

34:15-94 et al

LEGISLATIVE HISTORY CHECKLIST

WASA 34:15-94 et al. (Workers' compensation--total disability--
special adjustment benefit payment)

LAWS OF 1980 CHAPTER 83

Bill No. A1206

Sponsor(s) Cowan and others

Date Introduced Feb. 25, 1980

Committee: Assembly Labor

Senate -----

Amended during passage Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly June 12, 1980

Senate June 26, 1980

Date of approval Aug. 21, 1980

Following statements are attached if available:

| | | | |
|-------------------------------|-------------------------------------|-------------------------------------|---|
| Sponsor statement | Yes | <input checked="" type="checkbox"/> | Also: Senate amendments adopted 6-23-80 (with statement) and Assembly amendments adopted 5-19-80 (with statement) |
| Committee Statement: Assembly | Yes | <input checked="" type="checkbox"/> | |
| Senate | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |

Fiscal Note Yes

Veto message

Message on signing Yes

Following were printed.

Reports No

Hearings No

Hearing on similar legislation proposed in previous session:

974.90 New Jersey. Legislature. Assembly Labor Committee.
E55 Public hearing on A1735, held 1-17-79.
1979a Trenton, 1979.

9/1/79
EH

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8-21-80

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ASSEMBLY, No. 1206

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 25, 1980

By Assemblymen COWAN, PATERO, JACKMAN and KARCHER

Referred to Committee on Labor

AN ACT concerning certain workers' compensation benefits and funding therefor, supplementing chapter 15 of Title 34 of the Revised Statutes and amending sections 34:15-94, 34:15-103, 34:15-105, 34:15-108, 34:15-112 and 34:15-115 of the Revised Statutes.

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

1 1. (New section) Any employee or dependent receiving further
2 weekly benefits as provided under R. S. 34:15-95, R. S. 34:15-12(b)
3 or R. S. 34:15-13 at a rate applicable prior to January 1, 1980, and
4 whose payment is less than the maximum compensation rate in
5 effect for the year 1980 shall be entitled to receive a special adjust-
6 ment benefit payment from the fund provided for by R. S. 34:15-94
7 and R. S. 34:15-95 **and from those sources** as provided for by this
8 amendatory and supplementary act.

8A **Any dependent, as defined in R. S. 34:15-13, of a person totally*
8B *disabled who dies while receiving compensation from the fund pro-*
8C *vided for by R. S. 34:15-94 and 34:15-95, shall become entitled to*
8D *dependent benefits under this chapter which are comparable to*
8E *payments made to other dependents under the Workers' Compensa-*
8F *tion Law, on or after the effective date of this amendatory and*
8G *supplementary act.*

8H *All compensation payments made under this chapter to a de-*
8I *pendent, as defined under R. S. 34:15-13, of an individual who dies*
8J *while receiving such compensation, shall be payable only where the*
8K *compensable occupational injury or disease of the decedent is a*
8L *material contributing factor to his death.**

9 The payment of these adjustment benefits shall be paid to an
10 employee or dependent as long as the employee or dependent is

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

11 eligible to receive payments under R. S. 34:15-95, R. S.
 12 34:15-12(b)*, ***[or]*** R. S. 34:15-13*, or *this section*.*

13 ***[**The amount of the special adjustment benefit payment shall be
 14 such as to maintain the same percentage relationship that existed
 15 between the workers' compensation rate and the maximum rate at
 16 the time of the injury or death as to the 1980 maximum workers'
 17 compensation rate, provided, however, that the special adjustment
 18 benefit payment shall not exceed total income in the amount of the
 19 1980 maximum workers' compensation rate as established under
 20 R. S. 34:15-95, R. S. 34:15-12(b) or R. S. 34:15-13 and shall be
 21 payable 25% of the adjustment during the fiscal year 1981 com-
 22 mencing July 1, 1980; 50% of the adjustment during the fiscal year
 23 1982, 75% of the adjustment during the fiscal year 1983, and 100%
 24 of the adjustment during the fiscal year 1984 and thereafter. Total
 25 income for the purposes of this special adjustment benefit payment
 26 shall consist of the total workers' compensation rate received at
 27 the time of injury or death, Social Security and Black Lung Benefit
 28 payments, retirement and disability payments received from an
 29 employer.

30 Workers' compensation benefits provided under R. S. 34:15-95,
 31 R. S. 34:15-12(b) or R. S. 34:15-13 shall be reduced by an amount
 32 equal to the disability benefit payable under the Federal Old-Age
 33 Survivor Disability Insurance Act, Black Lung benefits, pensions
 34 or disability benefits. However, such reduction shall not apply when
 35 the combination of such benefits provided under R. S. 34:15-95,
 36 R. S. 34:15-12(b) or R. S. 34:15-13 and the Federal Old-Age Sur-
 37 vivor Disability Insurance Act, Black Lung benefits, retirement and
 38 disability benefits is less than a total benefit payment under these
 39 sections.]* **The amount of the special adjustment benefit payment*
 40 ***[in the first 3 fiscal years following the enactment of this act]***
 41 *shall be such that when added to the worker's compensation rate*
 42 *awarded pursuant to R. S. 34:15-95, R. S. 34:15-12(b), R. S.*
 43 *34:15-13 or this section as a result of injury or death **[and any*
 44 *Social Security benefit (not including increases in such benefits due*
 44A *to any Federal statutory increases after June 30, 1980), black lung*
 44B *benefit, or the employer's share of disability pension payments for*
 44C *the individual worker received from or on account of an em-*
 44D *ployer]**, the total shall bear the same percentage relationship to*
 44E *the 1980 maximum workers' compensation rate that the worker's*
 44F *own compensation rate awarded as a result of the injury or death*
 44G *bears to the then effective maximum workers' compensation rate.*
 44H *The amount of the special adjustment benefit shall be payable at a*
 44I *rate of 35% of the adjustment during the fiscal year 1981 com-*
 44J

44J mencing July 1, 1980; 75% of the adjustment during the fiscal year
 44K 1982; and 100% of the adjustment during the fiscal year 1983 and
 44L thereafter.* **The special adjustment benefit payment provided
 44M herein shall be reduced by an amount equal to the individual's
 44N ***[disability]*** benefit payable under the Federal Old-Age Sur-
 44O vivors and Disability Insurance Act (not including increases in such
 44P benefits due to any Federal statutory increases after June 30, 1980),
 44Q Black Lung benefits, or the employer's share of disability pension
 44R payments received from or on account of an employer.** Where any
 44S person refuses to authorize the release of information concerning
 44T the amount of benefits payable under the aforementioned benefits,
 44U the division's estimate of said amount shall be deemed to be correct
 44V unless and until the actual amount is established and no adjustment
 44W shall be made for any period of time covered by any such refusal.

45 Payments of the adjustment **[*in the second and third fiscal
 46 years after enactment*]** shall be made from the fund created
 47 under R. S. 34:15-94 in the manner hereinafter provided. The Com-
 48 missioner of Labor and Industry shall make payments from the fund
 49 directly to the persons who are now receiving benefits under R. S.
 50 34:15-95 *and to their dependents becoming eligible for dependents
 51 benefits under this amendatory and supplementary act* by increas-
 52 ing *or, as the case may be, setting* the weekly compensation pay-
 53 ments to include the weekly adjustment. In the case of persons who
 54 are entitled to compensation under R. S. 34:15-12(b) or R. S.
 55 34:15-13, the insurance carrier or self-insured employer *in the
 56 second and **[third]** **subsequent** fiscal years after enact-
 57 ment* shall increase the weekly compensation payments to include
 58 the weekly adjustment and shall credit the payments against the
 59 assessments payable by the insurance carrier or self-insurer under
 60 R. S. 34:15-94. The insurance carrier or self-insurer claiming such
 61 credit shall submit vouchers upon forms prescribed by the Com-
 62 missioner of Labor and Industry identifying each case and indi-
 63 cating the weekly benefit adjustment applicable thereto.

1 2. (New section) *For special adjustment benefit payments in
 1A the first fiscal year after enactment,* **[Within]** *within* 30 days
 1B after July 1, 1980, \$7,500,000.00 *or so much as may be necessary*
 2 shall be taken from "the stock workers' compensation security
 3 fund" and "the mutual workers' compensation security fund,"
 4 created and administered pursuant to article 7 of chapter 15 of
 5 Title 34 of the Revised Statutes, and by assessment upon self-
 6 insured employers. Such payments shall be in the same proportion
 7 as the contributions made by stock workers' compensation insur-
 8 ance companies, mutual workers' compensation insurance com-

9 panies and each self-insured employer pursuant to R. S. 34:15-94
10 during the calendar year 1979 bear to the total amount paid into
11 the fund for such year.

12 If the initial funding of this act results in "the stock workers'
13 compensation security fund" or "the mutual workers' compensa-
14 tion security fund" falling below the 5% of loss reserves of car-
15 riers as prescribed in R. S. 34:15-108 and R. S. 34:15-115, no addi-
16 tional contributions to the respective statutory fund shall be re-
17 quired to be made in the 12 month period immediately following
18 the effective date of this amendatory and supplementary act by
19 stock workers' compensation insurance companies or by mutual
20 workers' compensation insurance companies, as the case may be.

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

2 34:15-94. Each mutual association or stock company writing
3 compensation or employer's liability insurance in this State, and
4 each self-insurer, shall pay to the Commissioner of Labor and In-
5 dustry a sum equal to that proportion of 150% of the total amount
6 of moneys paid under R. S. 34:15-95 during the *~~precedng~~* *pre-
7 ceding* calendar year, less the amount of net assets *exceeding*
8 \$5,000,000.00 remaining in such fund as of December 31 of said pre-
9 ceding calendar year, which the total compensation payments of
10 such mutual association, stock company or self-insurer bears to
11 the total compensation payments made by all such mutual associa-
12 tions, stock companies, and self-insurers during such preceding
13 calendar year. Such sum shall be paid by the Commissioner of
14 Labor and Industry to the State Treasurer.

15 On or before November 1, 1968, the Commissioner of Labor and
16 Industry shall recalculate payments due for calendar year 1968 in
17 accordance with the formula provided above, and levy supplemental
18 assessments to adjust for any difference due to be paid in satisfac-
19 tion of obligations for calendar year 1968, giving full credit for
20 payments previously due and paid on or before March 1 and Sep-
21 tember 1, 1968. Such supplemental assessments, if necessary to be
22 levied, shall be paid on or before December 1, 1968. Commencing
23 January 1, 1969, and each year thereafter, annual payments shall
24 be calculated by the commissioner and sums due shall be paid $\frac{1}{4}$
25 on or before March 15, $\frac{1}{4}$ on or before June 15, $\frac{1}{4}$ on or before
26 September 15 and $\frac{1}{4}$ on or before December 15 of each year.

27 When the total amount of all such payments into the fund,
28 together with the accumulated interest thereon, exceeds
29 \$1,250,000.00, an amount not to exceed \$50,000.00 of such excess over
30 \$1,250,000.00 in any 1 fiscal year, may be applied toward the cost
31 of administration of the Division of ~~Workmen's~~ *Workers'* Com-

32 pension in the Department of Labor and Industry when au-
 33 thorized and appropriated by the Legislature.

1 4. R. S. 34:15-103 is amended to read as follows:

2 34:15-103. This article may be cited as the **[workmen's]** *workers'*
 3 compensation security fund act.

1 5. R. S. 34:15-105 is amended to read as follows:

2 34:15-105. There is hereby created a fund to be known as "the
 3 stock **[workmen's]** *workers'* compensation security fund", for the
 4 purpose of assuring to persons entitled thereto the compensation
 5 provided by this chapter for employments insured in insolvent stock
 6 carriers *and for the purpose of providing money for first year*
 7 *annual adjustments for benefit payments *and supplemental pay-*
 8 *ments* provided for by this amendatory and supplementary act.*
 9 Such fund shall be applicable to the payment of valid claims for
 10 compensation or death benefits heretofore or hereafter made pur-
 11 suant to this chapter, and remaining unpaid, in whole or in part,
 12 by reason of the default, after March 26, 1935, of an insolvent stock
 13 carrier. Expenses of administration also shall be paid from the
 14 fund as herein provided. Such fund shall consist of all contribu-
 15 tions received and paid into the fund by stock carriers, as herein
 16 defined, all property and securities acquired by and through the
 17 use of moneys belonging to the fund**[**, and of interest earned upon
 18 moneys deposited or invested**]*****, *and of interest earned upon*
 19 *moneys deposited or invested** as herein provided. **[Interest*
 20 *earned upon moneys belonging to the fund which are deposited or*
 21 *invested shall be paid into the General Treasury and become a part*
 22 *of the General State Fund.]** The fund shall be administered by the
 23 Commissioner of **[Banking and]** Insurance in accordance with the
 24 provisions of this chapter.

25 **Beginning in the fiscal year 1984 and in every fiscal year there-*
 26 *after, a supplement to the special adjustment benefit payment*
 27 *shall be paid to all employees or dependents entitled to the special*
 28 *adjustment benefit payment. Such supplemental payments shall*
 29 *be from interest earned and accrued after the effective date of this*
 30 *amendatory and supplementary act upon moneys belonging to the*
 31 *fund and by assessment upon self-insured employers in the same*
 32 *proportions as provided under section 2 of this amendatory and*
 33 *supplementary act. The supplement to the special benefit adjust-*
 34 *ment payment shall be paid in an amount, in combination with*
 35 *income from all sources referred to in section 1 of this amenda-*
 36 *tory and supplementary act, which bears the same percentage*
 37 *relationship to the then current maximum workers' compensation*
 38 *rate that the worker's own compensation rate awarded as a result*

39 *of the injury or death bears to the then effective maximum workers'*
 40 *compensation rate. Moneys for such supplemental payments shall*
 41 *be paid into the fund created under R. S. 34:15-94 et seq. on July 1,*
 42 *1984 and the first day of each fiscal year thereafter and be paid to*
 43 *those persons entitled thereto in the same manner as provided in*
 44 *section 1.**

1 6. R. S. 34:15-108 is amended to read as follows:

2 34:15-108. When the aggregate amount of all such payments
 3 into the stock fund, together with accumulated interest thereon, less
 4 all its expenditures and known liabilities, becomes equal to 5% of
 5 the loss reserves of all stock carriers for the payment of benefits
 6 under this chapter as of December 31, next preceding, no further
 7 contributions to the fund shall be required to be made. But when-
 8 ever thereafter, the amount of the fund shall be reduced below 5%
 9 of such loss reserves as of said date by reason of payments from
 10 and known liabilities of the fund, then contribution to the fund
 11 **[shall]** *may* be resumed forthwith *pursuant to regulations of the*
 12 *Commissioner of Insurance, and [shall] may* continue until the
 13 fund, over and above its known liabilities, shall be equal to *not*
 14 *less than 3% nor more than 5%* of such reserves.

15 *The Commissioner of Insurance may by regulation provide that*
 16 *the amount of the stock fund may fluctuate between 3% and 5% of*
 17 *loss reserves of all stock carriers whenever he finds it to be in the*
 18 *best interest of the fund or advisable for its proper administration;*
 19 *except that no regulation shall require a stock carrier to make an*
 20 *additional contribution to the stock fund during the 12 month period*
 21 *following the effective date of this amendatory and supplementary*
 22 *act.*

1 7. R. S. 34:15-112 is amended to read as follows:

2 34:15-112. There is hereby created a fund to be known as "the
 3 mutual **[workmen's]** *workers'* compensation security fund", for
 4 the purpose of assuring to persons entitled thereto the compensa-
 5 tion provided by the **[workmen's]** *workers'* compensation act for
 6 employments insured in insolvent mutual carriers *and for the pur-*
 7 *pose of providing money for first year annual adjustments for*
 8 *benefit payments *and supplemental payments* provided for by*
 9 *this amendatory and supplementary act.* Such fund shall be appli-
 10 cable to the payment of valid claims for compensation or death
 11 benefits heretofore or hereafter made pursuant to this chapter,
 12 and remaining unpaid, in whole or in part, by reason of the default,
 13 after the effective date of this act, of an insolvent mutual carrier.
 14 Expenses of administration also shall be paid from the fund as
 15 herein provided. Such fund shall consist of all contributions re-

16 ceived and paid into the fund by mutual carriers, as herein defined,
 17 of property and securities acquired by and through the use of
 18 moneys belonging to the fund [and of interest earned upon moneys
 19 deposited or invested]*, and of interest earned upon moneys
 20 deposited or invested* as herein provided. **[Interest earned upon*
 21 *moneys belonging to the fund which are deposited or invested shall*
 22 *be paid into the General Treasury and become a part of the General*
 23 *State Fund.]** The fund shall be administered by the Commissioner
 24 of [Banking and] Insurance in accordance with the provisions of
 25 this article.

26 **Beginning in the fiscal year 1984 and in every fiscal year there-*
 27 *after, a supplement to the special adjustment benefit payment shall*
 28 *be paid to all employees or dependents entitled to the special ad-*
 29 *justment benefit payment. Such supplemental payments shall be*
 30 *from interest earned and accrued after the effective date of this*
 31 *amendatory and supplementary act upon moneys belonging to the*
 32 *fund and by assessment upon self-insured employers in the same*
 33 *proportions as provided under section 2 of this amendatory and*
 34 *supplementary act. The supplement to the special benefit adjust-*
 35 *ment payment shall be paid in an amount, in combination with*
 36 *income from all sources referred to in section 1 of this amenda-*
 37 *tory and supplementary act, which bears the same percentage*
 38 *relationship to the then current maximum workers' compensation*
 39 *rate that the worker's own compensation rate awarded as a result*
 40 *of the injury or death bears to the then effective maximum workers'*
 41 *compensation rate. Moneys for such supplemental payments shall*
 42 *be paid into the fund created under R. S. 34:15-94 et seq. on July 1,*
 43 *1984 and the first day of each fiscal year thereafter and be paid to*
 44 *those persons entitled thereto in the same manner as provided in*
 45 *section 1 of this amendatory and supplementary act.**

1 8. R. S. 34:15-115 is amended to read as follows:

2 34:15-115. Whenever the mutual fund, less all its known liabil-
 3 ities, shall exceed 5% of the loss reserves of all mutual carriers for
 4 the payments of losses under the [workmen's] workers' compensa-
 5 tion act, as of December 31 next preceding, no further contributions
 6 to the fund shall be required to be made. But whenever thereafter
 7 the amount of the fund shall be reduced below 5% of such loss
 8 reserves as of said date by reason of payments from and known
 9 liabilities of the fund, then contribution to the fund [shall] may
 10 be resumed forthwith pursuant to regulations of the Commissioner
 11 of Insurance, and shall continue until the fund, over and above its
 12 known liabilities, shall be equal to not less than 3% nor more than
 13 5% of such reserves. The Commissioner of Insurance may by

14 regulation provide that the amount of the mutual fund may
 15 fluctuate between 3% and 5% of loss reserves of all mutual carriers
 16 whenever he finds it to be in the best interest of the fund or advis-
 17 able for its proper administration; except that no regulation shall
 18 require a mutual carrier to make an additional contribution to the
 19 mutual fund during the 12 month period following the effective date
 20 of this amendatory and supplementary act. If and when all liabil-
 21 ities of all mutual carriers for [workmen's] workers' compensation
 22 losses in this State shall have been fully liquidated, distribution
 23 shall be made of the remaining balance of the mutual fund in the
 24 proportion in which each such mutual carrier made contributions
 25 to the mutual fund.

1 ***9. (New section) For persons under the age of 62 receiving
 2 benefits as provided under R. S. 34:15-95, or R. S. 34:15-12(b),
 3 and whose period of disability began after June 1, 1965, such com-
 4 pensation benefits shall be reduced by an amount equal to the dis-
 5 ability benefits payable under the Federal Old-Age, Survivors and
 6 Disability Insurance Act as now or hereafter amended not to ex-
 7 ceed the amount of the reduction established pursuant to 42 U. S. C.
 8 424a. However, such reduction shall not apply when the combined
 9 disability benefits provided under R. S. 34:15-95, or R. S. 34:15-12
 10 (b), and the Federal Old-Age, Survivors and Disability Insurance
 11 Act is less than the total benefits to which the Federal reduction
 12 would apply, pursuant to 42 U. S. C. 424a. Where any person re-
 13 fuses to authorize the release of information concerning the amount
 14 of benefits payable under said Federal act, the division's estimate
 15 of said amount shall be deemed to be correct unless and until the
 16 actual amount is established and no adjustment shall be made for
 17 any period of time covered by any such refusal.***

1 ***[9.]*** ***10.*** This act shall take effect immediately and
 2 shall be applicable to benefits payable on and after July 1, 1980.

13 5% of such reserves. *The Commissioner of Insurance may by*
 14 *regulation provide that the amount of the mutual fund may*
 15 *fluctuate between 3% and 5% of loss reserves of all mutual carriers*
 16 *whenever he finds it to be in the best interest of the fund or advis-*
 17 *able for its proper administration; except that no regulation shall*
 18 *require a mutual carrier to make an additional contribution to the*
 19 *mutual fund during the 12 month period following the effective date*
 20 *of this amendatory and supplementary act. If and when all liabil-*
 21 *ities of all mutual carriers for [workmen's] workers' compensation*
 22 *losses in this State shall have been fully liquidated, distribution*
 23 *shall be made of the remaining balance of the mutual fund in the*
 24 *proportion in which each such mutual carrier made contributions*
 25 *to the mutual fund.*

1 9. This act shall take effect immediately and shall be applicable
 2 to benefits payable on and after July 1, 1980.

STATEMENT

This bill would provide a special adjustment benefit payment for the totally disabled victims of earlier industrial accidents whose level of compensation has fallen woefully below current needs. For example, a worker injured 20 years ago might now be receiving a disability benefit of \$30.00 or \$40.00 per week as compared with the current standard of \$185.00, yet, the needs of both may be the same. The program will be integrated with public or private income security or disability benefit programs to provide a floor for totally disabled New Jersey industrial accident victims.

The cost of the bill will be funded out of the insolvent insurers funds and assessment of self-insurers in the first year and by the Second Injury Fund in subsequent years. The increased benefit will be phased in over a 4 year period in stages of 25% each year.

A 1206 (1980)

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1206

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 1, 1980

The Assembly Labor Committee hereby reports favorably on Assembly Bill No. 1206 which would provide a "special adjustment benefit payment" to the workers' compensation benefit payments of the permanently and totally disabled victims of earlier occupational accidents and diseases whose levels of compensation have fallen well below current day basis needs. It would adjust benefits upward for the eligible surviving dependents of workers' compensation recipients as well. By amendment, the surviving dependents of "Second Injury Fund" recipients have been included. Dependents' benefits under committee amendment would be limited, however, to those cases where the compensable occupational injury or disease of the decedent was a "material contributing factor" in his death.

A worker who was injured decades ago might only be receiving a benefit of \$30.00 or \$40.00 a week as compared to the *maximum* permanent total benefit of \$185.00 paid to someone sustaining the identical loss today; yet, the economic burdens of both workers may be quite comparable in today's record inflation economy.

The bill is written so as to integrate much of the worker's or dependent's other public and private income security program benefits with his or her "special adjustment benefit payment." Under committee amendment, however, the only benefit payment from a private sector source to be subject to the State offset would be the *employer's* share of disability pension payments. It was felt that a service or age pension was payable as a separate entitlement on its own merits to injured workers. The aforesaid pension offset would apply, of course, to public employees as well. But social security cost-of-living increases would not be included in the State offset, nor would social security payments made to other family members.

Depending on the effects of any *Federal* Social Security offset for that minority of claimants subject to it, the bill could provide a minimum combined benefit in the first 3 years of \$185.00 per week or \$9,620.00 a year for the permanently and totally disabled worker who was awarded

a benefit at the State's *maximum* level at the time of his injury. Those receiving less than the maximum at such time would receive a proportional downward adjustment. Based on the 1980 standard for the maximum benefit, payments for those people eligible would, under committee amendment, be phased in over a 3 year, instead of a 4 year, period. Benefits would be paid at 35% of the adjustment during the first year, 75% in the second year and 100% in the third and following years. In the second and successive years, "special adjustment benefit payments" keyed to the \$185.00 100% level would be paid out of the "Second Injury Fund."

The committee also amended the bill to provide for increases beyond the aforementioned \$185.00 maximum of the third year by requiring accrued interest from the effective date of the act on the stock and mutual workers' compensation security funds to be used as the source of a "supplemental" payment to the adjustment payment for the fiscal year 1984 and thereafter. \$7,500,000.00 (or so much as may be necessary) from those two insolvent insurer funds and assessments on self-insured employers would fund the benefit program in its first year.

The intent of the reported legislation is very similar to that behind the 1977 recommendations of the Policy Group of the United States Interdepartmental Workers' Compensation Task Force that "long-term wage replacement benefits to disabled workers or survivors be increased annually in proportion to the increase in the State's weekly wage." Moreover, the new formula in the bill would remedy program defects pointed out by the National Commission on State Workmen's Compensation Laws and New Jersey's own study commission. In the latter commission's final report, it was stated that "a . . . very serious deficiency (of our present system) . . . is the failure to protect the purchasing power of persons already receiving and to receive compensation benefits for death and permanent total" disability.

ASSEMBLY AMENDMENTS TO
ASSEMBLY, No. 1206
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STATE OF NEW JERSEY

ADOPTED MAY 19, 1980

Amend page 2, section 1, line 40, omit "in the first 3 fiscal years following the enactment of this act".

Amend page 2, section 1, line 43, omit "and any Social Security".

Amend page 2, section 1, lines 44-44B, omit.

Amend page 2, section 1, line 44c, omit "worker received from or on account of an employer".

Amend page 2, section 1, after line 44k, insert "The special adjustment benefit payment provided herein shall be reduced by an amount equal to the individual's disability benefit payable under the Federal Old-Age Survivors and Disability Insurance Act (not including increases in such benefits due to any Federal statutory increases after June 30, 1980), Black Lung benefits, or the employer's share of disability pension payments received from or on account of an employer."

Amend page 3, section 1, lines 45-46, omit "in the second and third fiscal years after enactment".

Amend page 3, section 1, line 56, omit "third", insert "subsequent".

STATEMENT

These amendments clarify the intent that only the special adjustment benefit payment which is established by this bill (or a portion thereof) should be offset (or reduced) by those other sources of income received by the worker and delineated in the bill as subject to the offset, i.e. social security (not including C.O.L.A.'s after June 30, 1980), Black Lung benefits and the employer's share of disability pension payments.

The amendments also ensure that legislative intent is understood to provide for "special adjustment benefit payments" from the "Second Injury Fund" for the second fiscal year after the bill's effective date and every year afterwards.

SENATE AMENDMENTS TO
ASSEMBLY, No. 1206
[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED JUNE 23, 1980

Amend page 3, section 1, lines 44M-44N, omit "disability".

Amend page 8, after section 8, after line 25, insert new section 9:

"9. (New section) For persons under the age of 62 receiving benefits as provided under R. S. 34:15-95, or R. S. 34:15-12(b), and whose period of disability began after June 1, 1965, such compensation benefits shall be reduced by an amount equal to the disability benefits payable under the Federal Old-Age, Survivors and Disability Insurance Act as now or hereafter amended not to exceed the amount of the reduction established pursuant to 42 U. S. C. 424a. However, such reduction shall not apply when the combined disability benefits provided under R. S. 34:15-95, or R. S. 34:15-12(b), and the Federal Old-Age, Survivors and Disability Insurance Act is less than the total benefits to which the Federal reduction would apply, pursuant to 42 U. S. C. 424a. Where any person refuses to authorize the release of information concerning the amount of benefits payable under said Federal act, the division's estimate of said amount shall be deemed to be correct unless and until the actual amount is established and no adjustment shall be made for any period of time covered by any such refusal."

Amend page 8, section 9, line 1, renumber section 9 as section 10.

STATEMENT

This amendment clarifies that section of the law which provides for an offset in the benefits payable with regard to reduction based upon the amount of benefits payable under Federal Old-Age, Survivors and Disability insurance.

FISCAL NOTE TO
ASSEMBLY, No. 1206
[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: JUNE 12, 1980

The Second Official Copy Reprint of Assembly 1206 of 1980 provides for a special adjustment to workers compensation benefit payment for certain totally disabled.

The Department of Labor and Industry indicates that enactment of this legislation would have no significant effect on the expenditures of the State of New Jersey.

The department further states that the special adjustment benefits and administrative costs will be paid from the Second Injury Fund to which the State does not contribute. The department further indicates the supplemental payments to the special adjustment benefit will be paid out of interest accruing to the Stock and Mutual Workers Compensation Security Fund.

Obviously, there will be an increase in the Workers Compensation Insurance cost for those municipalities that carry such insurance if the insurance premiums are raised as the result of this bill.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

AUGUST 21, 1980

PAT SWEENEY

Governor Brendan Byrne, today in a public ceremony, signed A-1206, sponsored by Assemblyman Thomas F. Cowan, Sr. (D-Hudson).

The bill, popularly known as the "Second Injury Fund," provides a special adjustment benefit payment to workers who have been judged permanently and totally disabled due to occupational hazards and diseases.

The bill will also provide increased benefits to surviving dependents of permanently and totally disabled workers and second injury fund recipients where the compensable occupational injury or disease was a "material contributing factor" in the worker's death.

At present, workers may be receiving as little as \$20 a week in total disability benefits. This bill raises everyone to \$185 a week by 1984, less all federal Social Security benefits.

The special adjustment benefit payment will bring the benefits for workers receiving second injury funds and total disability up to 1980 levels by phasing the increased benefits in over a three year period according to the following schedule:

35 percent of the adjustment in the first year (FY 81),

75 percent in the second year,

100 percent in the third year and thereafter.

The special adjustment benefit payment will be reduced by benefits payable under the Federal Old-Age Survivors and Disability Insurance Act, Black Lung benefits or the employer's share of disability pension payments received.

The increased benefits will be funded from the following sources:

FY 1981 - Stock and mutual workers' compensation fund and assessments against self-insurers.

FY 1982 &
FY 1983 - Second injury fund through additional assessments against employers.

FY 1984 &
thereafter - Interest accrued in the Second Injury Fund and assessments against self-insured employers.

There will be no additional cost to the State Treasury.

Signing the bill, Governor Byrne said, "Currently, the levels of disabled workers' benefits vary widely, and, in many cases, are extremely low. This bill provides an equitable benefit level for the occupationally disabled, at a reasonable cost to the business community."

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