

43:21-55

**LEGISLATIVE HISTORY CHECKLIST**  
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(TDI payments)

**NJSA:** 43:21-55

**LAWS OF:** 1997 **CHAPTER:** 318

**BILL NO:** A2462

**SPONSOR(S):** Roma

**DATE INTRODUCED:** November 7, 1996

**COMMITTEE:** **ASSEMBLY:** Labor  
**SENATE:** Commerce

**AMENDED DURING PASSAGE:** Yes Amendments during passage denoted by  
First reprint enacted by superscript numbers

**DATE OF PASSAGE:** **ASSEMBLY:** December 12, 1996  
**SENATE:** December 11, 1997

**DATE OF APPROVAL:** January 8, 1998

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes  
**SENATE:** Yes

**FISCAL NOTE:** Yes

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

KBP:pp

P.L. 1997, CHAPTER 318, *approved January 8, 1998*  
Assembly, No. 2462 (*First Reprint*)

1 AN ACT providing for the repayment of certain temporary disability  
2 insurance benefit overpayments and amending and supplementing  
3 P.L.1948, c.110.  
4

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

7  
8 1. Section 31 of P.L.1948, c.110 (C.43:21-55) is amended to read  
9 as follows:

10 31. Penalties. (a) Whoever makes a false statement or  
11 representation knowing it to be false or knowingly fails to disclose a  
12 material fact, and each such false statement or representation or failure  
13 to disclose a material fact shall constitute a separate offense, to obtain  
14 or increase any benefit under the State plan or an approved private  
15 plan, or for a disability during unemployment, either for himself or for  
16 any other person, shall be liable **[to] for** a fine of twenty dollars  
17 (\$20.00) to be paid to the **[Division of Employment Security] division**.  
18 Upon refusal to pay such fine, the same shall be recovered in a civil  
19 action by the division in the name of the State of New Jersey. If in any  
20 case liability for the payment of a fine as aforesaid shall be determined,  
21 any person who shall have received any benefits hereunder by reason  
22 of the making of such false statements or representations or failure to  
23 disclose a material fact, shall **[pay to the division, the employer or**  
24 **insurer, as the case may be, an amount equal to the sum of any benefits**  
25 **hereunder received from the division, employer or insurer by reason**  
26 **thereof, and such person shall]** not be entitled to any benefits under  
27 this act for any disability occurring prior to the time he shall have  
28 discharged his liability hereunder to pay such fine**[, and to reimburse**  
29 **the division, employer or insurer].**

30 (b) Any employer or any officer or agent of any employer or any  
31 other person who makes a false statement or representation knowing

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

**<sup>1</sup> Assembly ALA committee amendments adopted November 7, 1996.**

1 it to be false or knowingly fails to disclose a material fact, to prevent  
2 or reduce the benefits to any person entitled thereto, or to avoid  
3 becoming or remaining subject hereto or to avoid or reduce any  
4 contribution or other payment required from an employer under this  
5 act, or who willfully fails or refuses to make any such contributions or  
6 other payment or to furnish any reports required hereunder or to  
7 produce or permit the inspection or copying of records as required  
8 hereunder, shall be liable **[to] for** a fine of twenty dollars (\$20.00) to  
9 be paid to the division. Upon refusal to pay such fine, the same shall  
10 be recovered in a civil action by the division in the name of the State  
11 of New Jersey.

12 (c) Any person who shall willfully violate any provision hereof or  
13 any rule or regulation made hereunder, for which a fine is neither  
14 prescribed herein nor provided by any other applicable statute, shall be  
15 liable to a fine of fifty dollars (\$50.00) to be paid to the division.  
16 Upon the refusal to pay such fine, the same shall be recovered in a civil  
17 action by the division in the name of the State of New Jersey.

18 (d) Any person, employing unit, employer or entity violating any  
19 of the provisions of the above subsections with intent to defraud the  
20 **[Division of Employment Security of the State of New Jersey] division**  
21 shall in addition to the penalties hereinbefore described, be liable for  
22 each offense upon conviction before the Superior Court or any  
23 municipal court **[to] for** a fine not to exceed two hundred fifty dollars  
24 (\$250.00) or by imprisonment for a term not to exceed ninety days, or  
25 both, at the discretion of the court. The fine upon conviction shall be  
26 payable to the State disability benefits fund of the **[Division of**  
27 **Employment Security] division**. Any penalties imposed by this  
28 subsection shall be in addition to those otherwise prescribed in this  
29 chapter (R.S.43:21-1 et seq.).  
30 (cf: P.L.1991, c.91, s.422)

31  
32 2. (New section) (a) If it is determined by the division that an  
33 individual for any reason has received, under the State plan, an  
34 approved private plan or for a disability during unemployment, any  
35 sum of disability benefits to which the individual was not entitled, the  
36 individual shall, except as provided in subsection (b) of this section, be  
37 liable to repay the sum in full. Except as provided in subsection (b) of  
38 this section, the sum that the individual is liable to repay shall be  
39 deducted from future benefits payable to the individual under this  
40 chapter (C.43:21-25 et seq.) or subsection (f) of R.S.43:21-4, or shall  
41 be repaid by the individual to the division, the employer or the insurer,  
42 and that sum shall be collectible in the manner provided for by law,  
43 including, but not limited to, the filing of a certificate of debt with the  
44 Clerk of the Superior Court of New Jersey; except that no individual  
45 who does not knowingly misrepresent or withhold any material fact to  
46 obtain benefits shall be liable for any repayments or deductions against

1 future benefits unless notified before four years have elapsed from the  
2 time the benefits in question were paid. The division shall promptly  
3 notify the individual by <sup>1</sup>~~certified~~<sup>1</sup> mail of the determination and the  
4 reasons for the determination. Unless the individual files an appeal of  
5 the determination within 20 calendar days following the receipt of the  
6 notice<sup>1</sup>, or, within 24 days after the notice was mailed to the  
7 individual's last known address<sup>1</sup>, the determination shall be final.

8 (b) If the individual received the overpayment of benefits because  
9 of error made by the division, the employer or the physician, and if the  
10 individual did not knowingly misrepresent or withhold any material  
11 fact to obtain the benefits, the following limits shall apply:

12 (1) The amount withheld from any subsequent benefit check shall  
13 be an amount not greater than <sup>1</sup>~~40%~~<sup>1</sup> 50%<sup>1</sup> of the amount of the  
14 check; and

15 (2) All repayments of the overpayments by the individual or the  
16 estate of the individual shall be waived if the individual is deceased or  
17 permanently disabled.

18 Any demand for repayment from an individual pursuant to this  
19 subsection shall include an explanation of the provisions of this  
20 subsection.

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22 3. This act shall take effect immediately.

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27 \_\_\_\_\_  
Provides for repayment of certain TDI benefit overpayments.

1 reasons for the determination. Unless the individual files an appeal of  
2 the determination within 20 calendar days following the receipt of the  
3 notice, the determination shall be final.

4 (b) If the individual received the overpayment of benefits because  
5 of error made by the division, the employer or the physician, and if the  
6 individual did not knowingly misrepresent or withhold any material  
7 fact to obtain the benefits, the following limits shall apply:

8 (1) The amount withheld from any subsequent benefit check shall  
9 be an amount not greater than 40% of the amount of the check; and

10 (2) All repayments of the overpayments by the individual or the  
11 estate of the individual shall be waived if the individual is deceased or  
12 permanently disabled.

13 Any demand for repayment from an individual pursuant to this  
14 subsection shall include an explanation of the provisions of this  
15 subsection.

16

17 3. This act shall take effect immediately.

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#### STATEMENT

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22 This bill permits the State Department of Labor to obtain the  
23 repayment of certain overpayments of Temporary Disability Insurance  
24 (TDI) benefits. Current law requires a TDI claimant to repay TDI  
25 benefit overpayments only if the claimant obtained the benefits by  
26 fraud.

27 The bill requires, whether or not there was fraud, that a claimant  
28 repay the overpaid amount or have it withheld from subsequent TDI  
29 benefits, except that, in nonfraud cases, the bill:

30 1. Limits the amount withheld from any subsequent benefit check  
31 to an amount not greater than 40% of the value of the check;

32 2. Waives all repayments when the claimant is deceased or  
33 permanently disabled; and

34 3. Ends the liability of the claimant for repayment if the claimant  
35 is not notified within four years of the time that the overpayment was  
36 made.

37 The department estimates that this bill will enable it to recover  
38 more than \$1 million per year in TDI overpayments in nonfraud cases.

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43 Provides for repayment of certain TDI benefit overpayments.

[Passed Both Houses]

[First Reprint]

ASSEMBLY, No. 2462

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# STATE OF NEW JERSEY

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INTRODUCED NOVEMBER 7, 1996

By Assemblymen ROMA and GEIST

1 AN ACT providing for the repayment of certain temporary disability  
2 insurance benefit overpayments and amending and supplementing  
3 P.L.1948, c.110.

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

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8 1. Section 31 of P.L.1948, c.110 (C.43:21-55) is amended to read  
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12 material fact, and each such false statement or representation or failure  
13 to disclose a material fact shall constitute a separate offense, to obtain  
14 or increase any benefit under the State plan or an approved private  
15 plan, or for a disability during unemployment, either for himself or for  
16 any other person, shall be liable **[to]** for a fine of twenty dollars  
17 (\$20.00) to be paid to the **[Division of Employment Security]**  
18 division. Upon refusal to pay such fine, the same shall be recovered in  
19 a civil action by the division in the name of the State of New Jersey.  
20 If in any case liability for the payment of a fine as aforesaid shall be  
21 determined, any person who shall have received any benefits hereunder  
22 by reason of the making of such false statements or representations or  
23 failure to disclose a material fact, shall **[pay to the division, the**  
24 **employer or insurer, as the case may be, an amount equal to the sum**  
25 **of any benefits hereunder received from the division, employer or**  
26 **insurer by reason thereof, and such person shall]** not be entitled to any  
27 benefits under this act for any disability occurring prior to the time he  
28 shall have discharged his liability hereunder to pay such fine~~],~~ and to

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> **Assembly ALA committee amendments adopted November 7, 1996.**

1 Clerk of the Superior Court of New Jersey; except that no individual  
2 who does not knowingly misrepresent or withhold any material fact to  
3 obtain benefits shall be liable for any repayments or deductions against  
4 future benefits unless notified before four years have elapsed from the  
5 time the benefits in question were paid. The division shall promptly  
6 notify the individual by <sup>1</sup>**[certified]**<sup>1</sup> mail of the determination and the  
7 reasons for the determination. Unless the individual files an appeal of  
8 the determination within 20 calendar days following the receipt of the  
9 notice<sup>1</sup>, or, within 24 days after the notice was mailed to the  
10 individual's last known address<sup>1</sup>, the determination shall be final.

11 (b) If the individual received the overpayment of benefits because  
12 of error made by the division, the employer or the physician, and if the  
13 individual did not knowingly misrepresent or withhold any material  
14 fact to obtain the benefits, the following limits shall apply:

15 (1) The amount withheld from any subsequent benefit check shall  
16 be an amount not greater than <sup>1</sup>**[40%]** 50% of the amount of the  
17 check; and

18 (2) All repayments of the overpayments by the individual or the  
19 estate of the individual shall be waived if the individual is deceased or  
20 permanently disabled.

21 Any demand for repayment from an individual pursuant to this  
22 subsection shall include an explanation of the provisions of this  
23 subsection.

24

25 3. This act shall take effect immediately.

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30 Provides for repayment of certain TDI benefit overpayments.

# ASSEMBLY LABOR COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 2462

with committee amendments

# STATE OF NEW JERSEY

DATED: NOVEMBER 7, 1996

The Assembly Labor Committee reports favorably Assembly Bill No. 2462, with committee amendments.

This bill permits the State Department of Labor to obtain the repayment of certain overpayments of Temporary Disability Insurance (TDI) benefits. Current law requires a TDI claimant to repay TDI benefit overpayments only if the claimant obtained the benefits by fraud.

As amended by the committee, the bill requires, whether or not there was fraud, that a claimant repay the overpaid amount or have it withheld from subsequent TDI benefits, except that, in nonfraud cases, the bill:

1. Limits the amount withheld from any subsequent benefit check to an amount not greater than 50% of the value of the check;
2. Waives all repayments when the claimant is deceased or permanently disabled; and
3. Ends the liability of the claimant for repayment if the claimant is not notified within four years of the time that the overpayment was made.

The department estimates that this bill will enable it to recover more than \$1 million per year in TDI overpayments in nonfraud cases.

Unamended, the bill limited the amount withheld from any subsequent benefit check to an amount not greater than 40% of the value of the check. The amendments also remove the requirement that the department's mailed notification of an overpayment determination be sent by certified mail.



SENATE COMMERCE COMMITTEE

STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 2462**

**STATE OF NEW JERSEY**

DATED: JANUARY 14, 1997

The Senate Commerce Committee reports favorably Assembly Bill No. 2462 (1R).

This bill permits the State Department of Labor to obtain the repayment of certain overpayments of Temporary Disability Insurance (TDI) benefits. Current law requires a TDI claimant to repay TDI benefit overpayments only if the claimant obtained the benefits by fraud.

The bill requires, whether or not there was fraud, that a claimant repay the overpaid amount or have it withheld from subsequent TDI benefits, except that, in nonfraud cases, the bill:

1. Limits the amount withheld from any subsequent benefit check to an amount not greater than 50% of the value of the check;
2. Waives all repayments when the claimant is deceased or permanently disabled; and
3. Ends the liability of the claimant for repayment if the claimant is not notified within four years of the time that the overpayment was made.

The department estimates that this bill will enable it to recover more than \$1 million per year in TDI overpayments in nonfraud cases.

# LEGISLATIVE FISCAL ESTIMATE TO

[First Reprint]

ASSEMBLY, No. 2462

# STATE OF NEW JERSEY

DATED: DECEMBER 17, 1996

Assembly Bill No. 2462 (1R) of 1996 permits the New Jersey Department of Labor to obtain the repayment of certain overpayments of Temporary Disability Insurance (TDI) benefits. Under current law, repayment of TDI benefit overpayments is required only if the claimant obtained the benefits by fraud.

The bill requires, whether or not there was fraud, that a claimant either repay the overpaid amount or have the overpaid amount withheld from subsequent TDI benefits, except that, in nonfraud cases, the bill: limits the amount withheld from any subsequent benefit check to an amount not greater than 50 percent of the value of the check; waives all repayments when the claimant is deceased or permanently disabled; and ends the liability of the claimant for repayment if the claimant is not notified within four years of the time that the overpayment was made.

As indicated in the bill statement, the Department of Labor has estimated that this bill will enable the recovery of approximately \$1 million per year in TDI overpayments in nonfraud cases. However, the Office of Legislative Services notes that this amount will be offset, to some degree, by the administrative cost of recovery, for which no estimate has been provided. Nevertheless, based upon information obtained through the office of the State Auditor, the OLS concurs with the department's estimate of recoverable funds.

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.