

43: 21-14

LEGISLATIVE HISTORY/ CHECKLIST

(Temporary Disabilities Benefits law--increased rate of interest on delinquent contributions)

NJSA 43:21-14

LAWS 1981

CHAPTER 556

Bill No. A3709

Sponsor(s) Weidel

Date Introduced Nov. 30, 1981

Committee: Assembly Revenue, Finance & Appropriations

Senate -----

Amended during passage

~~Yes~~

No

Substituted for S3390
(not attached since identical to A3709)

Date of Passage: Assembly Jan. 4, 1982

Senate Jan. 4, 1982

Date of approval Jan. 12, 1982

Following statements are attached if available:

Sponsor statement

Yes

~~No~~

Committee Statement: Assembly

Yes

~~No~~

Senate

~~Yes~~

No

Fiscal Note

~~Yes~~

No

Veto Message

~~Yes~~

No

Message on signing

Yes

~~No~~

Following were printed:

Reports

~~Yes~~

No

Hearings

~~Yes~~

No

6/22/81

CHAPTER 556 LAWS OF N. J. 1981
APPROVED 1-12-82

ASSEMBLY, No. 3709

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 30, 1981

By Assemblyman WEIDEL

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning unemployment compensation and temporary disability benefits and amending R. S. 43:21-14 and P. L. 1981, c. 190.

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

1 1. R. S. 43:21-14 is amended to read as follows:

2 43:21-14. (a) In addition to such reports as the Director of the
3 Division of **[Employment Security]** *Unemployment and Temporary*
4 *Disability Insurance* may require under the provisions of subsection
5 (g) of section 43:21-11 of this chapter (R. S. 43:21-1 et seq.),
6 every employer shall file with the division periodical contribution
7 reports on such forms and at such times as the director shall
8 prescribe, to disclose the employer's liability for contributions
9 under the provisions of this chapter (R. S. 43:21-1 et seq.), and
10 at the time of filing each contribution report shall pay the con-
11 tributions required by this chapter (R. S. 43:21-1 et seq.) for the
12 period covered by such report. The director may require that
13 such reports shall be under oath of the employer. Any employer
14 who shall fail to file any report, required by the director, on or
15 before the last day for the filing thereof shall pay a penalty of
16 \$1.00 for each day of delinquency until and including the tenth
17 day following such last day and, for any period of delinquency
18 after such tenth day, a penalty of \$1.00 a day or 20% of the amount
19 of the contributions due and payable by the employer for the period
20 covered by the report, whichever is the lesser; if there be no liability
21 for contributions for the period covered by any contribution report
22 or in the case of any report other than a contribution report, the
23 employer or employing unit shall pay a penalty of \$1.00 a day for
24 each day of delinquency in filing or \$15.00, whichever is the lesser;
25 provided, however, that when it is shown to the satisfaction of

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

26 the director that the failure to file any such report was not the
27 result of fraud or an intentional disregard of this chapter (R. S.
28 43:21-1 et seq.), or the regulations promulgated hereunder, the
29 director, in his discretion, may remit or abate any unpaid penalties
30 heretofore or hereafter imposed under this section and he may
31 also, in his discretion, ratify any remission or abatement of
32 penalties heretofore allowed by the Unemployment Compensation
33 Commission, its executive director or acting executive director,
34 or the Division of Employment Security, its director or acting
35 director. On or before October 1 of each year, the director shall
36 submit to the Commissioner of Labor **[and Industry]** a report
37 covering the 12-month period ending on the preceding June 30, and
38 showing the names and addresses of all employers for whom the
39 director remitted or abated any penalties, or ratified any remission
40 or abatement of penalties, and the amount of such penalties
41 with respect to each employer. Any employer who shall fail to
42 pay the contributions due for any period on or before the date
43 they are required by the division to be paid, shall pay interest
44 **[at the rate of 1% a month]** on the amount thereof from such date
45 until the date of payment thereof *at the rate of 1% a month through*
46 *June 30, 1981 and at the rate of 1 1/4% a month after June 30, 1981.*
47 Upon the written request of any employer or employing unit, filed
48 with the division on or before the due date of any report or con-
49 tribution payment, the director, for good cause shown, may grant,
50 in writing, an extension of time for the filing of such report or the
51 paying of such contribution with interest **[at the rate of 1% a**
52 **month on the amount thereof]** *at the applicable rate*; provided, no
53 such extension shall exceed 30 days and that no such extension
54 shall postpone payment of any contribution for any period beyond
55 the day preceding the last day for filing tax returns under Title
56 IX of the Federal Social Security Act for the year in which said
57 period occurs.

58 (b) The contributions, penalties, and interest due from any
59 employer under the provisions of this chapter (R. S. 43:21-1
60 et seq.), from the time they shall be due, shall be a personal debt
61 of the employer to the State of New Jersey, recoverable in any
62 court of competent jurisdiction in a civil action in the name of
63 the State of New Jersey; provided, however, that except in the
64 event of fraud, no employer shall be liable for contributions or
65 penalties unless contribution reports have been filed or assessments
66 have been made in accordance with subsections (c) or (d) of this
67 section before 4 years have elapsed from the last day of the calendar

68 year with respect to which any contributions become payable under
69 this chapter (R. S. 43:21-1 et seq.), nor shall any employer be
70 required to pay interest on any such contribution unless contribu-
71 tion reports were filed or assessments made within such 4-year
72 period; provided further, that if such contribution reports were
73 filed or assessments made within the 4-year period, no civil action
74 shall be instituted, nor shall any certificate be issued to the Clerk
75 of the Superior Court under subsection (e) of this section, except
76 in the event of fraud, after 6 years have elapsed from the last day
77 of the calendar year with respect to which any contributions
78 become payable under this chapter (R. S. 43:21-1 et seq.), or
79 July 1, 1958, whichever is later. Payments received from an em-
80 ployer on account of any debt incurred under the provisions of
81 this chapter (R. S. 43:21-1 et seq.) may be applied by the division
82 on account of the contribution liability of the employer and then
83 to interest and penalties, and any balance remaining shall be re-
84 coverable by the division from the employer. Upon application
85 therefor, the division shall furnish interested persons and entities
86 certificates of indebtedness covering employers, employing units
87 and others for contributions, penalties and interest, for each of
88 which certificate the division shall charge and collect a fee of
89 \$0.25 per name, no such certificate to be issued, however, for a fee
90 of less than \$1.00. All fees so collected shall be paid into the
91 unemployment compensation administration fund.

92 (c) If any employer shall fail to make any report as required
93 by the rules and regulations of the division pursuant to the pro-
94 visions of this chapter (R. S. 43:21-1 et seq.), the division may
95 make an estimate of the liability of such employer from any in-
96 formation it may obtain, and, according to such estimate so made,
97 assess such employer for the contributions, penalties, and interest
98 due the State from him, give notice of such assessment to the em-
99 ployer, and make demand upon him for payment.

100 (d) After a report is filed under the provisions of this chapter
101 (R. S. 43:21-1 et seq.) and the rules and regulations of the division,
102 the division shall cause the report to be examined and shall make
103 such further audit and investigation as it may deem necessary,
104 and if therefrom there shall be determined that there is a deficiency
105 with respect to the payment of the contributions due from such
106 employer, the division shall assess the additional contributions,
107 penalties, and interest due the State from such employer, give
108 notice of such assessment to the employer, and make demand upon
109 him for payment.

110 (e) As an additional remedy, the division may issue to the Clerk
111 of the Superior Court of New Jersey a certificate stating the amount
112 of the employer's indebtedness under this chapter (R. S. 43:21-1
113 et seq.) and describing the liability, and thereupon the clerk shall
114 immediately enter upon his record of docketed judgments such
115 certificate or an abstract thereof and duly index the same. Any
116 such certificate or abstract heretofore or hereafter docketed from
117 the time of docketing shall have the same force and effect as a
118 judgment obtained in the Superior Court of New Jersey and the
119 division shall have all the remedies and may take all the proceed-
120 ings for the collection thereof which may be had or taken upon the
121 recovery of such a judgment in a civil action upon contract in said
122 court. Such debt, from the time of docketing thereof, shall be a
123 lien on and bind the lands, tenements and hereditaments of the
124 debtor.

125 The Clerk of the Superior Court shall be entitled to receive for
126 docketing such certificate \$0.50, and for a certified transcript of
127 such docket \$0.50. If the amount set forth in said certificate as a
128 debt shall be modified or reversed upon review, as hereinafter
129 provided, the Clerk of the Superior Court shall, when an order
130 of modification or reversal is filed, enter in the margin of the docket
131 opposite the entry of the judgment the word "modified" or "re-
132 versed," as the case may be, and the date of such modification or
133 reversal.

134 The employer, or any other party having an interest in the
135 property upon which the debt is a lien, may deposit the amount
136 claimed in the certificate with the Clerk of the Superior Court of
137 New Jersey, together with an additional 10% of the amount
138 thereof, or \$100.00, whichever amount is the greater, to cover
139 interest and the costs of court, or in lieu of depositing the amount
140 in cash, may give a bond to the State of New Jersey in double the
141 amount claimed in the certificate, and file the same with the Clerk
142 of the Superior Court. Said bond shall have such surety and shall
143 be approved in the manner required by the Rules of the Supreme
144 Court.

145 After the deposit of said money or the filing of said bond, the
146 employer or any other party having an interest in the said prop-
147 erty, may, after exhausting all administrative remedies, secure
148 judicial review of the legality or validity of the indebtedness or
149 the amount thereof, and the said deposit of cash shall be as security
150 for and the bond shall be conditioned to prosecute the judicial
151 review with effect.

152 Upon the deposit of said money or the filing of the said bond
153 with the Clerk of the Superior Court, all proceedings on such judg-
154 ment shall be stayed until the final determination of the cause,
155 and the moneys so deposited shall be subject to the lien of the
156 indebtedness and costs and interest thereon, and the lands, tene-
157 ments, and hereditaments of said debtor shall forthwith be dis-
158 charged from the lien of the State of New Jersey and no execution
159 shall issue against the same by virtue of said judgment.

160 (f) If not later than 2 years after the calendar year in which
161 any moneys were erroneously paid to, or collected by the division,
162 whether such payments were voluntarily or involuntarily made or
163 made under mistake of law or of fact, an employer, employing unit,
164 or employee who has paid such moneys shall make application for
165 an adjustment thereof, the said moneys shall, upon order of the
166 director, be either credited or refunded, without interest, from
167 the appropriate fund. For like cause and within the same period,
168 credit or refund may be so made on the initiative of the director.

169 (g) All interest and penalties collected pursuant to this section
170 shall be paid into a special fund to be known as the unemployment
171 compensation auxiliary fund; all moneys in this special fund shall
172 be deposited, administered and disbursed, in the same manner and
173 under the same conditions and requirements as is provided by law
174 for other special funds in the State Treasury, and shall be expended,
175 under legislative appropriation, for the purpose of aiding in defray-
176 ing the cost of the administration of this chapter (R. S. 43:21-1
177 et seq.) and for essential and necessary expenditures in connection
178 with programs designed to stimulate employment. The Treasurer
179 of the State shall be ex officio the treasurer and custodian of this
180 special fund and, subject to legislative appropriation, shall ad-
181 minister the fund in accordance with the directions of the division.
182 Any balances in this fund shall not lapse at any time, but shall be
183 continuously available, subject to legislative appropriation, to the
184 division for expenditure. The State Treasurer shall give a separate
185 and additional bond conditioned upon the faithful performance of
186 his duties in connection with the unemployment compensation
187 auxiliary fund in an amount to be fixed by the division, the pre-
188 miums for such bond to be paid from the moneys in the said special
189 fund.

1 2. The following item in P. L. 1981, c. 190 on page 91 is amended
2 to read as follows:

DEPARTMENT OF LABOR

*Economic Planning, Development and Security**54 Manpower and Employment Services*

3 **【**Notwithstanding the provisions of C. 43:21-1 et seq., any em-
4 ployer who shall fail to pay Unemployment Compensation con-
5 tributions due for any period on or before the date they are
6 required by the Division of Unemployment and Disability Insurance
7 to be paid, shall pay interest at the rate of 1.25% a month on the
8 amount thereof from such date until the date of payment thereof.**】**

1 3. This act shall take effect immediately and shall be retroactive
2 to July 1, 1981.

STATEMENT

Effective July 1, 1981, the 1982 Appropriations Act, P L. 1981, c. 190 raised from 1% to 1.25% the monthly interest rate on existing or future delinquencies in "Unemployment Compensation contributions." Although Chapter 21 of Title 43 of the Revised Statutes is entitled "Unemployment Compensation", the provision in the Appropriations Act may conceivably be construed to apply to delinquent contributions under only Article 1 of Chapter 21, the "Unemployment Compensation Law", and not Article 2 of Chapter 21, the "Temporary Disability Benefits Law." It was the expressed intention of the sponsor of the budget resolution containing this provision that the increased interest rate apply to delinquent contributions for both unemployment compensation and temporary disability benefits. In fact, the Division of Unemployment and Temporary Disability Insurance, which administers the provisions of both articles, has collected taxes and has charged interest on delinquent accounts on a combined basis. This bill is intended to remove any doubt about the effect of the provision in the Appropriation Act. This bill is retroactive to July 1, 1981.

A3709 (1981)

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 3709

STATE OF NEW JERSEY

DATED: DECEMBER 3, 1981

Effective July 1, 1981, the 1982 Appropriations Act, P. L. 1981, c. 190 raised from 1% to 1.25% the monthly interest rate on existing or future delinquencies in "Unemployment Compensation contributions." Although Chapter 21 of Title 43 of the Revised Statutes is entitled "Unemployment Compensation," the provision in the Appropriations Act may conceivably be construed to apply to delinquent contributions under only Article 1 of Chapter 21, the "Unemployment Compensation Law," and not Article 2 of Chapter 21, the "Temporary Disability Benefits Law." It was the expressed intention of the sponsor of the budget resolution containing this provision that the increased interest rate apply to delinquent contributions for both unemployment compensation and temporary disability benefits. In fact, the Division of Unemployment and Temporary Disability Insurance, which administers the provisions of both articles, has collected taxes and has charged interest on delinquent accounts on a combined basis. This bill is intended to remove any doubt about the effect of the provision in the Appropriation Act. This bill is retroactive to July 1, 1981.

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FOR IMMEDIATE RELEASE

JANUARY 13, 1982

FOR FURTHER INFORMATION

Dave DeMaio - Bob Dowd

Governor Brendan Byrne has signed the following Assembly bills:

A-3709, sponsored by Assemblyman Karl Weidel (D-Mercer), corrects an oversight in the 1982 Appropriations Act by increasing the interest paid on delinquent accounts under the Temporary Disability Benefits Law. The Appropriations Act raised the interest paid on delinquent accounts under Unemployment Compensation. Employers receive one bill for both accounts.

A-3571, sponsored by Assemblywoman Leanna Brown (R-Morris), permits school boards to invest, with the employee's consent, a portion of an employee's pay in a mutual fund or annuity.

A-3432, sponsored by Assemblyman Thomas Gallo (D-Hudson), amends the Civil Service law so that a public employee who takes an authorized leave of absence without pay to serve in elective office may, upon returning to his original position, have his elective public service included in the computation of his Civil Service seniority rights. The bill is retroactive to 1979.

A-481, sponsored by Assemblyman David Schwartz (D-Middlesex), permits State grants under the "Inter-local Services Aid Act" for solid waste recycling and joint energy conservation services. The loans would be made by the Department of Community Affairs from an "economy in government" loan fund, which is sustained by repayment of loans.

A-3377, sponsored by Assemblyman Robert Littell (R-Sussex), defines the terms "minerals" and "mineral rights" as they pertain to deeds, leases or other legal instruments that convey or reserve such rights. Specifically, A-3777 provides that water and water rights are not "mineral rights" and must be specified in any leases, deeds or legal instruments.

A-3170, sponsored by Assemblyman John Markert (R-Bergen), permits a municipal government to refund all taxes collected on property owned by a charitable or religious organization, when such organization did not make a timely claim of exemption. However, there is a three year time limit and the organization must show good cause for not having filed for an exemption on time.

(MORE)