1 et seq.) ceased to be an employer  
125 subject to this chapter (R. S. 43:21-1 et seq.); or

126 (6) For the effective period of its election pursuant to subsection  
127 (c) of section 43:21-8 of this chapter (R. S. 43:21-1 et seq.) any  
128 other employing unit which has elected to become fully subject to  
129 this chapter (R. S. 43:21-1 et seq.).

130 (i) (1) "Employment" means service, including service in inter-  
131 state commerce performed for remuneration or under any contract  
132 of hire, written or oral, express or implied.

133 (2) The term "employment" shall include an individual's entire  
134 service performed within or both within and without this State if:

135 (A) The service is localized in this State; or

136 (B) The service is not localized in any State but some of  
137 the service is performed in this State, and (i) the base of  
138 operations, or, if there is no base of operations, then the place  
139 from which such service is directed or controlled, is in this  
140 State; or (ii) the base of operations or place from which such  
141 service is directed or controlled is not in any State in which  
142 some part of the service is performed, but the individual's  
143 residence is in this State.

144 (3) Services performed within this State but not covered under  
145 paragraph (2) of this subsection shall be deemed to be employment  
146 subject to this chapter (R. S. 43:21-1 et seq.) if contributions  
147 are not required and paid with respect to such services under an  
148 unemployment compensation law of any other State or of the  
149 Federal Government.

150 (4) Services not covered under paragraph (2) of this subsection,  
151 and performed entirely without this State, with respect to no part  
152 of which contributions are required and paid under an unemploy-  
153 ment compensation law of any other State or of the Federal Gov-  
154 ernment, shall be deemed to be employment subject to this chapter  
155 (R. S. 43:21-1 et seq.) if the individual performing such services  
156 is a resident of this State and the employing unit for whom such  
157 services are performed files with the division an election that the  
158 entire service of such individual shall be deemed to be employment  
159 subject to this chapter (R. S. 43:21-1 et seq).

160 (5) Service shall be deemed to be localized within a State if

161 (A) The service is performed entirely within such State; or

162 (B) The service is performed both within and without such  
163 State, but the service performed without such State is in-  
164 cidental to the individual's service within the State, for ex-  
165 ample, is temporary or transitory in nature or consists of  
166 isolated transactions.

167 (6) Services performed by an individual for remuneration shall  
168 be deemed to be employment subject to this chapter (R. S. 43:21-1  
169 et seq.) unless and until it is shown to the satisfaction of the  
170 division that

171 (A) Such individual has been and will continue to be free  
172 from control or direction over the performance of such service,  
173 both under his contract of service and in fact; and

174 (B) Such service is either outside the usual course of the  
175 business for which such service is performed, or that such  
176 service is performed outside of all the places of business of  
177 the enterprise for which such service is performed; and

178 (C) Such individual is customarily engaged in an independ-  
179 ently established trade, occupation, profession or business.

180 (7) The term "employment" shall not include:

181 (A) Agricultural labor;

182 (B) Domestic service in a private home;

183 (C) Service performed by an individual in the employ of  
184 his son, daughter or spouse, and service performed by a child  
185 under the age of 21 in the employ of his father or mother;

186 (D) Service performed in the employ of this State or of any  
187 political subdivision thereof or of any instrumentality of this  
188 State or its political subdivision *except those services per-*  
189 *formed in the employ of the South Jersey Port Commission*  
189A *\*or its successors\*;*

190 (E) Service performed in the employ of any other State or  
191 its political subdivisions, or of the United States Government,

192 or of an instrumentality of any other State or States or their  
193 political subdivisions or of the United States;

194 (F) Services performed in the employ of a corporation,  
195 community chest, fund, or foundation, organized and operated  
196 exclusively for religious, charitable, scientific, literary, hos-  
197 pital, benevolent, philanthropic, or educational purposes, or  
198 for the prevention of cruelty to children or animals, no part  
199 of the net earnings of which inures to the benefit of any private  
200 shareholder or individual;

201 (G) Services performed in the employ of fraternal, bene-  
202 ficiary societies, orders, or associations operating under the  
203 lodge system or for the exclusive benefit of the members of a  
204 fraternity itself operating under the lodge system and pro-  
205 viding for the payment of life, sick, accident, or other benefits  
206 to the members of such society, order, or association, or their  
207 dependents;

208 (H) Services performed as an officer or other employee  
209 of any building and loan association of this State, except  
210 where such services constitute the principal employment of  
211 the individual; services performed as an officer or other em-  
212 ployee of any building and loan association where such as-  
213 sociation is a member of the Federal Home Loan Bank System;  
214 services performed as an officer or other employee of any  
215 bank which is a member of the Federal Reserve System;  
216 services performed by a director or member of a committee  
217 of a savings and loan association incorporated or organized  
218 under the laws of this State or of the United States;

219 (I) Service with respect to which unemployment insurance  
220 is payable under an unemployment insurance program estab-  
221 lished by an Act of Congress;

222 (J) Service performed by agents of mutual fund brokers or  
223 dealers in the sale of mutual funds or other securities, by  
224 agents of insurance companies, exclusive of industrial in-  
225 surance agents, or by agents of investment companies, if the  
226 compensation to such agents for such services is wholly on a  
227 commission basis;

228 (K) Services performed by real estate salesmen or brokers  
229 who are compensated wholly on a commission basis;

230 (L) Services performed in the employ of any veterans'  
231 organization chartered by Act of Congress or of any auxiliary  
232 thereof, no part of the net earnings of which organization, or  
233 auxiliary thereof, inures to the benefit of any private share-  
234 holder or individual;



235 (M) Service performed for or in behalf of the owner or  
236 operator of any theatre, ballroom, amusement hall or other  
237 place of entertainment, not in excess of 10 weeks in any calen-  
238 dar year for the same owner or operator, by any leader or  
239 musician of a band or orchestra, commonly called a "name  
240 band," entertainer, vaudeville artist, actor, actress, singer or  
241 other entertainer;

242 (N) Services performed by an individual for a labor union  
243 organization, known and recognized as a union local, as a  
244 member of a committee or committees reimbursed by the union  
245 local for time lost from regular employment, or as a part-time  
246 officer of a union local and the remuneration for such services  
247 is less than \$250.00 in a calendar year;

248 (O) Services performed in the sale or distribution of mer-  
249 chandise by home-to-home salespersons or in-the-home demon-  
250 strators whose remuneration consists wholly of commissions  
251 or commissions and bonuses.

252 (j) "Employment office" means a free public employment office,  
253 or branch thereof operated by this State or maintained as a part of  
254 a State-controlled system of public employment offices.

255 (k) "Fund" means the unemployment compensation fund estab-  
256 lished by this chapter (R. S. 43:21-1 et seq.), to which all contribu-  
257 tions required and from which all benefits provided under this  
258 chapter (R. S. 43:21-1 et seq.) shall be paid.

259 (l) "State" includes, in addition to the States of the United  
260 States of America, the District of Columbia, the Virgin Islands and  
261 Puerto Rico.

262 (m) Unemployment.

263 (1) An individual shall be deemed "unemployed" for any week  
264 during which he is not engaged in full-time work and with respect  
265 to which his remuneration is less than his weekly benefit rate,  
266 including any week during which he is on vacation without pay;  
267 provided, such vacation is not the result of the individual's volun-  
268 tary action.

269 (2) The term "remuneration," with respect to any individual  
270 for benefit years commencing on or after July 1, 1961, and as used  
271 in this subsection, shall include only that part of the same which  
272 in any week exceeds 20% of his weekly benefit rate (fractional parts  
273 of a dollar omitted) or \$5.00 whichever is the larger.

274 (3) An individual's week of unemployment shall be deemed to  
275 commence only after his registration at an employment office,  
276 except as the division may by regulation otherwise prescribe.

277 (n) "Unemployment compensation administration fund" means  
278 the unemployment compensation administration fund established  
279 by this chapter (R. S. 43:21-1 et seq.), from which administrative  
280 expenses under this chapter (R. S. 43:21-1 et seq.) shall be paid.

281 (o) "Wages" means remuneration paid subsequent to December  
282 31, 1946, by employers for employment; provided, however, that  
283 for eligibility and benefit purposes wages earned but not paid when  
284 the amount thereof has been calculated and is due as determined  
285 by the established and customary practices of the employer shall be  
286 construed as having been paid when earned.

287 (p) "Remuneration" means all compensation for personal  
288 services, including commissions and bonuses and the cash value of  
289 all compensation in any medium other than cash.

290 (q) "Week" means such period or periods of 7 consecutive days  
291 ending at midnight, as the division may by regulation prescribe.

292 (r) "Calendar quarter" means the period of 3 consecutive  
293 calendar months ending on March 31, June 30, September 30, or  
294 December 31.

295 (s) "Investment company" means any company as defined in  
296 paragraph 1-a of chapter 322 of the laws of 1938, entitled "An act  
297 concerning investment companies, and supplementing Title 17 of  
298 the Revised Statutes by adding thereto a new chapter entitled  
299 'investment companies.' "

300 (t) "Base week" means any calendar week of an individual's  
301 base year during which he earned in employment from an employer  
302 remuneration equal to not less than \$15.00; provided, if in any  
303 calendar week, an individual is in employment with more than one  
304 employer, he may in such calendar week establish a base week with  
305 respect to each such employer from whom the individual earns  
306 remuneration equal to not less than \$15.00 during such week.

307 (u) "Average weekly wage" means the amount derived by divid-  
308 ing an individual's total wages received during his base year base  
309 weeks (as defined in subsection (t) of this section) from that most  
310 recent base year employer with whom he had established at least 17  
311 base weeks, by the number of base weeks in which such wages were  
312 earned. In the event that such claimant had no employer in his  
313 base year with whom he had established at least 17 base weeks,  
314 then such individual's average weekly wage shall be computed as if  
315 all of his base week wages were received from one employer and as  
316 if all his base weeks of employment had been performed in the em-  
317 ploy of one employer.

318 If on application of a claimant it is determined that he has been  
319 employed during at least the 4 weeks immediately preceding his  
320 separation from employment by an employer on a substantially  
321 reduced schedule of weekly hours due to lack of work, all weeks of  
322 substantially reduced schedule within the base period and his wages  
323 therefor shall be disregarded in computing his average weekly  
324 wage.

325 (v) "Initial determination" means, subject to the provisions of  
326 R. S. 43:21-6 (b) (2) and (3), a determination of benefit rights as  
327 measured by an eligible individual's base year employment with a  
328 single employer covering all periods of employment with that em-  
329 ployer during the base year. Subject to the provisions of Revised  
330 Statute 43:21-3 (d) (3) if a individual has been in employment in  
331 his base year with more than one employer, no benefits shall be paid  
332 to that individual under any successive initial determination until  
333 his benefit rights have been exhausted under the next preceding  
334 initial determination.

335 (w) "Last date of employment" means the last calendar day in  
336 the base year of an individual on which he performed services in  
337 employment for a given employer.

338 (x) "Most recent base year employer" means that employer with  
339 whom the individual most recently, in point of time, performed  
340 services in employment in the base year.

1 2. With respect to service performed in the employ of the South  
2 Jersey Port Commission which is not excluded from the definition  
3 of "employment" by the provisions of Revised Statutes 43:21-19  
4 (i) (7) (D), as amended, the employing authority, the South Jersey  
5 Port Commission *\*or its successors\**, shall be considered as an em-  
6 ployer, as defined by Revised Statutes 43:21-19 (h), and shall make  
7 all payments and perform all acts, with regard to employees per-  
8 forming such service, as may be required by the provisions of Title  
9 43 of any other employer.

1 3. This act shall take effect on January 1 following the adoption  
2 of this act.

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#### STATEMENT

The employees of the South Jersey Port Commission who work at the Camden Marine Terminals are confronted with periods of unemployment as are other dock workers and longshoremen. This bill would extend the provisions of the unemployment compensation and temporary disability benefits law to these workers.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

September 10, 1968

ASSEMBLY BILL NO. 584

To the General Assembly:

I herewith return Assembly Bill No. 584, without my approval, for the following reasons:

Assembly Bill No. 584 would extend for the first time to government employees the benefits of New Jersey's unemployment compensation and temporary disability benefits laws. Unfortunately, the Legislature has chosen here to extend employment security coverage to a minute fraction of those who are employed in the governments of this State. The bill is directed specifically to employees of the South Jersey Port Commission, an agency engaged on behalf of the people in the operation of public piers and port facilities. The evident legislative justification for this severely limited and hesitant step arises from the nature of the work of some of those in the employ of the Commission, who may be subject to unpredictable periods of unemployment.

The applicability of employment security legislation to those who are in the employ of government in this State is a subject of some controversy. This issue should not be determined without the exhaustive attention of the Legislature to disclose all its ramifications and to resolve its many unanswered questions. However, the issue concerning the propriety of providing these benefits for public employees is not presented by Assembly Bill No. 584. Rather, that bill merely singles out an extremely limited class of employees for extraordinary benefits.

While sympathetic with the hazards of employment with the South Jersey Port Commission, I am unable to justify this special treatment accorded this small group and the consequent denial of these benefits to the thousands of other public employees whose labors might also be subject to interruption. Assembly Bill No. 584 is piecemeal legislation undertaken without benefit of the incisive inquiry to which such extraordinary measures are entitled.

This measure is not in the best interest of either the public employees or the people of New Jersey. I therefore return Assembly Bill No. 584 without my approval.

[Seal]

Respectfully,

/S/ RICHARD J. HUGHES

GOVERNOR

Attest:

/S/ ALAN J. KARCHER

Acting Secretary to the Governor

[OFFICIAL COPY REPRINT] CHAPTER 360 LAWS OF N. J. 19 68  
ASSEMBLY, No. 584

Filed with Sec. of State 12/13/68

Passed 11/25/68

Governor's Objections Notwithstanding

# STATE OF NEW JERSEY

INTRODUCED APRIL 1, 1968

By Assemblymen DICKEY, PEDERSEN and KASER

Referred to Committee on County and Municipal Government

AN ACT amending Revised Statutes 43:21-19 and supplementing the Unemployment Compensation Act and the Temporary Disability Benefits Law (Revised Statutes, Title 43, chapter 21) and providing coverage under these acts for employees of the South Jersey Port Commission \*or its successors\*, a political subdivision of the State of New Jersey.

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

1 1. Section 43:21-19 of the Revised Statutes is amended to read  
2 as follows:

3 43:21-19. As used in this chapter (R. S. 43:21-1 et seq.), unless  
4 the context clearly requires otherwise:

5 (a) (1) "Annual payroll" means the total amount of wages paid  
6 during a calendar year (regardless of when earned) by an employer  
7 for employment.

8 (2) "Average annual payroll" means the average of the annual  
9 payrolls of any employer for the last 3 or 5 preceding calendar  
10 years, whichever average is higher, except that any year or years  
11 throughout which an employer has had no "annual payroll" be-  
12 cause of military service shall be deleted from the reckoning;  
13 the "average annual payroll" in such case is to be determined on  
14 the basis of the prior 3 to 5 calendar years in each of which the  
15 employer had an "annual payroll" in the operation of his busi-  
16 ness, if the employer resumes his business within 12 months after  
17 separation, discharge or release from such service, under con-  
18 ditions other than dishonorable, and makes application to have  
19 his "average annual payroll" determined on the basis of such  
20 deletion within 12 months after he resumes his business; provided,  
21 however, that "average annual payroll" solely for the purposes  
22 of paragraph (3) of subsection (e) of section 43:21-7 of this Title

23 means the average of the annual payrolls of any employer on  
24 which he paid contributions to the State disability benefits fund,  
25 for the last 3 to 5 preceding calendar years, whichever average  
26 is higher; provided further, that only those wages be included on  
27 which employer contributions have been paid on or before January  
28 31 (or the next succeeding day if such January 31 is a Saturday  
29 or Sunday) immediately preceding the beginning of the 12 months'  
30 period for which the employer's contribution rate is computed.

31 (b) "Benefits" means the money payments payable to an in-  
32 dividual, as provided in this chapter (R. S. 43:21-1 et seq.), with  
33 respect to his unemployment.

34 (c) "Base year" with respect to benefit years commencing on or  
35 after January 1, 1953, shall mean the 52 calendar weeks ending  
36 with the second week immediately preceding an individual's benefit  
37 year.

38 (d) "Benefit year" with respect to any individual means the  
39 364 consecutive calendar days beginning with the day on, or as of,  
40 which he first files a valid claim for benefits, and thereafter begin-  
41 ning with the day on, or as of, which the individual next files a  
42 valid claim for benefits after the termination of his last preceding  
43 benefit year. Any claim for benefits made in accordance with sub-  
44 section (a) of section 43:21-6 of this Title shall be deemed to be  
45 a "valid claim" for the purpose of this subsection if (1) no re-  
46 muneration was paid or is payable for the day on which, or as of  
47 which he files a claim for benefits, and no work is available to him  
48 with his current employing unit on such day, or, he is unemployed  
49 for the week in which, or as of which, he files a claim for benefits;  
50 and (2) he has fulfilled the conditions imposed by subsection (e)  
51 of section 43:21-4 of this Title.

52 (e) "Division" means the Division of Employment Security of  
53 the Department of Labor and Industry established by chapter  
54 446, P. L. 1948, and any transaction or exercise of authority by  
55 the director of the division thereunder, or under this chapter  
56 (R. S. 43:21-1 et seq.), shall be deemed to be performed by the  
57 division.

58 (f) "Contributions" means the money payments to the State  
59 unemployment compensation fund required by this chapter (R. S.  
60 43:21-1 et seq.).

61 (g) "Employing unit" means any individual or type of organ-  
62 ization, including any partnership, association, trust, estate, joint-  
63 stock company, insurance company or corporation, whether domes-  
64 tic or foreign, or the receiver, trustee in bankruptcy, trustee or

65 successor thereof, or the legal representative of a deceased person,  
66 which has or subsequent to January 1, 1936, had in its employ one  
67 or more individuals performing services for it within this State.  
68 All individuals performing services within this State for any em-  
69 ploying unit which maintains 2 or more separate establishments  
70 within this State shall be deemed to be employed by a single  
71 employing unit for all the purposes of this chapter (R. S. 43:21-1  
72 et seq.). Whenever any employing unit contracts with or has under  
73 it any contractor or subcontractor for any employment which  
74 is part of its usual trade, occupation, profession, or business,  
75 unless the employing unit as well as each such contractor or sub-  
76 contractor is an employer by reason of subsection (c) of section  
77 43:21-8 of this Title or subsection (h) of this section, the employ-  
78 ing unit shall for all the purposes of this chapter be deemed to  
79 employ each individual in the employ of each such contractor or  
80 subcontractor for each day during which such individual is engaged  
81 in performing such employment; except that each such contractor  
82 or subcontractor who is an employer by reason of subsection (c)  
83 of section 43:21-8 of this Title or subsection (h) of this section,  
84 shall alone be liable for the contributions measured by wages  
85 payable to individuals in his employ, and except that any employ-  
86 ing unit who shall become liable for and pay contributions with  
87 respect to individuals in the employ of any such contractor or  
88 subcontractor who is not an employer by reason of subsection (c)  
89 of section 43:21-8 of this Title or subsection (h) of this section,  
90 may recover the same from such contractor or subcontractor. Each  
91 individual employed to perform or to assist in performing the  
92 work of any agent or employee of an employing unit shall be  
93 deemed to be employed by such employing unit for all the purposes  
94 of this chapter (R. S. 43:21-1 et seq.), whether such individual  
95 was hired or paid directly by such employing unit or by such agent  
96 or employee; provided, the employing unit had actual or construc-  
97 tive knowledge of the work.

98 (h) "Employer" means:

99 (1) Any employing unit which for some portion of a day, but not  
100 necessarily simultaneously, in each of 20 different weeks, whether  
101 or not such weeks are or were consecutive, within either the current  
102 or the preceding calendar year has or had in employment 4 or more  
103 individuals (irrespective of whether the same individuals are or  
104 were employed in each such day);

105 (2) Any employing unit (whether or not an employing unit at  
106 the time of acquisition) which acquired the organization, trade or

107 business, or substantially all the assets thereof, of another which  
108 at the time of such acquisition was an employer subject to this  
109 chapter (R. S. 43:21-1 et seq.);

110 (3) Any employing unit which acquired the organization, trade  
111 or business, or substantially all the assets thereof, of another em-  
112 ploying unit and which, if treated as a single unit with such other  
113 employing unit, would be an employer under paragraph (1) of this  
114 subsection;

115 (4) Any employing unit which together with one or more other  
116 employing units is owned or controlled (by legally enforceable  
117 means or otherwise), directly or indirectly by the same interests,  
118 or which owns or controls one or more other employing units (by  
119 legally enforceable means or otherwise), and which, if treated as a  
120 single unit with such other employing unit or interest, would be  
121 an employer under paragraph (1) of this subsection;

122 (5) Any employing unit which, having become an employer  
123 under paragraphs (1), (2), (3) or (4) has not, under section 43:21-8  
124 of this chapter (R. S. 43:21-1 et seq.) ceased to be an employer  
125 subject to this chapter (R. S. 43:21-1 et seq.); or

126 (6) For the effective period of its election pursuant to subsection  
127 (c) of section 43:21-8 of this chapter (R. S. 43:21-1 et seq.) any  
128 other employing unit which has elected to become fully subject to  
129 this chapter (R. S. 43:21-1 et seq.).

130 (i) (1) "Employment" means service, including service in inter-  
131 state commerce performed for remuneration or under any contract  
132 of hire, written or oral, express or implied.

133 (2) The term "employment" shall include an individual's entire  
134 service performed within or both within and without this State if:

135 (A) The service is localized in this State; or

136 (B) The service is not localized in any State but some of  
137 the service is performed in this State, and (i) the base of  
138 operations, or, if there is no base of operations, then the place  
139 from which such service is directed or controlled, is in this  
140 State; or (ii) the base of operations or place from which such  
141 service is directed or controlled is not in any State in which  
142 some part of the service is performed, but the individual's  
143 residence is in this State.

144 (3) Services performed within this State but not covered under  
145 paragraph (2) of this subsection shall be deemed to be employment  
146 subject to this chapter (R. S. 43:21-1 et seq.) if contributions  
147 are not required and paid with respect to such services under an  
148 unemployment compensation law of any other State or of the  
149 Federal Government.



150 (4) Services not covered under paragraph (2) of this subsection,  
 151 and performed entirely without this State, with respect to no part  
 152 of which contributions are required and paid under an unemploy-  
 153 ment compensation law of any other State or of the Federal Gov-  
 154 ernment, shall be deemed to be employment subject to this chapter  
 155 (R. S. 43:21-1 et seq.) if the individual performing such services  
 156 is a resident of this State and the employing unit for whom such  
 157 services are performed files with the division an election that the  
 158 entire service of such individual shall be deemed to be employment  
 159 subject to this chapter (R. S. 43:21-1 et seq).

160 (5) Service shall be deemed to be localized within a State if

161 (A) The service is performed entirely within such State; or

162 (B) The service is performed both within and without such  
 163 State, but the service performed without such State is in-  
 164 cidental to the individual's service within the State, for ex-  
 165 ample, is temporary or transitory in nature or consists of  
 166 isolated transactions.

167 (6) Services performed by an individual for remuneration shall  
 168 be deemed to be employment subject to this chapter (R. S. 43:21-1  
 169 et seq.) unless and until it is shown to the satisfaction of the  
 170 division that

171 (A) Such individual has been and will continue to be free  
 172 from control or direction over the performance of such service,  
 173 both under his contract of service and in fact; and

174 (B) Such service is either outside the usual course of the  
 175 business for which such service is performed, or that such  
 176 service is performed outside of all the places of business of  
 177 the enterprise for which such service is performed; and

178 (C) Such individual is customarily engaged in an independ-  
 179 ently established trade, occupation, profession or business.

180 (7) The term "employment" shall not include:

181 (A) Agricultural labor;

182 (B) Domestic service in a private home;

183 (C) Service performed by an individual in the employ of  
 184 his son, daughter or spouse, and service performed by a child  
 185 under the age of 21 in the employ of his father or mother;

186 (D) Service performed in the employ of this State or of any  
 187 political subdivision thereof or of any instrumentality of this  
 188 State or its political subdivision *except those services per-*  
 189 *formed in the employ of the South Jersey Port Commission*  
 189A *\*or its successors\*;*

190 (E) Service performed in the employ of any other State or  
 191 its political subdivisions, or of the United States Government,

192 or of an instrumentality of any other State or States or their  
193 political subdivisions or of the United States;

194 (F) Services performed in the employ of a corporation,  
195 community chest, fund, or foundation, organized and operated  
196 exclusively for religious, charitable, scientific, literary, hos-  
197 pital, benevolent, philanthropic, or educational purposes, or  
198 for the prevention of cruelty to children or animals, no part  
199 of the net earnings of which inures to the benefit of any private  
200 shareholder or individual;

201 (G) Services performed in the employ of fraternal, bene-  
202 ficiary societies, orders, or associations operating under the  
203 lodge system or for the exclusive benefit of the members of a  
204 fraternity itself operating under the lodge system and pro-  
205 viding for the payment of life, sick, accident, or other benefits  
206 to the members of such society, order, or association, or their  
207 dependents;

208 (H) Services performed as an officer or other employee  
209 of any building and loan association of this State, except  
210 where such services constitute the principal employment of  
211 the individual; services performed as an officer or other em-  
212 ployee of any building and loan association where such as-  
213 sociation is a member of the Federal Home Loan Bank System;  
214 services performed as an officer or other employee of any  
215 bank which is a member of the Federal Reserve System;  
216 services performed by a director or member of a committee  
217 of a savings and loan association incorporated or organized  
218 under the laws of this State or of the United States;

219 (I) Service with respect to which unemployment insurance  
220 is payable under an unemployment insurance program estab-  
221 lished by an Act of Congress;

222 (J) Service performed by agents of mutual fund brokers or  
223 dealers in the sale of mutual funds or other securities, by  
224 agents of insurance companies, exclusive of industrial in-  
225 surance agents, or by agents of investment companies, if the  
226 compensation to such agents for such services is wholly on a  
227 commission basis;

228 (K) Services performed by real estate salesmen or brokers  
229 who are compensated wholly on a commission basis;

230 (L) Services performed in the employ of any veterans'  
231 organization chartered by Act of Congress or of any auxiliary  
232 thereof, no part of the net earnings of which organization, or  
233 auxiliary thereof, inures to the benefit of any private share-  
234 holder or individual;

235 (M) Service performed for or in behalf of the owner or  
236 operator of any theatre, ballroom, amusement hall or other  
237 place of entertainment, not in excess of 10 weeks in any calen-  
238 dar year for the same owner or operator, by any leader or  
239 musician of a band or orchestra, commonly called a "name  
240 band," entertainer, vaudeville artist, actor, actress, singer or  
241 other entertainer;

242 (N) Services performed by an individual for a labor union  
243 organization, known and recognized as a union local, as a  
244 member of a committee or committees reimbursed by the union  
245 local for time lost from regular employment, or as a part-time  
246 officer of a union local and the remuneration for such services  
247 is less than \$250.00 in a calendar year;

248 (O) Services performed in the sale or distribution of mer-  
249 chandise by home-to-home salespersons or in-the-home demon-  
250 strators whose remuneration consists wholly of commissions  
251 or commissions and bonuses.

252 (j) "Employment office" means a free public employment office,  
253 or branch thereof operated by this State or maintained as a part of  
254 a State-controlled system of public employment offices.

255 (k) "Fund" means the unemployment compensation fund estab-  
256 lished by this chapter (R. S. 43:21-1 et seq.), to which all contribu-  
257 tions required and from which all benefits provided under this  
258 chapter (R. S. 43:21-1 et seq.) shall be paid.

259 (l) "State" includes, in addition to the States of the United  
260 States of America, the District of Columbia, the Virgin Islands and  
261 Puerto Rico.

262 (m) Unemployment.

263 (1) An individual shall be deemed "unemployed" for any week  
264 during which he is not engaged in full-time work and with respect  
265 to which his remuneration is less than his weekly benefit rate,  
266 including any week during which he is on vacation without pay;  
267 provided, such vacation is not the result of the individual's volun-  
268 tary action.

269 (2) The term "remuneration," with respect to any individual  
270 for benefit years commencing on or after July 1, 1961, and as used  
271 in this subsection, shall include only that part of the same which  
272 in any week exceeds 20% of his weekly benefit rate (fractional parts  
273 of a dollar omitted) or \$5.00 whichever is the larger.

274 (3) An individual's week of unemployment shall be deemed to  
275 commence only after his registration at an employment office,  
276 except as the division may by regulation otherwise prescribe.

277 (n) "Unemployment compensation administration fund" means  
278 the unemployment compensation administration fund established  
279 by this chapter (R. S. 43:21-1 et seq.), from which administrative  
280 expenses under this chapter (R. S. 43:21-1 et seq.) shall be paid.

281 (o) "Wages" means remuneration paid subsequent to December  
282 31, 1946, by employers for employment; provided, however, that  
283 for eligibility and benefit purposes wages earned but not paid when  
284 the amount thereof has been calculated and is due as determined  
285 by the established and customary practices of the employer shall be  
286 construed as having been paid when earned.

287 (p) "Remuneration" means all compensation for personal  
288 services, including commissions and bonuses and the cash value of  
289 all compensation in any medium other than cash.

290 (q) "Week" means such period or periods of 7 consecutive days  
291 ending at midnight, as the division may by regulation prescribe.

292 (r) "Calendar quarter" means the period of 3 consecutive  
293 calendar months ending on March 31, June 30, September 30, or  
294 December 31.

295 (s) "Investment company" means any company as defined in  
296 paragraph 1-a of chapter 322 of the laws of 1938, entitled "An act  
297 concerning investment companies, and supplementing Title 17 of  
298 the Revised Statutes by adding thereto a new chapter entitled  
299 'investment companies.'"

300 (t) "Base week" means any calendar week of an individual's  
301 base year during which he earned in employment from an employer  
302 remuneration equal to not less than \$15.00; provided, if in any  
303 calendar week, an individual is in employment with more than one  
304 employer, he may in such calendar week establish a base week with  
305 respect to each such employer from whom the individual earns  
306 remuneration equal to not less than \$15.00 during such week.

307 (u) "Average weekly wage" means the amount derived by divid-  
308 ing an individual's total wages received during his base year base  
309 weeks (as defined in subsection (t) of this section) from that most  
310 recent base year employer with whom he had established at least 17  
311 base weeks, by the number of base weeks in which such wages were  
312 earned. In the event that such claimant had no employer in his  
313 base year with whom he had established at least 17 base weeks,  
314 then such individual's average weekly wage shall be computed as if  
315 all of his base week wages were received from one employer and as  
316 if all his base weeks of employment had been performed in the em-  
317 ploy of one employer.

318 If on application of a claimant it is determined that he has been  
319 employed during at least the 4 weeks immediately preceding his  
320 separation from employment by an employer on a substantially  
321 reduced schedule of weekly hours due to lack of work, all weeks of  
322 substantially reduced schedule within the base period and his wages  
323 therefor shall be disregarded in computing his average weekly  
324 wage.

325 (v) "Initial determination" means, subject to the provisions of  
326 R. S. 43:21-6 (b) (2) and (3), a determination of benefit rights as  
327 measured by an eligible individual's base year employment with a  
328 single employer covering all periods of employment with that em-  
329 ployer during the base year. Subject to the provisions of Revised  
330 Statute 43:21-3 (d) (3) if a individual has been in employment in  
331 his base year with more than one employer, no benefits shall be paid  
332 to that individual under any successive initial determination until  
333 his benefit rights have been exhausted under the next preceding  
334 initial determination.

335 (w) "Last date of employment" means the last calendar day in  
336 the base year of an individual on which he performed services in  
337 employment for a given employer.

338 (x) "Most recent base year employer" means that employer with  
339 whom the individual most recently, in point of time, performed  
340 services in employment in the base year.

1 2. With respect to service performed in the employ of the South  
2 Jersey Port Commission which is not excluded from the definition  
3 of "employment" by the provisions of Revised Statutes 43:21-19  
4 (i) (7) (D), as amended, the employing authority, the South Jersey  
5 Port Commission *\*or its successors\**, shall be considered as an em-  
6 ployer, as defined by Revised Statutes 43:21-19 (h), and shall make  
7 all payments and perform all acts, with regard to employees per-  
8 forming such service, as may be required by the provisions of Title  
9 43 of any other employer.

1 3. This act shall take effect on January 1 following the adoption  
2 of this act.

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#### STATEMENT

The employees of the South Jersey Port Commission who work at the Camden Marine Terminals are confronted with periods of unemployment as are other dock workers and longshoremen. This bill would extend the provisions of the unemployment compensation and temporary disability benefits law to these workers.