

July 11, 1968

LEGISLATIVE HISTORY OF N.J. R.S. 34:15-95
 (One per cent fund-Payment for subsequent permanent injuries)

The 1% Compensation Fund was first enacted in 1923.

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- L. 1923 - Chapter 81 - Section 2 - S236.
 Introduced February 5 by Mr. Richards.
 Not amended during passage.
 Bill had statement (copy enclosed).
 Amended by
- L. 1933 - Chapter 456 - Section 1 - S517.
 Introduced November 14 by Mr. Ely.
 Not amended during passage.
 Bill had statement (copy enclosed).
- L. 1936 - Chapter 55 - Section 3 and 4 - A169.
 Introduced February 3 by Mr. Paul.
 Original bill had statement (copy enclosed).
 March 16 - Committee Substitute passed Assembly (copy enclosed).
- L. 1938 - Chapter 198 - Section 2 - A22.
 Introduced January 17 by Mr. Paul.
 Original bill had statement (copy enclosed).
 March 28 - Committee Substitute passed Assembly.
 Committee Substitute had statement (copy enclosed).
 Also amended by Assembly (copy enclosed).
 May 3 - Amended by Senate (copy enclosed).
- L. 1940 - Chapter 133 - Section 1 - A284.
 Introduced March 4 by Mr. Ferster.
 Original bill had statement (copy enclosed).
 March 25 - Committee Substitute p.A (copy enclosed).
 Also amended in A.
 June 10 - Amended by Senate (copy enclosed).

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- L. 1945 - Chapter 10 - Section 2 - S28.
Introduced January 22 by Senator Littell.
Original bill had statement (copy enclosed).
January 29 - Passed Senate.
February 6 - Amended by Assembly (copy enclosed).
February 8 - Approved.

Statement refers to:
New Jersey Governor (Edge)
First annual message.

- L. 1945 - Chapter 74 - Section 19 - S87.
Introduced January 29 by Senator Van Alstyne.
Original bill had statement (copy enclosed).
The original bill did not seek to amend N.J.R.S. 34:15-95.
March 12 - Reported with Senate Committee amendments.
March 16 - Amended by Senate (Enclosed are Section 18 of the
O.C.R. and Section 19 of the 3rd O.C.R. You may wish
to compare the texts for changes).
March 23 - Passed Senate.
March 23 - Passed Assembly.
April 2 - Approved.

- L. 1950 - Chapter 89 - A354.
Introduced March 6 by Mr. Jones.
Bill had statement (copy enclosed).
Not amended during passage.

- L. 1965 - Chapter 124 - Section 1 - A557.
Introduced March 15 by Crabiel and Bateman.
Bill had statement (copy enclosed).
Not amended during passage.

No hearings or reports on these bills were located.

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For history of this legislation in New Jersey, see:

J33.18 Berkowitz, Monroe.
B51 Workmen's compensation; the New Jersey
experience. Rutgers, 1960. (Chapter 9.
Second injuries and the employment of the
handicapped.) (enclosed).

J368.41 Seward, Joseph N.
S514 New Jersey's One Per Cent Fund.
Rutgers University, Master's Essay, 1957.
(~~Rutgers is Xeroxing a copy for us and
we will forward it to you when received.~~)

Have only one copy; must be used here.

See also:

L16.3: U.S. Bureau of Labor Standards.
190 Second injury funds; standards and
patterns in state legislation. 1957.
(Its Bulletin 190).

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this and we can send it.*

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ASSEMBLY, No. 557

STATE OF NEW JERSEY

INTRODUCED MARCH 15, 1965

By Assemblymen CRABIEL and BATEMAN

Referred to Committee on Labor and Industrial Relations

AN ACT relating to workman's compensation and amending section 34:15-95 of
the Revised Statutes.

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

1 1. Section 34:15-95 of the Revised Statutes is amended to read as follows:
2 34:15-95. The sums collected under section 34:15-94 of this Title shall
3 constitute a fund out of which a sum shall be set aside each year by the
4 Commissioner of Labor and Industry from which compensation payments in
5 accordance with the provisions of paragraph (b) of section 34:15-12 of this
6 Title shall be made to persons totally disabled, as a result of experiencing a
7 subsequent permanent injury under conditions entitling such persons to com-
8 pensation therefor, when such persons had previously been permanently
9 and partially disabled from some other cause; provided, however, that, not-
10 withstanding the time limit fixed therein, the provisions of paragraph (b)
11 of said section 34:15-12 relative to extension of compensation payments be-
12 yond 400 or 450 weeks, as the case may be, shall, with respect to payments
13 from the fund constituted pursuant to the provisions of this section, apply
14 to any accident occurring since June 27, 1923, and in no case shall be less
15 than \$5.00 per week; provided further, however, that no person shall be
16 eligible to receive payments from such fund:

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

17 (a) If the disability resulting from the injury caused by his last com-
18 pensable accident in itself and irrespective of any previous condition or
19 disability constitutes total and permanent disability within the meaning of
20 this Title.

21 (b) If permanent total disability results from the aggravation, activa-
22 tion or acceleration, by the last compensable injury, of a pre-existing non-
23 compensable disease or condition.

24 (c) If the disease or condition existing prior to the last compensable
25 accident is not aggravated or accelerated but is in itself progressive and by
26 reason of such progression subsequent to the last compensable accident
27 renders him totally disabled within the meaning of this Title.

28 (d) If a person who is rendered permanently partially disabled by the
29 last compensable injury subsequently becomes permanently totally disabled
30 by reason of progressive physical deterioration or pre-existing condition or
31 disease.

32 Nothing in the provisions of said paragraphs a, b, c and d, however,
33 shall be construed to deny the benefits provided by this section to any person
34 who has been previously disabled by reason of total loss of, or total and
35 permanent loss of use of, a hand or arm or foot or leg or eye, when the
36 total disability is due to the total loss of, or total and permanent loss of use
37 of, 2 or more of said major members of the body, or to any person who in
38 successive accidents has suffered compensable injuries, each of which, sev-
39 erally, causes permanent partial disability, but which in conjunction result
40 in permanent total disability. Nor shall anything in paragraphs a, b, c and d,
41 aforesaid apply to the case of any person who is now receiving or who has
42 heretofore received payments from such fund.

43 Upon the approval of an application for benefits, the compensation pay-
44 able from such fund shall be made from the date when the final payment of
45 compensation by the employer is or was payable for the injury or injuries
46 sustained in the employment wherein the employee became totally and per-
47 manently disabled; provided, that no payment from such fund shall be made
48 for any period prior to the date of filing of application therefor; provided,

49 however, that a person who has received compensation payments from said
50 fund and who is reinstated or ordered placed on said fund shall receive
51 payments from the date of last payment from said fund, save only in the
52 case of a person to whom payments have been made and then discontinued
53 or suspended because of the rehabilitation of such person in accordance with
54 the provisions of paragraph (b) of section 34:15-12 of this Title, or actual
55 employment for any reason whatsoever, in which case payments from said
56 fund shall be made from the date of filing application for reinstatement.
57 Payments to such totally disabled employees shall be made from said fund
58 by the State Treasurer upon warrants of the Commissioner of Labor and In-
59 dustry. This section shall be applicable to any accident occurring since June
60 27, 1923, insofar as the eligibility of and benefits payable to such employees
61 of this class is concerned; provided, however, that nothing contained herein
62 shall limit or deprive those persons now receiving or who have received the
63 benefits under this section from participating in said fund. All payments
64 from the fund herein created shall be made by *biweekly* **[semimonthly]** in-
65 stallment payments. From the fund herein created the Commissioner of
66 Labor and Industry may use in any 1 fiscal year a sum not to exceed the
67 sum of \$12,500.00 for the cost of administration of the fund including per-
68 sonnel, printing, professional fees, and expenses incurred by the Commis-
69 sioner of Labor and Industry in the prosecution of defenses in the Division
70 of Workmen's Compensation, and of appeals and proceedings for review of
71 decisions on applications for benefits from said fund. No costs or counsel
72 fee for the applicant shall be allowed against the fund.

73 The Commissioner of Labor and Industry shall annually submit an ac-
74 counting of the fund to the State Treasurer.

75 All payments into the fund established by section 34:15-95 of the Re-
76 vised Statutes which may have heretofore been made or required at any
77 time or times are hereby validated and confirmed, notwithstanding that at
78 the time of such payment or payments the fund may have equaled or ex-
79 ceeded the sum of \$200,000.00.

1 2. This act shall take effect immediately.

STATEMENT

This bill would provide for the biweekly payment of benefits from the 1% fund in lieu of the semimonthly payments now prescribed by law. This amendment would permit this payroll to be incorporated into the automated operation of the Treasury Department which is set on a biweekly basis instead of being done manually by the fiscal office of the Department of Labor and Industry.

Assembly bill 354 of 1950
5

STATEMENT

The purpose of this bill is to permit the payment of additional One Per Cent Fund benefits to persons who qualify for benefits from such fund and who have rehabilitated themselves or who are or have been employed to the extent that they have wages or earnings equal or almost equal to or in excess of those received at the time of the accident. The enactment of this proposed legislation will permit the payment of \$5.00 per week so that the statute of limitations will not intervene and refers to certain accidents occurring prior to January 1, 1946. The present law has the same effect as to accidents occurring subsequent to January 1, 1946.

Certain technical changes to conform with the reorganization set-up are also made in this bill.

3 which compensation payments in accordance with the provisions of paragraph
 4 eleven (b) of the Workmen's Compensation Act, shall be made to persons totally dis-
 5 abled, as a result of experiencing a permanent injury under conditions entitling such
 6 person to compensation therefor, when such person had previously been permanently
 7 and partially disabled from some other cause. In such cases the compensation pay-
 8 able from said fund shall cover that portion of the period for which compensation is
 9 payable in ordinary cases of total disability arising under this act, not covered by
 10 compensation due for the two disabilities separately, as above set forth above. Pay-
 11 ments to such totally disabled employees shall be made from said fund by the State
 12 Treasurer upon warrants of the Commissioner of Labor. This act shall be retro-
 13 active as touching any accident occurring since the amending of chapter 95, Laws of
 14 1911, by amendment of clause eleven (v), by chapter 93, Laws of 1919, approved
 15 April eleventh, one thousand nine hundred and nineteen, insofar as paying of com-
 16 pensation for total disabilities of this class is concerned. The balance of the amount
 17 of money received shall be credited to the account of the rehabilitation commission
 18 for physically handicapped persons, to be used in carrying out the purposes of the
 19 act creating the above-named commission, approved April tenth, one thousand nine
 20 hundred and nineteen.

1 3. This act shall take effect immediately.

5235 (1923)

Spon. STATEMENT.

The purpose of this act is to provide means for paying total disability compensa-
 tion to persons becoming totally disabled as a result of two accidents while working for
 different employers, and to secure funds to assist in rehabilitating physically handicapped
 persons.

9 when such persons had previously been permanently and partially disabled
10 [from some other cause] as a result of experiencing a permanent injury
11 under conditions entitling such person to compensation therefore. Loss of
12 sight of the remaining eye due to an industrial compensable accident after
13 loss of sight in one eye from any cause whatsoever whereby a person is
14 rendered totally blind shall entitle such person to share in this fund. In such
15 cases the compensation payable from said fund shall cover that portion of
16 the period for which compensation is payable in ordinary cases of total
17 disability arising under this act, not covered by compensation due for the
18 two disabilities separately, as above set forth. Payments to such totally dis-
19 abled employees shall be made from said fund by the State Treasurer upon
20 warrants of the Commissioner of Labor. This act shall be retroactive as
21 touching any accident occurring since the amending of chapter ninety-five,
22 laws of one thousand nine hundred and eleven, by amendment of clause eleven
23 (v), by chapter ninety-three, laws of one thousand nine hundred and nine-
24 teen, approved April eleventh, one thousand nine hundred and nineteen, inso-
25 far as paying of compensation for total disabilities of this class is concerned.
26 [The balance of the amount of money received shall be credited to the account
27 of the rehabilitation commission for physically handicapped persons, to be
28 used in carrying out the purposes of the act creating the above named com-
29 mission, approved April tenth, one thousand nine hundred and nineteen.]
30 The fund mentioned in this act may also be used, upon the order, in writing of
31 the Governor to pay shortage occasioned by any defalcation occurring in the
32 Workmen's Compensation Bureau of the Department of Labor.

Spencer STATEMENT *A169(1135)*

The purpose of the amendment to the title is to permit a man who has one good eye lost in industry by accident and then becomes totally blind to come under the benefits of the act as originally intended. The act was for the purpose of a blind man and to give him a means whereby he could live, but the upper

STATEMENT

The purpose of this act is to eliminate double bookkeeping in that the State Tax Commissioner receives the assessment. The Commissioner of Labor is charged with the responsibility of the administration of the act and the moneys should be paid to him direct.

The other purpose is to clarify the expression "some other cause" as unrelated to industrial operation.

Since this act was amended in 1936, Chapter 55, several claimants have filed claims and have been retroactive to 1911 whereas it was the intention that the benefits accrue as of the passage of the amendment of 1936.

This fund is collected for the benefit of workmen injured by industry and it is the purpose of this bill to so protect the fund for that purpose.

1 3. A new section is hereby added to read as follows:

2 3. Application for benefits under this act shall be made by a verified
 3 petition addressed to the Commissioner of Labor of the State of New Jersey
 4 who shall refer it to a Deputy Commissioner of Workmen's Compensation
 5 to hear testimony and for an advisory report as to findings. The decision,
 6 however, as to whether the petitioner shall or shall not be admitted to the
 7 benefits shall be rendered by the said Commissioner of Labor. Review of
 8 said decision shall be by Writ of Certiorari. In all proceedings affecting
 9 the fund under this act the Commissioner of Labor of the State of New
 10 Jersey shall be a necessary party.

1 4. This act shall take effect immediately.

STATEMENT

The purpose of this act is to eliminate double bookkeeping in that the State Tax Commissioner receives the assessment. The Commissioner of Labor is charged with the responsibility of the administration of the act and the moneys should be paid to him direct.

The other purpose is to clarify the expression "some other cause" as unrelated to industrial operation and provide a method of procedure.

Since this act was amended in 1936, chapter 55, several claimants have filed claims and have been retroactive in 1911 whereas it was the intention that the benefits accrue as of the passage of the amendment of 1936.

This fund is collected for the benefit of workmen injured by industry and it is the purpose of this bill to so protect the fund for that purpose with the exception of \$15,000.00 per year which may be used by the Rehabilitation Commission for persons handicapped by an industrial accident.

A22 (ACS) (1937)

4 3. Applications for benefits under this act shall be made by a verified
 5 petition filed in duplicate within two years after the date of the last pay-
 6 ment of compensation by the employer or the insurance carrier addressed
 7 to the Commissioner of Labor of the State of New Jersey who shall refer it
 8 to a Deputy Commissioner of Workmen's Compensation to hear testimony
 9 and for an advisory report as to findings [.] ; provided, however, that the
 10 limitation herein shall not apply to those persons now receiving or who have
 11 received compensation payments from said fund and whose accident occurred
 12 since June twenty-seventh, one thousand nine hundred and twenty-three. The
 13 decision, however, as to whether the petitioner shall or shall not be admitted
 14 to the benefits shall be rendered by the said Commissioner of Labor. Review
 15 of said decision shall be in accordance with section 34:15-66 of the Revised
 16 Statutes. In all proceedings affecting the fund under this act the Commis-
 17 sioner of Labor shall be a necessary party.

1 3. This act shall take effect immediately.

STATEMENT

The purpose of this act is to eliminate any inconsistencies which exist in the so-called State One Percent Fund by its reference to Revised Statutes 34:15-12 (b) of the Workmen's Compensation Act and to clarify the requirements of persons to become beneficiaries of this fund by the use of definite words herein.

The passage of this act will enable a totally blind man to receive the benefits under this act which have been denied him under the previous act because of technical language and will protect those persons who are now receiving the benefits under this act.

This fund is created by the payment by the insurance companies and self-insurers of one per centum (1%) of the compensation for the preceding year, and is for the benefit of workmen injured in industry who are totally disabled, and is not made up of moneys from taxation.

STATEMENT

The purpose of this bill is to permit the payment of additional One Per Cent Fund benefits to persons who qualify for benefits from such fund and who have rehabilitated themselves or who are or have been employed to the extent that they have wages or earnings equal or almost equal to or in excess of those received at the time of the accident. The enactment of this proposed legislation will permit the payment of \$5.00 per week so that the statute of limitations will not intervene and refers to certain accidents occurring prior to January 1, 1946. The present law has the same effect as to accidents occurring subsequent to January 1, 1946.

Certain technical changes to conform with the reorganization set-up are also made in this bill.