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LAW/KR

P.L.2011, CHAPTER 87, *approved July 1, 2011*
Senate, No. 2580 (*Second Reprint*)

1 AN ACT concerning claims for unemployment insurance benefits
2 and amending R.S.43:21-6.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. R.S.43:21-6 is amended to read as follows:

8 43:21-6. (a) Filing. ²(1)² Claims for benefits shall be made in
9 accordance with such regulations as the Director of the Division of
10 Unemployment and Temporary Disability Insurance of the
11 Department of Labor and Workforce Development of the State of
12 New Jersey may approve. Each employer shall post and maintain
13 on his premises printed notices of his subject status, of such design,
14 in such numbers and at such places as the director of the division
15 may determine to be necessary to give notice thereof to persons in
16 the employer's service. Each employer shall give to each individual
17 at the time he becomes unemployed, for any reason, whether the
18 unemployment is permanent or temporary, a printed copy of benefit
19 instructions. The benefit instructions given to the individual shall
20 include, but not be limited to, the following information: ²[(1)]
21 (A)² the date upon which the individual becomes unemployed, and,
22 in the case that the unemployment is temporary, ¹to the extent
23 possible, ¹the date upon which the individual ¹**[will]** is expected
24 to ¹be recalled to work; and ²[(2)] (B)² that the individual may lose
25 some or all of the benefit to which he is entitled if he fails to file a
26 claim in a timely manner. Both the aforesaid notices and
27 instructions ¹, including information detailing the time sensitivity of
28 filing a claim, ¹ shall be supplied by the division to employers
29 without cost to them. ¹Nothing in this section shall be construed so
30 as to require an employer to re-hire an individual formerly in the
31 employer's service. ¹

32 ²(2) Any claimant, except for a claimant who has, for any period
33 during his base year, served in the military, worked for the federal
34 government, or worked outside the State of New Jersey, may
35 choose to certify, cancel or close his claim for unemployment
36 insurance benefits at any time, 24 hours a day and seven days a
37 week, via the Internet on a website developed by the division;
38 however, any claim that is certified, cancelled or closed after 7:00
39 PM will not be processed by the division until the next scheduled
40 posting date. ²

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 SLA committee amendments adopted January 20, 2011.

²Assembly ALA committee amendments adopted May 5, 2011.

1 (b) (1) Procedure for making initial determinations with respect
2 to benefit years commencing on or after January 1, 1953.

3 A representative or representatives designated by the director of
4 the division and hereafter referred to as a "deputy" shall promptly
5 examine the claim, and shall notify the most recent employing unit
6 and, successively as necessary, each employer in inverse
7 chronological order during the base year. Such notification shall
8 require said employing unit and employer to furnish such
9 information to the deputy as may be necessary to determine the
10 claimant's eligibility and his benefit rights with respect to the
11 employer in question.

12 In his discretion, the director may appoint special deputies to
13 make initial or subsequent determinations under subsection (f) of
14 R.S.43:21-4 and subsection (d) of R.S.43:21-5.

15 If any employer or employing unit fails to respond to the request
16 for information within 10 days after the mailing, or communicating
17 by electronic means, of such request, the deputy shall rely entirely
18 on information from other sources, including an affidavit to the best
19 of the knowledge and belief of the claimant with respect to his
20 wages and time worked. Except in the event of fraud, if it is
21 determined that any information in such affidavit is erroneous, no
22 penalty shall be imposed on the claimant.

23 The deputy shall promptly make an initial determination based
24 upon the available information. The initial determination shall
25 show the weekly benefit amount payable, the maximum duration of
26 benefits with respect to the employer to whom the determination
27 relates, and the ratio of benefits chargeable to the employer's
28 account for benefit years commencing on or after July 1, 1986, and
29 also shall show whether the claimant is ineligible or disqualified for
30 benefits under the initial determination. The claimant and the
31 employer whose account may be charged for benefits payable
32 pursuant to said determination shall be promptly notified thereof.

33 Whenever an initial determination is based upon information
34 other than that supplied by an employer because such employer
35 failed to respond to the deputy's request for information, such initial
36 determination and any subsequent determination thereunder shall be
37 incontestable by the noncomplying employer, as to any charges to
38 his employer's account because of benefits paid prior to the close of
39 the calendar week following the receipt of his reply. Such initial
40 determination shall be altered if necessary upon receipt of
41 information from the employer, and any benefits paid or payable
42 with respect to weeks occurring subsequent to the close of the
43 calendar week following the receipt of the employer's reply shall be
44 paid in accordance with such altered initial determination.

45 The deputy shall issue a separate initial benefit determination
46 with respect to each of the claimant's base year employers, starting
47 with the most recent employer and continuing as necessary in the
48 inverse chronological order of the claimant's last date of

1 employment with each such employer. If an appeal is taken from
2 an initial determination, as hereinafter provided, by any employer
3 other than the first chargeable base year employer or for benefit
4 years commencing on or after July 1, 1986, that employer from
5 whom the individual was most recently separated, then such appeal
6 shall be limited in scope to include only one or more of the
7 following matters:

8 (A) The correctness of the benefit payments authorized to be
9 made under the determination;

10 (B) Fraud in connection with the claim pursuant to which the
11 initial determination is issued;

12 (C) The refusal of suitable work offered by the chargeable
13 employer filing the appeal; ²[or]²

14 (D) Gross misconduct as provided in subsection (b) of
15 R.S.43:21-5.

16 The amount of benefits payable under an initial determination
17 may be reduced or canceled if necessary to avoid payment of
18 benefits for a number of weeks in excess of the maximum specified
19 in subsection (d) of R.S.43:21-3.

20 Unless the claimant or any interested party, within seven
21 calendar days after delivery of notification of an initial
22 determination or within 10 calendar days after such notification was
23 mailed to his or their last-known address and addresses, files an
24 appeal from such decision, such decision shall be final and benefits
25 shall be paid or denied in accordance therewith, except for such
26 determinations as may be altered in benefit amounts or duration as
27 provided in this paragraph. Benefits payable for periods pending an
28 appeal and not in dispute shall be paid as such benefits accrue;
29 provided that insofar as any such appeal is or may be an appeal
30 from a determination to the effect that the claimant is disqualified
31 under the provisions of R.S.43:21-5 or any amendments thereof or
32 supplements thereto, benefits pending determination of the appeal
33 shall be withheld only for the period of disqualification as provided
34 for in said section, and notwithstanding such appeal, the benefits
35 otherwise provided by this act shall be paid for the period
36 subsequent to such period of disqualification; and provided, also,
37 that if there are two determinations of entitlement, benefits for the
38 period covered by such determinations shall be paid regardless of
39 any appeal which may thereafter be taken, but no employer's
40 account shall be charged with benefits so paid, if the decision is
41 finally reversed.

42 (2) Procedure for making initial determinations in certain cases
43 of concurrent employment, with respect to benefit years
44 commencing on or after January 1, 1953 and prior to benefit years
45 commencing on or after July 1, 1986.

46 Notwithstanding any other provisions of this Title, if an
47 individual shows to the satisfaction of the deputy that there were at
48 least 13 weeks in his base period in each of which he earned wages

1 from two or more employers totaling \$30.00 or more but in each of
2 which there was no single employer from whom he earned as much
3 as \$100.00, then such individual's claim shall be determined in
4 accordance with the special provisions of this paragraph. In such
5 case, the deputy shall determine the individual's eligibility for
6 benefits, his average weekly wage, weekly benefit rate and
7 maximum total benefits as if all his base year employers were a
8 single employer. Such determination shall apportion the liability
9 for benefit charges thereunder to the individual's several base year
10 employers so that each employer's maximum liability for charges
11 thereunder bears approximately the same relation to the maximum
12 total benefits allowed as the wages earned by the individual from
13 each employer during the base year bears to his total wages earned
14 from all employers during the base year. Such initial determination
15 shall also specify the individual's last date of employment within
16 the base year with respect to each base year employer, and such
17 employers shall be charged for benefits paid under said initial
18 determination in the inverse chronological order of such last date of
19 employment.

20 (3) Procedure for making subsequent determinations with
21 respect to benefit years commencing on or after January 1, 1953.
22 The deputy shall make determinations with respect to claims for
23 benefits thereafter in the course of the benefit year, in accordance
24 with any initial determination allowing benefits, and under which
25 benefits have not been exhausted, and each notification of a benefit
26 payment shall be a notification of an affirmative subsequent
27 determination. The allowance of benefits by the deputy on any such
28 determination, or the denial of benefits by the deputy on any such
29 determination, shall be appealable in the same manner and under
30 the same limitations as is provided in the case of initial
31 determinations.

32 (c) Appeals. Unless such appeal is withdrawn, an appeal
33 tribunal, after affording the parties reasonable opportunity for fair
34 hearing, shall affirm or modify the findings of fact and the
35 determination. The parties shall be duly notified of such tribunal's
36 decision, together with its reasons therefor, which shall be deemed
37 to be the final decision of the board of review, unless further appeal
38 is initiated pursuant to subsection (e) of this section within 10 days
39 after the date of notification or mailing of the decision for any
40 decision made on or before December 1, 2010, or within 20 days
41 after the date of notification or mailing of such decision for any
42 decision made after December 1, 2010.

43 (d) Appeal tribunals. To hear and decide disputed benefit
44 claims, including appeals from determinations with respect to
45 demands for refunds of benefits under subsection (d) of R.S.43:21-
46 16, the director with the approval of the Commissioner of Labor and
47 Workforce Development shall establish impartial appeal tribunals
48 consisting of a salaried body of examiners under the supervision of

1 a Chief Appeals Examiner, all of whom shall be appointed pursuant
2 to the provisions of Title 11A of the New Jersey Statutes, Civil
3 Service and other applicable statutes.

4 (e) Board of review. The board of review may on its own
5 motion affirm, modify, or set aside any decision of an appeal
6 tribunal on the basis of the evidence previously submitted in such
7 case, or direct the taking of additional evidence, or may permit any
8 of the parties to such decision to initiate further appeals before it.
9 The board of review shall permit such further appeal by any of the
10 parties interested in a decision of an appeal tribunal which is not
11 unanimous and from any determination which has been overruled or
12 modified by any appeal tribunal. The board of review may remove
13 to itself or transfer to another appeal tribunal the proceedings on
14 any claim pending before an appeal tribunal. Any proceedings so
15 removed to the board of review shall be heard by a quorum thereof
16 in accordance with the requirements of subsection (c) of this
17 section. The board of review shall promptly notify the interested
18 parties of its findings and decision.

19 (f) Procedure. The manner in which disputed benefit claims,
20 and appeals from determinations with respect to (1) claims for
21 benefits and (2) demands for refunds of benefits under subsection
22 (d) of R.S.43:21-16 shall be presented, the reports thereon required
23 from the claimant and from employers, and the conduct of hearings
24 and appeals shall be in accordance with rules prescribed by the
25 board of review for determining the rights of the parties, whether or
26 not such rules conform to common law or statutory rules of
27 evidence and other technical rules of procedure. A full and
28 complete record shall be kept of all proceedings in connection with
29 a disputed claim. All testimony at any hearing upon a disputed
30 claim shall be recorded, but need not be transcribed unless the
31 disputed claim is further appealed.

32 (g) Witness fees. Witnesses subpoenaed pursuant to this section
33 shall be allowed fees at a rate fixed by the director. Such fees and
34 all expenses of proceedings involving disputed claims shall be
35 deemed a part of the expense of administering this chapter
36 (R.S.43:21-1 et seq.).

37 (h) Court review. Any decision of the board of review shall
38 become final as to any party upon the mailing of a copy thereof to
39 such party or to his attorney, or upon the mailing of a copy thereof
40 to such party at his last-known address. The Division of
41 Unemployment and Temporary Disability Insurance and any party
42 to a proceeding before the board of review may secure judicial
43 review of the final decision of the board of review. Any party not
44 joining in the appeal shall be made a defendant; the board of review
45 shall be deemed to be a party to any judicial action involving the
46 review of, or appeal from, any of its decisions, and may be
47 represented in any such judicial action by any qualified attorney,
48 who may be a regular salaried employee of the board of review or

1 has been designated by it for that purpose, or, at the board of
2 review's request, by the Attorney General.

3 (i) Failure to give notice. The failure of any public officer or
4 employee at any time heretofore or hereafter to give notice of
5 determination or decision required in subsections (b), (c) and (e) of
6 this section, as originally passed or amended, shall not relieve any
7 employer's account of any charge by reason of any benefits paid,
8 unless and until that employer can show to the satisfaction of the
9 director of the division that the said benefits, in whole or in part,
10 would not have been charged or chargeable to his account had such
11 notice been given. Any determination hereunder by the director
12 shall be subject to court review.

13 (cf: P.L.2011, c.32, s.1)

14

15 2. This act shall take effect immediately.

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20 _____
21 Requires specific instructions for workers filing unemployment
insurance claims.

SENATE, No. 2580

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED DECEMBER 20, 2010

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Mercer)

SYNOPSIS

Requires specific instructions for workers filing unemployment insurance claims.

CURRENT VERSION OF TEXT

As introduced.



S2580 TURNER

2

1 AN ACT concerning claims for unemployment insurance benefits
2 and amending R.S.43:21-6.

3

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

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7 1. R.S.43:21-6 is amended to read as follows:

8 43:21-6. (a) Filing. Claims for benefits shall be made in
9 accordance with such regulations as the Director of the Division of
10 Unemployment and Temporary Disability Insurance of the
11 Department of Labor and Workforce Development of the State of
12 New Jersey may approve. Each employer shall post and maintain
13 on his premises printed notices of his subject status, of such design,
14 in such numbers and at such places as the director of the division
15 may determine to be necessary to give notice thereof to persons in
16 the employer's service. Each employer shall give to each individual
17 at the time he becomes unemployed, for any reason, whether the
18 unemployment is permanent or temporary, a printed copy of benefit
19 instructions. The benefit instructions given to the individual shall
20 include, but not be limited to, the following information: (1) the
21 date upon which the individual becomes unemployed, and, in the
22 case that the unemployment is temporary, the date upon which the
23 individual will be recalled to work; and (2) that the individual may
24 lose some or all of the benefit to which he is entitled if he fails to
25 file a claim in a timely manner. Both the aforesaid notices and
26 instructions shall be supplied by the division to employers without
27 cost to them.

28 (b) (1) Procedure for making initial determinations with respect
29 to benefit years commencing on or after January 1, 1953.

30 A representative or representatives designated by the director of
31 the division and hereafter referred to as a "deputy" shall promptly
32 examine the claim, and shall notify the most recent employing unit
33 and, successively as necessary, each employer in inverse
34 chronological order during the base year. Such notification shall
35 require said employing unit and employer to furnish such
36 information to the deputy as may be necessary to determine the
37 claimant's eligibility and his benefit rights with respect to the
38 employer in question.

39 In his discretion, the director may appoint special deputies to
40 make initial or subsequent determinations under subsection (f) of
41 R.S.43:21-4 and subsection (d) of R.S.43:21-5.

42 If any employer or employing unit fails to respond to the request
43 for information within 10 days after the mailing, or communicating
44 by electronic means, of such request, the deputy shall rely entirely
45 on information from other sources, including an affidavit to the best

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 of the knowledge and belief of the claimant with respect to his
2 wages and time worked. Except in the event of fraud, if it is
3 determined that any information in such affidavit is erroneous, no
4 penalty shall be imposed on the claimant.

5 The deputy shall promptly make an initial determination based
6 upon the available information. The initial determination shall
7 show the weekly benefit amount payable, the maximum duration of
8 benefits with respect to the employer to whom the determination
9 relates, and the ratio of benefits chargeable to the employer's
10 account for benefit years commencing on or after July 1, 1986, and
11 also shall show whether the claimant is ineligible or disqualified for
12 benefits under the initial determination. The claimant and the
13 employer whose account may be charged for benefits payable
14 pursuant to said determination shall be promptly notified thereof.

15 Whenever an initial determination is based upon information
16 other than that supplied by an employer because such employer
17 failed to respond to the deputy's request for information, such initial
18 determination and any subsequent determination thereunder shall be
19 incontestable by the noncomplying employer, as to any charges to
20 his employer's account because of benefits paid prior to the close of
21 the calendar week following the receipt of his reply. Such initial
22 determination shall be altered if necessary upon receipt of
23 information from the employer, and any benefits paid or payable
24 with respect to weeks occurring subsequent to the close of the
25 calendar week following the receipt of the employer's reply shall be
26 paid in accordance with such altered initial determination.

27 The deputy shall issue a separate initial benefit determination
28 with respect to each of the claimant's base year employers, starting
29 with the most recent employer and continuing as necessary in the
30 inverse chronological order of the claimant's last date of
31 employment with each such employer. If an appeal is taken from
32 an initial determination, as hereinafter provided, by any employer
33 other than the first chargeable base year employer or for benefit
34 years commencing on or after July 1, 1986, that employer from
35 whom the individual was most recently separated, then such appeal
36 shall be limited in scope to include only one or more of the
37 following matters:

38 (A) The correctness of the benefit payments authorized to be
39 made under the determination;

40 (B) Fraud in connection with the claim pursuant to which the
41 initial determination is issued;

42 (C) The refusal of suitable work offered by the chargeable
43 employer filing the appeal; or

44 (D) Gross misconduct as provided in subsection (b) of
45 R.S.43:21-5.

46 The amount of benefits payable under an initial determination
47 may be reduced or canceled if necessary to avoid payment of

1 benefits for a number of weeks in excess of the maximum specified
2 in subsection (d) of R.S.43:21-3.

3 Unless the claimant or any interested party, within seven
4 calendar days after delivery of notification of an initial
5 determination or within 10 calendar days after such notification was
6 mailed to his or their last-known address and addresses, files an
7 appeal from such decision, such decision shall be final and benefits
8 shall be paid or denied in accordance therewith, except for such
9 determinations as may be altered in benefit amounts or duration as
10 provided in this paragraph. Benefits payable for periods pending an
11 appeal and not in dispute shall be paid as such benefits accrue;
12 provided that insofar as any such appeal is or may be an appeal
13 from a determination to the effect that the claimant is disqualified
14 under the provisions of R.S.43:21-5 or any amendments thereof or
15 supplements thereto, benefits pending determination of the appeal
16 shall be withheld only for the period of disqualification as provided
17 for in said section, and notwithstanding such appeal, the benefits
18 otherwise provided by this act shall be paid for the period
19 subsequent to such period of disqualification; and provided, also,
20 that if there are two determinations of entitlement, benefits for the
21 period covered by such determinations shall be paid regardless of
22 any appeal which may thereafter be taken, but no employer's
23 account shall be charged with benefits so paid, if the decision is
24 finally reversed.

25 (2) Procedure for making initial determinations in certain cases
26 of concurrent employment, with respect to benefit years
27 commencing on or after January 1, 1953 and prior to benefit years
28 commencing on or after July 1, 1986.

29 Notwithstanding any other provisions of this Title, if an
30 individual shows to the satisfaction of the deputy that there were at
31 least 13 weeks in his base period in each of which he earned wages
32 from two or more employers totaling \$30.00 or more but in each of
33 which there was no single employer from whom he earned as much
34 as \$100.00, then such individual's claim shall be determined in
35 accordance with the special provisions of this paragraph. In such
36 case, the deputy shall determine the individual's eligibility for
37 benefits, his average weekly wage, weekly benefit rate and
38 maximum total benefits as if all his base year employers were a
39 single employer. Such determination shall apportion the liability
40 for benefit charges thereunder to the individual's several base year
41 employers so that each employer's maximum liability for charges
42 thereunder bears approximately the same relation to the maximum
43 total benefits allowed as the wages earned by the individual from
44 each employer during the base year bears to his total wages earned
45 from all employers during the base year. Such initial determination
46 shall also specify the individual's last date of employment within
47 the base year with respect to each base year employer, and such
48 employers shall be charged for benefits paid under said initial

1 determination in the inverse chronological order of such last date of
2 employment.

3 (3) Procedure for making subsequent determinations with
4 respect to benefit years commencing on or after January 1, 1953.
5 The deputy shall make determinations with respect to claims for
6 benefits thereafter in the course of the benefit year, in accordance
7 with any initial determination allowing benefits, and under which
8 benefits have not been exhausted, and each notification of a benefit
9 payment shall be a notification of an affirmative subsequent
10 determination. The allowance of benefits by the deputy on any such
11 determination, or the denial of benefits by the deputy on any such
12 determination, shall be appealable in the same manner and under
13 the same limitations as is provided in the case of initial
14 determinations.

15 (c) Appeals. Unless such appeal is withdrawn, an appeal
16 tribunal, after affording the parties reasonable opportunity for fair
17 hearing, shall affirm or modify the findings of fact and the
18 determination. The parties shall be duly notified of such tribunal's
19 decision, together with its reasons therefor, which shall be deemed
20 to be the final decision of the board of review, unless further appeal
21 is initiated pursuant to subsection (e) of this section within 10 days
22 after the date of notification or mailing of the decision for any
23 decision made on or before December 1, 2010, or within 20 days
24 after the date of notification or mailing of such decision for any
25 decision made after December 1, 2010.

26 (d) Appeal tribunals. To hear and decide disputed benefit
27 claims, including appeals from determinations with respect to
28 demands for refunds of benefits under subsection (d) of R.S.43:21-
29 16, the director with the approval of the Commissioner of Labor and
30 Workforce Development shall establish impartial appeal tribunals
31 consisting of a salaried body of examiners under the supervision of
32 a Chief Appeals Examiner, all of whom shall be appointed pursuant
33 to the provisions of Title 11A of the New Jersey Statutes, Civil
34 Service and other applicable statutes.

35 (e) Board of review. The board of review may on its own
36 motion affirm, modify, or set aside any decision of an appeal
37 tribunal on the basis of the evidence previously submitted in such
38 case, or direct the taking of additional evidence, or may permit any
39 of the parties to such decision to initiate further appeals before it.
40 The board of review shall permit such further appeal by any of the
41 parties interested in a decision of an appeal tribunal which is not
42 unanimous and from any determination which has been overruled or
43 modified by any appeal tribunal. The board of review may remove
44 to itself or transfer to another appeal tribunal the proceedings on
45 any claim pending before an appeal tribunal. Any proceedings so
46 removed to the board of review shall be heard by a quorum thereof
47 in accordance with the requirements of subsection (c) of this

1 section. The board of review shall promptly notify the interested
2 parties of its findings and decision.

3 (f) Procedure. The manner in which disputed benefit claims,
4 and appeals from determinations with respect to (1) claims for
5 benefits and (2) demands for refunds of benefits under subsection
6 (d) of R.S.43:21-16 shall be presented, the reports thereon required
7 from the claimant and from employers, and the conduct of hearings
8 and appeals shall be in accordance with rules prescribed by the
9 board of review for determining the rights of the parties, whether or
10 not such rules conform to common law or statutory rules of
11 evidence and other technical rules of procedure. A full and
12 complete record shall be kept of all proceedings in connection with
13 a disputed claim. All testimony at any hearing upon a disputed
14 claim shall be recorded, but need not be transcribed unless the
15 disputed claim is further appealed.

16 (g) Witness fees. Witnesses subpoenaed pursuant to this section
17 shall be allowed fees at a rate fixed by the director. Such fees and
18 all expenses of proceedings involving disputed claims shall be
19 deemed a part of the expense of administering this chapter
20 (R.S.43:21-1 et seq.).

21 (h) Court review. Any decision of the board of review shall
22 become final as to any party upon the mailing of a copy thereof to
23 such party or to his attorney, or upon the mailing of a copy thereof
24 to such party at his last-known address. The Division of
25 Unemployment and Temporary Disability Insurance and any party
26 to a proceeding before the board of review may secure judicial
27 review of the final decision of the board of review. Any party not
28 joining in the appeal shall be made a defendant; the board of review
29 shall be deemed to be a party to any judicial action involving the
30 review of, or appeal from, any of its decisions, and may be
31 represented in any such judicial action by any qualified attorney,
32 who may be a regular salaried employee of the board of review or
33 has been designated by it for that purpose, or, at the board of
34 review's request, by the Attorney General.

35 (i) Failure to give notice. The failure of any public officer or
36 employee at any time heretofore or hereafter to give notice of
37 determination or decision required in subsections (b), (c) and (e) of
38 this section, as originally passed or amended, shall not relieve any
39 employer's account of any charge by reason of any benefits paid,
40 unless and until that employer can show to the satisfaction of the
41 director of the division that the said benefits, in whole or in part,
42 would not have been charged or chargeable to his account had such
43 notice been given. Any determination hereunder by the director
44 shall be subject to court review.

45 (cf: P.L.2010, c.82, s.1)

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47 2. This act shall take effect immediately.

STATEMENT

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This bill requires that the benefit instructions provided by each employer to a worker, at the time the worker becomes unemployed, include information detailing the time sensitivity of filing a claim for unemployment benefits. Currently, pursuant to statute and regulation, an employer must provide unemployed workers instructions for claiming unemployment benefits. The Department of Labor and Workforce Development, which is required by the same statute and regulation to supply these instructions to employers, uses Form BC-10.

Form BC-10 has one section that serves as a notice to the employer that he is required by law to give the form to any worker who is separated from work, and requires the employer to provide his employer name and address, New Jersey employer identification number, and employer telephone number on the form, before giving it to the worker. The second section serves as a notice to the worker and provides the website address which may be accessed to file a claim online, as well as the telephone numbers of three Reemployment Call Centers, located throughout the State, which may be used to file a claim by phone.

Currently, form BC-10 does not provide the worker detailed information which addresses the time sensitivity of filing a claim for unemployment benefits. This bill requires that the benefit instructions given to the worker include, but not be limited to, the following information: (1) the date upon which the worker becomes unemployed, and, in the case that the unemployment is temporary, the date upon which the worker is recalled to work; and (2) that the individual may lose some or all of the benefit to which he is entitled if he fails to file a claim in a timely manner.

Finally, the bill requires each employer to give each worker at the time he becomes unemployed, for any reason, whether the unemployment is permanent or temporary, a printed copy of benefit instructions.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 2580

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 20, 2011

The Senate Labor Committee reports favorably and with committee amendments Senate Bill No. 2580.

This bill requires that the benefit instructions, provided by each employer to a worker, at the time the worker becomes unemployed, include information detailing the time sensitivity of filing a claim for unemployment benefits.

Currently, the "BC-10" form that the Department of Labor and Workforce Development furnishes to employers to notify a worker of a layoff does not provide the worker with detailed information which addresses the time sensitivity of filing a claim for unemployment benefits. As amended by the committee, this bill requires that the benefit instructions given to the worker shall include, but not be limited to, the following information: (1) the date upon which the worker becomes unemployed, and, to the extent possible if the unemployment is temporary, the date upon which the worker is expected to be recalled to work; and (2) that the individual may lose some or all of the benefit to which he is entitled if he fails to file a claim in a timely manner.

Finally, the bill requires each employer to give each worker at the time he becomes unemployed, for any reason, whether the unemployment is permanent or temporary, a printed copy of benefit instructions.

The committee amendments specify that a recall date need only be provided to the extent possible and that the bill is not intended to provide any right to be re-hired.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2580

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 5, 2011

The Assembly Labor Committee reports favorably and with committee amendments Senate Bill No. 2580 (1R).

This bill, as amended, requires that the benefit instructions, provided by each employer to a worker, at the time the worker becomes unemployed, include information detailing the time sensitivity of filing a claim for unemployment benefits.

Currently, the "BC-10" form that the Department of Labor and Workforce Development furnishes to employers to notify a worker of a layoff does not provide the worker with detailed information addressing the time sensitivity of filing a claim for unemployment benefits. The bill requires each employer to give each worker at the time he becomes unemployed, for any reason, whether the unemployment is permanent or temporary, a printed copy of benefit instructions. This bill also requires that the benefit instructions given to the worker shall include, but not be limited to, the following information: (1) the date the worker becomes unemployed, and, to the extent possible if the unemployment is temporary, the date upon which the worker is expected to be recalled to work; and (2) notification that the individual may lose some or all of the benefits to which he is entitled if he fails to file a claim in a timely manner.

Finally, the bill specifies that no provision of the bill is intended to provide any unemployed individual the right to be re-hired.

COMMITTEE AMENDMENTS

The committee amended the bill to conform the statute amended by the bill to the most recent version of the law. These amendments make this bill identical to Assembly Bill No. 3794 (1R), reported by the Assembly Labor Committee on May 5, 2011.

ASSEMBLY, No. 3794

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 10, 2011

Sponsored by:

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Assemblyman PETER J. BARNES, III

District 18 (Middlesex)

SYNOPSIS

Requires specific instructions for workers filing unemployment insurance claims.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning claims for unemployment insurance benefits
2 and amending R.S.43:21-6.

3

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

6

7 1. R.S.43:21-6 is amended to read as follows:

8 43:21-6. (a) Filing. Claims for benefits shall be made in
9 accordance with such regulations as the Director of the Division of
10 Unemployment and Temporary Disability Insurance of the
11 Department of Labor and Workforce Development of the State of
12 New Jersey may approve. Each employer shall post and maintain
13 on his premises printed notices of his subject status, of such design,
14 in such numbers and at such places as the director of the division
15 may determine to be necessary to give notice thereof to persons in
16 the employer's service. Each employer shall give to each individual
17 at the time he becomes unemployed, for any reason, whether the
18 unemployment is permanent or temporary, a printed copy of benefit
19 instructions. The benefit instructions given to the individual shall
20 include, but not be limited to, the following information: (1) the
21 date upon which the individual becomes unemployed, and, in the
22 case that the unemployment is temporary, the date upon which the
23 individual will be recalled to work; and (2) that the individual may
24 lose some or all of the benefit to which he is entitled if he fails to
25 file a claim in a timely manner. Both the aforesaid notices and
26 instructions shall be supplied by the division to employers without
27 cost to them.

28 (b) (1) Procedure for making initial determinations with respect
29 to benefit years commencing on or after January 1, 1953.

30 A representative or representatives designated by the director of
31 the division and hereafter referred to as a "deputy" shall promptly
32 examine the claim, and shall notify the most recent employing unit
33 and, successively as necessary, each employer in inverse
34 chronological order during the base year. Such notification shall
35 require said employing unit and employer to furnish such
36 information to the deputy as may be necessary to determine the
37 claimant's eligibility and his benefit rights with respect to the
38 employer in question.

39 In his discretion, the director may appoint special deputies to
40 make initial or subsequent determinations under subsection (f) of
41 R.S.43:21-4 and subsection (d) of R.S.43:21-5.

42 If any employer or employing unit fails to respond to the request
43 for information within 10 days after the mailing, or communicating
44 by electronic means, of such request, the deputy shall rely entirely
45 on information from other sources, including an affidavit to the best

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 of the knowledge and belief of the claimant with respect to his
2 wages and time worked. Except in the event of fraud, if it is
3 determined that any information in such affidavit is erroneous, no
4 penalty shall be imposed on the claimant.

5 The deputy shall promptly make an initial determination based
6 upon the available information. The initial determination shall
7 show the weekly benefit amount payable, the maximum duration of
8 benefits with respect to the employer to whom the determination
9 relates, and the ratio of benefits chargeable to the employer's
10 account for benefit years commencing on or after July 1, 1986, and
11 also shall show whether the claimant is ineligible or disqualified for
12 benefits under the initial determination. The claimant and the
13 employer whose account may be charged for benefits payable
14 pursuant to said determination shall be promptly notified thereof.

15 Whenever an initial determination is based upon information
16 other than that supplied by an employer because such employer
17 failed to respond to the deputy's request for information, such initial
18 determination and any subsequent determination thereunder shall be
19 incontestable by the noncomplying employer, as to any charges to
20 his employer's account because of benefits paid prior to the close of
21 the calendar week following the receipt of his reply. Such initial
22 determination shall be altered if necessary upon receipt of
23 information from the employer, and any benefits paid or payable
24 with respect to weeks occurring subsequent to the close of the
25 calendar week following the receipt of the employer's reply shall be
26 paid in accordance with such altered initial determination.

27 The deputy shall issue a separate initial benefit determination
28 with respect to each of the claimant's base year employers, starting
29 with the most recent employer and continuing as necessary in the
30 inverse chronological order of the claimant's last date of
31 employment with each such employer. If an appeal is taken from
32 an initial determination, as hereinafter provided, by any employer
33 other than the first chargeable base year employer or for benefit
34 years commencing on or after July 1, 1986, that employer from
35 whom the individual was most recently separated, then such appeal
36 shall be limited in scope to include only one or more of the
37 following matters:

38 (A) The correctness of the benefit payments authorized to be
39 made under the determination;

40 (B) Fraud in connection with the claim pursuant to which the
41 initial determination is issued;

42 (C) The refusal of suitable work offered by the chargeable
43 employer filing the appeal; or

44 (D) Gross misconduct as provided in subsection (b) of
45 R.S.43:21-5.

46 The amount of benefits payable under an initial determination
47 may be reduced or canceled if necessary to avoid payment of

1 benefits for a number of weeks in excess of the maximum specified
2 in subsection (d) of R.S.43:21-3.

3 Unless the claimant or any interested party, within seven
4 calendar days after delivery of notification of an initial
5 determination or within 10 calendar days after such notification was
6 mailed to his or their last-known address and addresses, files an
7 appeal from such decision, such decision shall be final and benefits
8 shall be paid or denied in accordance therewith, except for such
9 determinations as may be altered in benefit amounts or duration as
10 provided in this paragraph. Benefits payable for periods pending an
11 appeal and not in dispute shall be paid as such benefits accrue;
12 provided that insofar as any such appeal is or may be an appeal
13 from a determination to the effect that the claimant is disqualified
14 under the provisions of R.S.43:21-5 or any amendments thereof or
15 supplements thereto, benefits pending determination of the appeal
16 shall be withheld only for the period of disqualification as provided
17 for in said section, and notwithstanding such appeal, the benefits
18 otherwise provided by this act shall be paid for the period
19 subsequent to such period of disqualification; and provided, also,
20 that if there are two determinations of entitlement, benefits for the
21 period covered by such determinations shall be paid regardless of
22 any appeal which may thereafter be taken, but no employer's
23 account shall be charged with benefits so paid, if the decision is
24 finally reversed.

25 (2) Procedure for making initial determinations in certain cases
26 of concurrent employment, with respect to benefit years
27 commencing on or after January 1, 1953 and prior to benefit years
28 commencing on or after July 1, 1986.

29 Notwithstanding any other provisions of this Title, if an
30 individual shows to the satisfaction of the deputy that there were at
31 least 13 weeks in his base period in each of which he earned wages
32 from two or more employers totaling \$30.00 or more but in each of
33 which there was no single employer from whom he earned as much
34 as \$100.00, then such individual's claim shall be determined in
35 accordance with the special provisions of this paragraph. In such
36 case, the deputy shall determine the individual's eligibility for
37 benefits, his average weekly wage, weekly benefit rate and
38 maximum total benefits as if all his base year employers were a
39 single employer. Such determination shall apportion the liability
40 for benefit charges thereunder to the individual's several base year
41 employers so that each employer's maximum liability for charges
42 thereunder bears approximately the same relation to the maximum
43 total benefits allowed as the wages earned by the individual from
44 each employer during the base year bears to his total wages earned
45 from all employers during the base year. Such initial determination
46 shall also specify the individual's last date of employment within
47 the base year with respect to each base year employer, and such
48 employers shall be charged for benefits paid under said initial

1 determination in the inverse chronological order of such last date of
2 employment.

3 (3) Procedure for making subsequent determinations with
4 respect to benefit years commencing on or after January 1, 1953.
5 The deputy shall make determinations with respect to claims for
6 benefits thereafter in the course of the benefit year, in accordance
7 with any initial determination allowing benefits, and under which
8 benefits have not been exhausted, and each notification of a benefit
9 payment shall be a notification of an affirmative subsequent
10 determination. The allowance of benefits by the deputy on any such
11 determination, or the denial of benefits by the deputy on any such
12 determination, shall be appealable in the same manner and under
13 the same limitations as is provided in the case of initial
14 determinations.

15 (c) Appeals. Unless such appeal is withdrawn, an appeal
16 tribunal, after affording the parties reasonable opportunity for fair
17 hearing, shall affirm or modify the findings of fact and the
18 determination. The parties shall be duly notified of such tribunal's
19 decision, together with its reasons therefor, which shall be deemed
20 to be the final decision of the board of review, unless further appeal
21 is initiated pursuant to subsection (e) of this section within 10 days
22 after the date of notification or mailing of the decision for any
23 decision made on or before December 1, 2010, or within 20 days
24 after the date of notification or mailing of such decision for any
25 decision made after December 1, 2010.

26 (d) Appeal tribunals. To hear and decide disputed benefit
27 claims, including appeals from determinations with respect to
28 demands for refunds of benefits under subsection (d) of R.S.43:21-
29 16, the director with the approval of the Commissioner of Labor and
30 Workforce Development shall establish impartial appeal tribunals
31 consisting of a salaried body of examiners under the supervision of
32 a Chief Appeals Examiner, all of whom shall be appointed pursuant
33 to the provisions of Title 11A of the New Jersey Statutes, Civil
34 Service and other applicable statutes.

35 (e) Board of review. The board of review may on its own
36 motion affirm, modify, or set aside any decision of an appeal
37 tribunal on the basis of the evidence previously submitted in such
38 case, or direct the taking of additional evidence, or may permit any
39 of the parties to such decision to initiate further appeals before it.
40 The board of review shall permit such further appeal by any of the
41 parties interested in a decision of an appeal tribunal which is not
42 unanimous and from any determination which has been overruled or
43 modified by any appeal tribunal. The board of review may remove
44 to itself or transfer to another appeal tribunal the proceedings on
45 any claim pending before an appeal tribunal. Any proceedings so
46 removed to the board of review shall be heard by a quorum thereof
47 in accordance with the requirements of subsection (c) of this

1 section. The board of review shall promptly notify the interested
2 parties of its findings and decision.

3 (f) Procedure. The manner in which disputed benefit claims,
4 and appeals from determinations with respect to (1) claims for
5 benefits and (2) demands for refunds of benefits under subsection
6 (d) of R.S.43:21-16 shall be presented, the reports thereon required
7 from the claimant and from employers, and the conduct of hearings
8 and appeals shall be in accordance with rules prescribed by the
9 board of review for determining the rights of the parties, whether or
10 not such rules conform to common law or statutory rules of
11 evidence and other technical rules of procedure. A full and
12 complete record shall be kept of all proceedings in connection with
13 a disputed claim. All testimony at any hearing upon a disputed
14 claim shall be recorded, but need not be transcribed unless the
15 disputed claim is further appealed.

16 (g) Witness fees. Witnesses subpoenaed pursuant to this section
17 shall be allowed fees at a rate fixed by the director. Such fees and
18 all expenses of proceedings involving disputed claims shall be
19 deemed a part of the expense of administering this chapter
20 (R.S.43:21-1 et seq.).

21 (h) Court review. Any decision of the board of review shall
22 become final as to any party upon the mailing of a copy thereof to
23 such party or to his attorney, or upon the mailing of a copy thereof
24 to such party at his last-known address. The Division of
25 Unemployment and Temporary Disability Insurance and any party
26 to a proceeding before the board of review may secure judicial
27 review of the final decision of the board of review. Any party not
28 joining in the appeal shall be made a defendant; the board of review
29 shall be deemed to be a party to any judicial action involving the
30 review of, or appeal from, any of its decisions, and may be
31 represented in any such judicial action by any qualified attorney,
32 who may be a regular salaried employee of the board of review or
33 has been designated by it for that purpose, or, at the board of
34 review's request, by the Attorney General.

35 (i) Failure to give notice. The failure of any public officer or
36 employee at any time heretofore or hereafter to give notice of
37 determination or decision required in subsections (b), (c) and (e) of
38 this section, as originally passed or amended, shall not relieve any
39 employer's account of any charge by reason of any benefits paid,
40 unless and until that employer can show to the satisfaction of the
41 director of the division that the said benefits, in whole or in part,
42 would not have been charged or chargeable to his account had such
43 notice been given. Any determination hereunder by the director
44 shall be subject to court review.

45 (cf: P.L.2010, c.82, s.1)

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47 2. This act shall take effect immediately.

STATEMENT

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This bill requires that the benefit instructions provided by each employer to a worker, at the time the worker becomes unemployed, include information detailing the time sensitivity of filing a claim for unemployment benefits. Currently, pursuant to statute and regulation, an employer must provide unemployed workers instructions for claiming unemployment benefits. The Department of Labor and Workforce Development, which is required by the same statute and regulation to supply these instructions to employers, uses Form BC-10.

Form BC-10 has one section that serves as a notice to the employer that he is required by law to give the form to any worker who is separated from work, and requires the employer to provide his employer name and address, New Jersey employer identification number, and employer telephone number on the form, before giving it to the worker. The second section serves as a notice to the worker and provides the website address which may be accessed to file a claim online, as well as the telephone numbers of three Reemployment Call Centers, located throughout the State, which may be used to file a claim by phone.

Currently, form BC-10 does not provide the worker detailed information which addresses the time sensitivity of filing a claim for unemployment benefits. This bill requires that the benefit instructions given to the worker include, but not be limited to, the following information: (1) the date upon which the worker becomes unemployed, and, in the case that the unemployment is temporary, the date upon which the worker is recalled to work; and (2) that the individual may lose some or all of the benefit to which he is entitled if he fails to file a claim in a timely manner.

Finally, the bill requires each employer to give each worker at the time he becomes unemployed, for any reason, whether the unemployment is permanent or temporary, a printed copy of benefit instructions.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3794

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 5, 2011

The Assembly Labor Committee reports favorably and with committee amendments Assembly Bill No. 3794.

This bill, as amended, requires that the benefit instructions provided by each employer to a worker, at the time the worker becomes unemployed, include information detailing the time sensitivity of filing a claim for unemployment benefits. Currently, pursuant to statute and regulation, an employer must provide unemployed workers instructions for claiming unemployment benefits. The Department of Labor and Workforce Development, which is required by the same statute and regulation to supply these instructions to employers, uses Form BC-10.

Currently, the "BC-10" form that the Department of Labor and Workforce Development furnishes to employers to notify a worker of a layoff does not provide the worker with detailed information addressing the time sensitivity of filing a claim for unemployment benefits. The bill requires each employer to give each worker at the time he becomes unemployed, for any reason, whether the unemployment is permanent or temporary, a printed copy of benefit instructions. This bill also requires that the benefit instructions given to the worker shall include, but not be limited to, the following information: (1) the date the worker becomes unemployed, and, to the extent possible if the unemployment is temporary, the date upon which the worker is expected to be recalled to work; and (2) notification that the individual may lose some or all of the benefits to which he is entitled if he fails to file a claim in a timely manner.

Finally, the bill specifies that no provision of the bill is intended to provide any unemployed individual the right to be re-hired.

COMMITTEE AMENDMENTS

The committee amended the bill to specify that a recall date need only be provided to the extent possible and that the bill is not intended to provide any unemployed individual the right to be re-hired. These amendments also include technical changes to conform the statute amended by the bill to the most recent version of the law. The

amendments make this bill identical to Senate Bill No. 2580 (2R), reported by the Assembly Labor Committee on May 5, 2011.