

43:21-7.9
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2021 **CHAPTER:** 143

NJSA: 43:21-7.9 (Concerns liability of certain non-profit and governmental employers for unemployment benefits paid during coronavirus disease 2019 pandemic state of emergency.)

BILL NO: S3714 (Substituted for A5691 (2R))

SPONSOR(S) Madden, Fred H. and others

DATE INTRODUCED: 5/6/2021

COMMITTEE: **ASSEMBLY:** Appropriations

SENATE: Labor

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 6/24/2021

SENATE: 6/30/2021

DATE OF APPROVAL: 7/1/2021

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint enacted) Yes

S3714

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Appropriations

SENATE: Yes Labor

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes 6/3/2021

LEGISLATIVE FISCAL ESTIMATE: Yes 6/8/2021
6/24/2021

A5691 (2R)

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Labor
Appropriations

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes 6/24/2021

VETO MESSAGE: No
GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RH/CL

P.L. 2021, CHAPTER 143, *approved July 1, 2021*
Senate, No. 3714 (*Second Reprint*)

1 **AN ACT** concerning the liability of certain non-profit and
2 governmental employers for unemployment benefits paid during
3 coronavirus disease 2019 pandemic state of emergency, ²and²
4 amending P.L.2020, c.150² **], and making an appropriation]**².
5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*
8

9 1. Section 1 of P.L.2020, c.150 (C.43:21-7.9) is amended to
10 read as follows:

11 1. a. The costs of any unemployment compensation benefits
12 paid to employees of an employer during the public health
13 emergency and state of emergency declared by the Governor on
14 March 9, 2020, and any subsequent extensions of that public health
15 emergency and state of emergency, shall not be considered when
16 calculating that employer's reserve ratio for the purposes of
17 determining the rate of the employer's contributions to the State
18 unemployment compensation fund pursuant to R.S.43:21-7.

19 b. Any employer that is a nonprofit organization which elects
20 to make payments in lieu of contributions pursuant to section 3 of
21 P.L.1971, c.346 (C.43:21-7.2) [and any] or is a governmental
22 entity or instrumentality which elects to make payments in lieu of
23 contributions pursuant to section 4 of P.L.1971, c.346 (C.43:21-
24 7.3), shall not be liable for payments in lieu of contributions with
25 respect to [only 50% of] the payments of unemployment
26 compensation benefits made pursuant to either of those two sections
27 during the public health emergency and state of emergency declared
28 by the Governor on March 9, 2020, and any subsequent extensions
29 of that public health emergency and state of emergency, except that
30 the employer shall be required to make payments in lieu of
31 contributions from any available funds held in trust for that purpose
32 from contributions made by its employees. Any portion of the
33 payments of unemployment benefits which are not paid from the
34 employee contributions held in trust or from funds provided by the
35 federal government pursuant to the federal CARES Act, public law
36 116-136, pursuant to section 9012 of the American Rescue Plan Act
37 of 2021, or pursuant to any other applicable federal law, shall not
38 result in a liability for the employer but shall be regarded as State
39 liability relief to the employer and shall be paid from 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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted June 3, 2021.

²Assembly AAP committee amendments adopted June 16, 2021.

1 unemployment compensation fund. Any reimbursing employer
2 who, prior to the effective date of this act, made payments in lieu of
3 contributions during the public health emergency shall be entitled to
4 a reimbursement from the unemployment compensation fund of all
5 of those payments in lieu of contributions made during this period,
6 except that the employer shall not be reimbursed for payments made
7 in lieu of contributions from funds held in trust for that purpose
8 from contributions made by its employees.

9 (cf: P.L.2020, c.150, s.1)

10

11 2. ¹**¶**There is appropriated from the General Fund the sum of \$50
12 million to] ²**¶**a.]² From the funds provided by the federal government
13 in connection with the COVID-19 pandemic pursuant to the federal
14 CARES Act, Pub.L.116-136, pursuant to section 9012 of the American
15 Rescue Plan Act of 2021, Pub.L.117-2, or pursuant to any other
16 applicable federal law, any portions of those funds which are available
17 and permitted by those laws ²**¶**shall¹ may² be used ¹as needed¹ to
18 reimburse the unemployment compensation fund for any costs of
19 providing State liability relief to employers pursuant to subsection b.
20 of section 1 of P.L.2020, c.150 (C.43:21-7.9).

21 ²**¶**¹b. There is appropriated from the General Fund any sum
22 not exceeding \$50 million which, after available amounts are used
23 pursuant to subsection a. of this section, is still required to reimburse
24 the unemployment compensation fund to pay any remaining costs of
25 providing State liability relief to employers pursuant to subsection b.
26 of section 1 of P.L.2020, c.150 (C.43:21-7.9).¹²

27

28 3. This act shall take effect immediately.

29

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31

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33 Concerns liability of certain non-profit and governmental
34 employers for unemployment benefits paid during coronavirus
35 disease 2019 pandemic state of emergency.

SENATE, No. 3714

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 6, 2021

Sponsored by:

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

Senator VIN GOPAL

District 11 (Monmouth)

Co-Sponsored by:

**Senators T.Kean, Lagana, Singleton, Testa, A.M.Bucco, O'Scanlon, Oroho,
Addiego and Corrado**

SYNOPSIS

Concerns liability of certain non-profit and governmental employers for unemployment benefits paid during coronavirus disease 2019 pandemic state of emergency; appropriates \$50 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/3/2021)

1 AN ACT concerning the liability of certain non-profit and
2 governmental employers for unemployment benefits paid during
3 coronavirus disease 2019 pandemic state of emergency,
4 amending P.L.2020, c.150, and making an appropriation.
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:
8

9 1. Section 1 of P.L.2020, c.150 (C.43:21-7.9) is amended to
10 read as follows:

11 1. a. The costs of any unemployment compensation benefits
12 paid to employees of an employer during the public health
13 emergency and state of emergency declared by the Governor on
14 March 9, 2020, and any subsequent extensions of that public health
15 emergency and state of emergency, shall not be considered when
16 calculating that employer's reserve ratio for the purposes of
17 determining the rate of the employer's contributions to the State
18 unemployment compensation fund pursuant to R.S.43:21-7.

19 b. Any employer that is a nonprofit organization which elects
20 to make payments in lieu of contributions pursuant to section 3 of
21 P.L.1971, c.346 (C.43:21-7.2) [and any] or is a governmental
22 entity or instrumentality which elects to make payments in lieu of
23 contributions pursuant to section 4 of P.L.1971, c.346 (C.43:21-
24 7.3), shall not be liable for payments in lieu of contributions with
25 respect to [only 50% of] the payments of unemployment
26 compensation benefits made pursuant to either of those two sections
27 during the public health emergency and state of emergency declared
28 by the Governor on March 9, 2020, and any subsequent extensions
29 of that public health emergency and state of emergency, except that
30 the employer shall be required to make payments in lieu of
31 contributions from any available funds held in trust for that purpose
32 from contributions made by its employees. Any portion of the
33 payments of unemployment benefits which are not paid from the
34 employee contributions held in trust or from funds provided by the
35 federal government pursuant to the federal CARES Act, public law
36 116-136, pursuant to section 9012 of the American Rescue Plan Act
37 of 2021, or pursuant to any other applicable federal law, shall not
38 result in a liability for the employer but shall be regarded as State
39 liability relief to the employer and shall be paid from the
40 unemployment compensation fund. Any reimbursing employer
41 who, prior to the effective date of this act, made payments in lieu of
42 contributions during the public health emergency shall be entitled to
43 a reimbursement from the unemployment compensation fund of all
44 of those payments in lieu of contributions made during this period,
45 except that the employer shall not be reimbursed for payments made

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 in lieu of contributions from funds held in trust for that purpose
2 from contributions made by its employees.

3 (cf: P.L.2020, c.150, s.1)

4

5 2. There is appropriated from the General Fund the sum of \$50
6 million to be used to reimburse the unemployment compensation
7 fund for any costs of providing State liability relief to employers
8 pursuant to subsection b. of section 1 of P.L.2020, c.150 (C.43:21-
9 7.9).

10

11 3. This act shall take effect immediately.

12

13

14

STATEMENT

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16 This bill, for the period of the public health emergency and state
17 of emergency declared by the Governor on March 9, 2020, and any
18 subsequent extensions of the emergency or state of emergency,
19 exempts any nonprofit or governmental employer which has elected
20 to make payments in lieu of contributions from liability for
21 payments in lieu of contributions for unemployment benefits paid to
22 employees laid off by the employer during that public health
23 emergency and any extensions of it, except that the employer is
24 required to make payments in lieu of contributions from any
25 available funds held in trust for that purpose from contributions
26 made by its employees. The bill provides that those employers are
27 not liable for any portion of the payments of unemployment benefits
28 which are not paid from the employee contributions held in trust or
29 from funds provided by the federal government pursuant to the
30 federal CARES Act, public law 116-136, pursuant to section 9012
31 of the American Rescue Plan Act of 2021, or pursuant to any other
32 applicable federal law, but that portion shall be regarded as State
33 liability relief to the employer and paid from the unemployment
34 compensation fund. If the employer made the payments during the
35 public health emergency before the effective date of the bill, the
36 employer is entitled to a reimbursement of all of those payments in
37 lieu of contributions made during that period, except for payments
38 made from funds held in trust for that purpose from contributions
39 made by its employees.

40 The bill appropriates from the General Fund the sum of \$50
41 million to be used to reimburse the unemployment compensation
42 fund for any costs of providing State liability relief to employers
43 pursuant to the bill.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 3714

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 16, 2021

The Assembly Appropriations Committee reports favorably Senate Bill No. 3714 (1R), with committee amendments.

As amended, this bill, for the period of the public health emergency and state of emergency declared by the Governor on March 9, 2020, and any subsequent extensions of the emergency or state of emergency, exempts any nonprofit or governmental employer which has elected to make payments in lieu of contributions from liability for payments in lieu of contributions for unemployment benefits paid to employees laid off by the employer during that public health emergency and any extensions of it, except that the employer is required to make payments in lieu of contributions from any available funds held in trust for that purpose from contributions made by its employees. The bill provides that those employers are not liable for any portion of the payments of unemployment benefits which are not paid from the employee contributions held in trust or from funds provided by the federal government pursuant to the federal “CARES Act,” public law 116-136, pursuant to section 9012 of the “American Rescue Plan Act of 2021,” or pursuant to any other applicable federal law, but that portion shall be regarded as State liability relief to the employer and paid from the unemployment compensation fund. If the employer made the payments during the public health emergency before the effective date of the bill, the employer is entitled to a reimbursement of all of those payments in lieu of contributions made during that period, except for payments made from funds held in trust for that purpose from contributions made by its employees.

The bill provides that any available federal funds related to the COVID pandemic which have already been appropriated may, if permitted by federal law, be used to reimburse the unemployment compensation fund for any costs to the fund of providing State liability relief to employers under the bill.

As amended and reported by the committee, Senate Bill No. 3714 (1R) is identical to Assembly Bill No. 5691 (1R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments remove the provisions of the bill concerning an appropriation from the General Fund.

FISCAL IMPACT:

The Office of Legislative Service (OLS) notes that this bill may result in temporary cost savings to State entities, public institutions of higher education, local governments, and school districts tied to the reduced liabilities to the Unemployment Compensation (UI) Fund for those entities that choose to not make contributions to the UI fund on an annual basis but instead reimburse the UI fund for benefits paid to laid off employees (also known as reimbursable employers). The amount of the cost savings is indeterminate, as the OLS cannot estimate the total amount of these liabilities that will be shifted from governmental and non-profit employers to the UI fund. Under the bill, funds provided by the federal government pursuant to the federal CARES Act may be used to reimburse the UI fund.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 3714

STATE OF NEW JERSEY

DATED: MAY 6, 2021

The Senate Labor Committee reports favorably Senate Bill No. 3714.

This bill, for the period of the public health emergency and state of emergency declared by the Governor on March 9, 2020, and any subsequent extensions of the emergency or state of emergency, exempts any nonprofit or governmental employer which has elected to make payments in lieu of contributions from liability for payments in lieu of contributions for unemployment benefits paid to employees laid off by the employer during that public health emergency and any extensions of it, except that the employer is required to make payments in lieu of contributions from any available funds held in trust for that purpose from contributions made by its employees. The bill provides that those employers are not liable for any portion of the payments of unemployment benefits which are not paid from the employee contributions held in trust or from funds provided by the federal government pursuant to the federal CARES Act, public law 116-136, pursuant to section 9012 of the American Rescue Plan Act of 2021, or pursuant to any other applicable federal law, but that portion shall be regarded as State liability relief to the employer and paid from the unemployment compensation fund. If the employer made the payments during the public health emergency before the effective date of the bill, the employer is entitled to a reimbursement of all of those payments in lieu of contributions made during that period, except for payments made from funds held in trust for that purpose from contributions made by its employees.

The bill appropriates from the General Fund the sum of \$50 million to be used to reimburse the unemployment compensation fund for costs of providing State liability relief to employers pursuant to the bill.

STATEMENT TO
SENATE, No. 3714

with Senate Floor Amendments
(Proposed by Senator MADDEN)

ADOPTED: JUNE 3, 2021

These amendments modify the section of the bill concerning appropriations as follows:

1. Provide that any available federal funds related to the COVID pandemic which have been appropriated shall, if permitted by federal law, be used to reimburse the unemployment insurance (UI) fund for any costs to the fund of providing State liability relief to employers under the bill; and
2. Appropriate from the General Fund any sum not exceeding \$50 million which, after available federal amounts are used, is still required to reimburse the UI fund to pay any remaining costs of providing State liability relief to employers under the bill.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 3714
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JUNE 8, 2021

SUMMARY

- Synopsis:** Concerns liability of certain non-profit and governmental employers for unemployment benefits paid during coronavirus disease 2019 pandemic state of emergency; appropriates \$50 million.
- Type of Impact:** Temporary cost savings to the State, public institutions of higher education, local governments, and school districts. Temporary net increase in State expenditures to the General Fund.
- Agencies Affected:** Potentially all State entities, local governments, institutions of higher education, and school districts.

Office of Legislative Services Estimate

Fiscal Impact	<u>Period of COVID-19 Public Health Emergency</u>
State Cost Savings	Indeterminate
Local Cost Savings	Indeterminate
Public Institutions of Higher Education Cost Savings	Indeterminate
State Net Expenditure Increase	Indeterminate

- The Office of Legislative Service (OLS) notes that this bill may result in temporary cost savings to State entities, public institutions of higher education, local governments, and school districts tied to the reduced liabilities to the Unemployment Compensation (UI) Fund for those entities that choose to not make contributions to the UI fund on an annual basis but instead reimburse the UI fund for benefits paid to laid off employees (also known as reimbursable employers). The amount of the cost savings is indeterminate as the OLS cannot estimate the total amount of these liabilities that will be shifted from governmental and non-profit employers to the State General Fund. Under the bill, the General Fund will reimburse the UI Fund for any portion of the payments of unemployment benefits which are not paid from the employee contributions held in trust or from funds provided by the federal government pursuant to the federal CARES Act.
- The OLS further notes that the bill will result in a net increase in State expenditures to the General Fund, which will be realized through the reimbursement to the UI fund for unemployment benefit claims of laid off employees of non-contributory employers; under the

bill, the UI fund pays these claims during the COVID-19 public health emergency and the General Fund reimburses the UI fund with an initial appropriation of \$50 million.

BILL DESCRIPTION

This bill, for the period of the public health emergency and state of emergency declared by the Governor on March 9, 2020, and any subsequent extensions of the emergency or state of emergency, exempts any nonprofit or governmental employer which has elected to make payments in lieu of contributions from liability for payments in lieu of contributions for unemployment benefits paid to employees laid off by the employer during that public health emergency and any extensions of it, except that the employer is required to make payments in lieu of contributions from any available funds held in trust for that purpose from contributions made by its employees. The bill provides that those employers are not liable for any portion of the payments of unemployment benefits which are not paid from the employee contributions held in trust or from funds provided by the federal government pursuant to the federal CARES Act, public law 116-136, pursuant to section 9012 of the American Rescue Plan Act of 2021, or pursuant to any other applicable federal law, but that portion shall be regarded as State liability relief to the employer and paid from the unemployment compensation fund. If the employer made the payments during the public health emergency before the effective date of the bill, the employer is entitled to a reimbursement of all of those payments in lieu of contributions made during that period, except for payments made from funds held in trust for that purpose from contributions made by its employees.

The bill appropriates from the General Fund the sum of \$50 million to be used to reimburse the unemployment compensation fund for any costs of providing State liability relief to employers pursuant to the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that this bill may result in temporary cost savings to State entities, public institutions of higher education, local governments, and school districts tied to reduced liabilities to the UI fund for those employers that choose to not pay contributions to the unemployment UI fund on an annual basis, but instead reimburse the UI fund for UI benefits paid to laid off employees on a dollar for dollar basis. The savings would be realized given that those employers will not be liable for any portion of the payments of unemployment benefits which are not paid from the employee contributions held in trust or from funds provided by the federal government pursuant to any applicable federal law concerning COVID-19 pandemic relief, but that portion will be regarded as State liability relief to the employer and paid from the unemployment compensation fund. Currently, there are about 1,164 active governmental reimbursable employers in the State that will be impacted by this bill as well as about 700 non-profit reimbursable employers.

The OLS further notes that the bill will result in a net increase in State expenditures to the General Fund, which will be realized through the reimbursement to the UI fund for unemployment benefit claims of laid off employees of non-contributory employers; under the bill, the UI fund pays these claims during the COVID-19 public health emergency and the General Fund reimburses the UI fund with an initial appropriation of \$50 million.

Section: Commerce, Labor and Industry
Analyst: Juan C. Rodriguez
Senior Fiscal Analyst
Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 3714 STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JUNE 24, 2021

SUMMARY

- Synopsis:** Concerns liability of certain non-profit and governmental employers for unemployment benefits paid during coronavirus disease 2019 pandemic state of emergency.
- Type of Impact:** Temporary cost savings to the State, public institutions of higher education, local governments, and school districts; revenue loss to the Unemployment Compensation Fund
- Agencies Affected:** Certain State entities, local governments, institutions of higher education, and school districts.

Office of Legislative Services Estimate

Fiscal Impact	<u>Period of COVID-19 Public Health</u>
	<u>Emergency</u>
State Cost Savings	Indeterminate
Local Cost Savings	Indeterminate
Public Institutions of Higher Education Cost Savings	Indeterminate
Unemployment Insurance Compensation Fund Revenue Loss	Indeterminate

- The Office of Legislative Service (OLS) notes that this bill may result in temporary cost savings to State entities, public institutions of higher education, local governments, and school districts tied to the reduced liabilities to the Unemployment Insurance Compensation (UI) Fund for those entities that choose to not make contributions to the UI fund on an annual basis but instead reimburse the UI fund for benefits paid to laid off employees (also known as reimbursable employers). The amount of the cost savings is indeterminate, as the OLS cannot estimate the total amount of these liabilities that will be shifted from governmental and non-profit employers to the UI fund.
- Available and permissible funds provided by the federal government may be used, but are not required to be used, to reimburse the UI fund for revenue losses attributable to the bill. However, if left unfunded, the bill will lead to an indeterminate decrease in revenue to the UI

fund. The fiscal impact would be realized by the UI fund paying for UI benefit claims of employees of non-contributory employers who will not be liable for reimbursing the fund for those payments.

BILL DESCRIPTION

This bill, for the period of the public health emergency and state of emergency declared by the Governor on March 9, 2020, and any subsequent extensions of the emergency or state of emergency, exempts any nonprofit or governmental employer which has elected to make payments in lieu of contributions, from liability for payments in lieu of contributions for unemployment benefits paid to employees laid off by the employer during that public health emergency and any extensions of it, except that the employer is required to make payments in lieu of contributions from any available funds held in trust for that purpose from contributions made by its employees. The bill provides that those employers are not liable for any portion of the payments of unemployment benefits which are not paid from the employee contributions held in trust or from funds provided by the federal government pursuant to the federal CARES Act, public law 116-136, pursuant to section 9012 of the American Rescue Plan Act of 2021, public law 117-2, or pursuant to any other applicable federal law, but that portion shall be regarded as State liability relief to the employer and paid from the unemployment compensation fund. If the employer made the payments during the public health emergency before the effective date of the bill, the employer is entitled to a reimbursement of all of those payments in lieu of contributions made during that period, except for payments made from funds held in trust for that purpose from contributions made by its employees.

The bill provides that any available federal funds related to the COVID pandemic which have already been appropriated may, if permitted by federal law, be used to reimburse the unemployment compensation fund for any costs to the fund of providing State liability relief to employers under the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that this bill may result in temporary cost savings to State entities, public institutions of higher education, local governments, and school districts tied to reduced liabilities to the UI fund for those employers that do not pay contributions to the unemployment UI fund on an annual basis, but instead reimburse the UI fund for UI benefits paid to laid off employees on a dollar for dollar basis. The savings would be realized given that those employers will not be liable for any portion of the payments of unemployment benefits which are not paid from the employee contributions held in trust or from funds provided by the federal government pursuant to any applicable federal law concerning COVID-19 pandemic relief, but that portion will be regarded as State liability relief to the employer and paid from the unemployment compensation fund.

Under the bill, available and permissible funds provided by the federal government may be used, but are not required to be used, to reimburse the UI fund for revenue losses attributable to the bill. However, if left unfunded, the bill will lead to an indeterminate decrease in revenue to the UI fund. The fiscal impact would be realized by the UI fund paying for UI benefit claims of employees of non-contributory employers who will not be liable for reimbursing the fund for those payments. Currently, there are about 1,164 active governmental reimbursable employers in the State that will be impacted by this bill as well as about 700 non-profit reimbursable employers.

Section: Commerce, Labor and Industry

Analyst: Juan C. Rodriguez
Senior Fiscal Analyst

Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 5691

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 12, 2021

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Assemblyman Benson

SYNOPSIS

Concerns liability of certain non-profit and governmental employers for unemployment benefits paid during coronavirus disease 2019 pandemic state of emergency; appropriates \$50 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/17/2021)

A5691 GREENWALD, MURPHY

2

1 AN ACT concerning the liability of certain non-profit and
2 governmental employers for unemployment benefits paid during
3 coronavirus disease 2019 pandemic state of emergency,
4 amending P.L.2020, c.150, and making an appropriation.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. Section 1 of P.L.2020, c.150 (C.43:21-7.9) is amended to
10 read as follows:

11 1. a. The costs of any unemployment compensation benefits
12 paid to employees of an employer during the public health
13 emergency and state of emergency declared by the Governor on
14 March 9, 2020, and any subsequent extensions of that public health
15 emergency and state of emergency, shall not be considered when
16 calculating that employer's reserve ratio for the purposes of
17 determining the rate of the employer's contributions to the State
18 unemployment compensation fund pursuant to R.S.43:21-7.

19 b. Any employer that is a nonprofit organization which elects
20 to make payments in lieu of contributions pursuant to section 3 of
21 P.L.1971, c.346 (C.43:21-7.2) [and any] or is a governmental
22 entity or instrumentality which elects to make payments in lieu of
23 contributions pursuant to section 4 of P.L.1971, c.346 (C.43:21-
24 7.3), shall not be liable for payments in lieu of contributions with
25 respect to [only 50% of] the payments of unemployment
26 compensation benefits made pursuant to either of those two sections
27 during the public health emergency and state of emergency declared
28 by the Governor on March 9, 2020, and any subsequent extensions
29 of that public health emergency and state of emergency, except that
30 the employer shall be required to make payments in lieu of
31 contributions from any available funds held in trust for that purpose
32 from contributions made by its employees. Any portion of the
33 payments of unemployment benefits which are not paid from the
34 employee contributions held in trust or from funds provided by the
35 federal government pursuant to the federal CARES Act, public law
36 116-136, pursuant to section 9012 of the American Rescue Plan Act
37 of 2021, or pursuant to any other applicable federal law, shall not
38 result in a liability for the employer but shall be regarded as State
39 liability relief to the employer and shall be paid from the
40 unemployment compensation fund. Any reimbursing employer
41 who, prior to the effective date of this act, made payments in lieu of
42 contributions during the public health emergency shall be entitled to
43 a reimbursement from the unemployment compensation fund of all
44 of those payments in lieu of contributions made during this period,
45 except that the employer shall not be reimbursed for payments made

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 in lieu of contributions from funds held in trust for that purpose
2 from contributions made by its employees.

3 (cf: P.L.2020, c.150, s.1)

4

5 2. There is appropriated from the General Fund the sum of \$50
6 million to be used to reimburse the unemployment compensation
7 fund for any costs of providing State liability relief to employers
8 pursuant to subsection b. of section 1 of P.L.2020, c.150 (C.43:21-
9 7.9).

10

11 3. This act shall take effect immediately.

12

13

14 STATEMENT

15

16 This bill, for the period of the public health emergency and state
17 of emergency declared by the Governor on March 9, 2020, and any
18 subsequent extensions of the emergency or state of emergency,
19 exempts any nonprofit or governmental employer which has elected
20 to make payments in lieu of contributions from liability for
21 payments in lieu of contributions for unemployment benefits paid to
22 employees laid off by the employer during that public health
23 emergency and any extensions of it, except that the employer is
24 required to make payments in lieu of contributions from any
25 available funds held in trust for that purpose from contributions
26 made by its employees. The bill provides that those employers are
27 not liable for any portion of the payments of unemployment benefits
28 which are not paid from the employee contributions held in trust or
29 from funds provided by the federal government pursuant to the
30 federal CARES Act, public law 116-136, pursuant to section 9012
31 of the American Rescue Plan Act of 2021, or pursuant to any other
32 applicable federal law, but that portion shall be regarded as State
33 liability relief to the employer and paid from the unemployment
34 compensation fund. If the employer made the payments during the
35 public health emergency before the effective date of the bill, the
36 employer is entitled to a reimbursement of all of those payments in
37 lieu of contributions made during that period, except for payments
38 made from funds held in trust for that purpose from contributions
39 made by its employees.

40 The bill appropriates from the General Fund the sum of \$50
41 million to be used to reimburse the unemployment compensation
42 fund for any costs of providing State liability relief to employers
43 pursuant to the bill.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5691

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 17, 2021

The Assembly Labor Committee reports favorably and with committee amendments Assembly Bill No. 5691.

As amended, this bill, for the period of the public health emergency and state of emergency declared by the Governor on March 9, 2020, and any subsequent extensions of the emergency or state of emergency, exempts any nonprofit or governmental employer which has elected to make payments in lieu of contributions from liability for payments in lieu of contributions for unemployment benefits paid to employees laid off by the employer during that public health emergency and any extensions of it, except that the employer is required to make payments in lieu of contributions from any available funds held in trust for that purpose from contributions made by its employees. The bill provides that those employers are not liable for any portion of the payments of unemployment benefits which are not paid from the employee contributions held in trust or from funds provided by the federal government pursuant to the federal "CARES Act," public law 116-136, pursuant to section 9012 of the "American Rescue Plan Act of 2021," or pursuant to any other applicable federal law, but that portion shall be regarded as State liability relief to the employer and paid from the unemployment compensation fund. If the employer made the payments during the public health emergency before the effective date of the bill, the employer is entitled to a reimbursement of all of those payments in lieu of contributions made during that period, except for payments made from funds held in trust for that purpose from contributions made by its employees.

As amended, the bill provides that any available federal funds related to the COVID pandemic which have already been appropriated shall, if permitted by federal law, be used to reimburse the unemployment compensation fund for any costs to the fund of providing State liability relief to employers under the bill.

As amended, the bill appropriates from the General Fund any sum not exceeding \$50 million which, after available federal amounts are used, is still required to reimburse the unemployment compensation fund to pay any remaining costs of providing State liability relief to employers under the bill.

COMMITTEE AMENDMENTS:

The committee amendments modify the section of the bill concerning appropriations as follows:

1. Provide that any available federal funds related to the COVID pandemic which have already been appropriated shall, if permitted by federal law, be used to reimburse the unemployment compensation fund for any costs to the fund of providing State liability relief to employers under the bill; and

2. Appropriate from the General Fund any sum not exceeding \$50 million which, after available federal amounts are used, is still required to reimburse the unemployment compensation fund to pay any remaining costs of providing State liability relief to employers under the bill.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5691

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 16, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5691 (1R), with committee amendments.

As amended, this bill, for the period of the public health emergency and state of emergency declared by the Governor on March 9, 2020, and any subsequent extensions of the emergency or state of emergency, exempts any nonprofit or governmental employer which has elected to make payments in lieu of contributions from liability for payments in lieu of contributions for unemployment benefits paid to employees laid off by the employer during that public health emergency and any extensions of it, except that the employer is required to make payments in lieu of contributions from any available funds held in trust for that purpose from contributions made by its employees. The bill provides that those employers are not liable for any portion of the payments of unemployment benefits which are not paid from the employee contributions held in trust or from funds provided by the federal government pursuant to the federal "CARES Act," public law 116-136, pursuant to section 9012 of the "American Rescue Plan Act of 2021," or pursuant to any other applicable federal law, but that portion shall be regarded as State liability relief to the employer and paid from the unemployment compensation fund. If the employer made the payments during the public health emergency before the effective date of the bill, the employer is entitled to a reimbursement of all of those payments in lieu of contributions made during that period, except for payments made from funds held in trust for that purpose from contributions made by its employees.

The bill provides that any available federal funds related to the COVID pandemic which have already been appropriated may, if permitted by federal law, be used to reimburse the unemployment compensation fund for any costs to the fund of providing State liability relief to employers under the bill.

As amended and reported by the committee, Assembly Bill No. 5691 (1R) is identical to Senate Bill No. 3714 (1R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments remove the provisions of the bill concerning an appropriation from the General Fund.

FISCAL IMPACT:

The Office of Legislative Service (OLS) notes that this bill may result in temporary cost savings to State entities, public institutions of higher education, local governments, and school districts tied to the reduced liabilities to the Unemployment Compensation (UI) Fund for those entities that choose to not make contributions to the UI fund on an annual basis but instead reimburse the UI fund for benefits paid to laid off employees (also known as reimbursable employers). The amount of the cost savings is indeterminate, as the OLS cannot estimate the total amount of these liabilities that will be shifted from governmental and non-profit employers to the UI fund. Under the bill, funds provided by the federal government pursuant to the federal CARES Act may be used to reimburse the UI fund.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 5691

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JUNE 24, 2021

SUMMARY

- Synopsis:** Concerns liability of certain non-profit and governmental employers for unemployment benefits paid during coronavirus disease 2019 pandemic state of emergency.
- Type of Impact:** Temporary cost savings to the State, public institutions of higher education, local governments, and school districts; revenue loss to the Unemployment Compensation Fund
- Agencies Affected:** Certain State entities, local governments, institutions of higher education, and school districts.

Office of Legislative Services Estimate

Fiscal Impact	<u>Period of COVID-19 Public Health</u>
	<u>Emergency</u>
State Cost Savings	Indeterminate
Local Cost Savings	Indeterminate
Public Institutions of Higher Education Cost Savings	Indeterminate
Unemployment Insurance Compensation Fund Revenue Loss	Indeterminate

- The Office of Legislative Service (OLS) notes that this bill may result in temporary cost savings to State entities, public institutions of higher education, local governments, and school districts tied to the reduced liabilities to the Unemployment Insurance Compensation (UI) Fund for those entities that choose to not make contributions to the UI fund on an annual basis but instead reimburse the UI fund for benefits paid to laid off employees (also known as reimbursable employers). The amount of the cost savings is indeterminate, as the OLS cannot estimate the total amount of these liabilities that will be shifted from governmental and non-profit employers to the UI fund.
- Available and permissible funds provided by the federal government may be used, but are not required to be used, to reimburse the UI fund for revenue losses attributable to the bill. However, if left unfunded, the bill will lead to an indeterminate decrease in revenue to the UI

fund. The fiscal impact would be realized by the UI fund paying for UI benefit claims of employees of non-contributory employers who will not be liable for reimbursing the fund for those payments.

BILL DESCRIPTION

This bill, for the period of the public health emergency and state of emergency declared by the Governor on March 9, 2020, and any subsequent extensions of the emergency or state of emergency, exempts any nonprofit or governmental employer which has elected to make payments in lieu of contributions, from liability for payments in lieu of contributions for unemployment benefits paid to employees laid off by the employer during that public health emergency and any extensions of it, except that the employer is required to make payments in lieu of contributions from any available funds held in trust for that purpose from contributions made by its employees. The bill provides that those employers are not liable for any portion of the payments of unemployment benefits which are not paid from the employee contributions held in trust or from funds provided by the federal government pursuant to the federal CARES Act, public law 116-136, pursuant to section 9012 of the American Rescue Plan Act of 2021, public law 117-2, or pursuant to any other applicable federal law, but that portion shall be regarded as State liability relief to the employer and paid from the unemployment compensation fund. If the employer made the payments during the public health emergency before the effective date of the bill, the employer is entitled to a reimbursement of all of those payments in lieu of contributions made during that period, except for payments made from funds held in trust for that purpose from contributions made by its employees.

The bill provides that any available federal funds related to the COVID pandemic which have already been appropriated may, if permitted by federal law, be used to reimburse the unemployment compensation fund for any costs to the fund of providing State liability relief to employers under the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that this bill may result in temporary cost savings to State entities, public institutions of higher education, local governments, and school districts tied to reduced liabilities to the UI fund for those employers that do not pay contributions to the unemployment UI fund on an annual basis, but instead reimburse the UI fund for UI benefits paid to laid off employees on a dollar for dollar basis. The savings would be realized given that those employers will not be liable for any portion of the payments of unemployment benefits which are not paid from the employee contributions held in trust or from funds provided by the federal government pursuant to any applicable federal law concerning COVID-19 pandemic relief, but that portion will be regarded as State liability relief to the employer and paid from the unemployment compensation fund.

Under the bill, available and permissible funds provided by the federal government may be used, but are not required to be used, to reimburse the UI fund for revenue losses attributable to the bill. However, if left unfunded, the bill will lead to an indeterminate decrease in revenue to the UI fund. The fiscal impact would be realized by the UI fund paying for UI benefit claims of employees of non-contributory employers who will not be liable for reimbursing the fund for those payments. Currently, there are about 1,164 active governmental reimbursable employers in the State that will be impacted by this bill as well as about 700 non-profit reimbursable employers.

Section: Commerce, Labor and Industry

Analyst: Juan C. Rodriguez
Senior Fiscal Analyst

Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Takes Action on Legislation

07/1/2021

TRENTON - Today, Governor Murphy signed the following bills into law:

S-3584/A-4979 (Greenstein, Turner, Sacco/Mazzeo, Armato, Bergen) – Establishes immunity relating to COVID-19 spread in planned real estate developments

S-3714/A-5691 (Madden, Gopal/Greenwald, Murphy, Verrelli) – Concerns liability of certain non-profit and governmental employers for unemployment benefits paid during coronavirus disease 2019 pandemic state of emergency

A-5898/S-3963 (Mazzeo, Armato, Mukherji/Sarlo, Oroho) – Temporarily expands summer working hours for certain minors

A-5906/S-3965 (Chaparro/Addiego, Oroho) – Rescinds prohibition on return of certain items purchased from retail food stores during COVID-19 state of emergency; provides that future limitations on returns occur during a declared public health emergency