

43:21-14

LEGISLATIVE HISTORY CHECKLIST

NJSA 43:21-14

Laws of 1974 Chapter 194

Bill No. S1476

Sponsor(s) Dwyer & Feldman

Date Introduced November 21, 1974

Committee: Assembly Labor

Senate --

Amended during passage ~~Yes~~ No

Date of passage: Assembly December 17

Senate November 25

Date of approval January 3, 1975

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

Do Not Remove From Library
DEPOSITORY COPY

10/4/76
CJL 1277

SENATE, No. 1476

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 21, 1974

By Senators DWYER and FELDMAN

(Without Reference)

AN ACT concerning unemployment compensation, and amending
R. S. 43:21-14.

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 may require under the provisions
4 of subsection (g) of section 43:21-11 of this chapter (R. S. 43:21-1
5 et seq.), every employer shall file with the division periodical
6 contribution reports on such forms and at such times as the director
7 shall prescribe, to disclose the employer's liability for contributions
8 under the provisions of this chapter (R. S. 43:21-1 et seq.), and
9 at the time of filing each contribution report shall pay the con-
10 tributions required by this chapter (R. S. 43:21-1 et seq.) for the
11 period covered by such report. The director may require that
12 such reports shall be under oath of the employer. Any employer
13 who shall fail to file any report, required by the director, on or
14 before the last day for the filing thereof shall pay a penalty of
15 \$1.00 for each day of delinquency until and including the tenth
16 day following such last day and, for any period of delinquency
17 after such tenth day, a penalty of \$1.00 a day or 20% of the amount
18 of the contributions due and payable by the employer for the period
19 covered by the report, whichever is the lesser; if there be no liability
20 for contributions for the period covered by any contribution report
21 or in the case of any report other than a contribution report, the
22 employer or employing unit shall pay a penalty of \$1.00 a day for
23 each day of delinquency in filing or \$15.00, whichever is the lesser;
24 provided, however, that when it is shown to the satisfaction of
25 the director that the failure to file any such report was not the
26 result of fraud or an intentional disregard of this chapter (R. S.

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

27 43:21-1 et seq.), or the regulations promulgated hereunder, the
28 director, in his discretion, may remit or abate any unpaid penalties
29 heretofore or hereafter imposed under this section and he may
30 also, in his discretion, ratify any remission or abatement of
31 penalties heretofore allowed by the Unemployment Compensation
32 Commission, its executive director or acting executive director,
33 or the Division of Employment Security, its director or acting
34 director. On or before October 1 of each year, the director shall
35 submit to the Commissioner of Labor and Industry a report cover-
36 ing the 12-month period ending on the preceding June 30, and
37 showing the names and addresses of all employers for whom the
38 director remitted or abated any penalties, or ratified any remission
39 or abatement of penalties, and the amount of such penalties
40 with respect to each employer. Any employer who shall fail to
41 pay the contributions due for any period on or before the date
42 they are required by the division to be paid, shall pay interest
43 at the rate of 1% a month on the amount thereof from such date
44 until the date of payment thereof. Upon the written request of
45 any employer or employing unit, filed with the division on or
46 before the due date of any report or contribution payment, the
47 director, for good cause shown, may grant, in writing, an extension
48 of time for the filing of such report or the paying of such contribu-
49 tion with interest at the rate of 1% a month on the amount thereof;
50 provided, no such extension shall exceed 30 days and that no
51 such extension shall postpone payment of any contribution for
52 any period beyond the day preceding the last day for filing tax
53 returns under Title IX of the Federal Social Security Act for the
54 year in which said period occurs.

55 (b) The contributions, penalties, and interest due from any
56 employer under the provisions of this chapter (R. S. 43:21-1
57 et seq.), from the time they shall be due, shall be a personal debt
58 of the employer to the State of New Jersey, recoverable in any
59 court of competent jurisdiction in a civil action in the name of
60 the State of New Jersey; provided, however, that except in the
61 event of fraud, no employer shall be liable for contributions or
62 penalties unless contribution reports have been filed or assessments
63 have been made in accordance with subsections (c) or (d) of this
64 section before 4 years have elapsed from the last day of the calendar
65 year with respect to which any contributions become payable under
66 this chapter (R. S. 43:21-1 et seq.), nor shall any employer be
67 required to pay interest on any such contributions unless contribu-
68 tion reports were filed or assessments made within such 4-year
69 period; provided further, that if such contribution reports were

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

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

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

107 (e) As an additional remedy, the division may issue to the Clerk
108 of the Superior Court of New Jersey a certificate stating the amount
109 of the employer's indebtedness under this chapter (R. S. 43:21-1
110 et seq.) and describing the liability, and thereupon the clerk shall
111 immediately enter upon his record of docketed judgments such
112 certificate or an abstract thereof and duly index the same. Any

113 such certificate or abstract heretofore or hereafter docketed from
114 the time of docketing shall have the same force and effect as a
115 judgment obtained in the Superior Court of New Jersey and the
116 division shall have all the remedies and may take all the proceed-
117 ings for the collection thereof which may be had or taken upon the
118 recovery of such a judgment in a civil action upon contract in said
119 court. Such debt, from the time of docketing thereof, shall be a
120 lien on and bind the lands, tenements and hereditaments of the
121 debtor.

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

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

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

149 Upon the deposit of said money or the filing of the said bond
150 with the Clerk of the Superior Court, all proceedings on such judg-
151 ment shall be stayed until the final determination of the cause,
152 and the moneys so deposited shall be subject to the lien of the
153 indebtedness and costs and interest thereon, and the lands, tene-
154 ments, and hereditaments of said debtor shall forthwith be dis-

155 charged from the lien of the State of New Jersey and no execution
156 shall issue against the same by virtue of said judgment.

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

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

1 2. This act shall take effect immediately.

STATEMENT

This bill provides that moneys in the Unemployment Compensation Auxiliary Fund can be used for both defraying the cost of administering the New Jersey Unemployment Compensation Program as well as stimulating new employment in order to alleviate the present unemployment situation confronting the State.

FROM THE OFFICE OF THE GOVERNOR

JANUARY 3, 1975

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

DICK CAMPBELL

Governor Brendan Byrne signed into law Friday a bill establishing a manpower training program designed to create thousands of new jobs for the unemployed.

The bill, S-1477, sponsored by Senator Bernard J. Dwyer, D-Middlesex, is known as "The Emergency Employment Development Act of 1974."

The Governor also signed a companion bill, S-1476, which provides that moneys in the Unemployment Compensation Auxiliary Fund may be used for stimulating new employment as well as for administering the unemployment compensation program.

The Emergency Employment Development Act appropriates \$1 million from the Unemployment Compensation Auxiliary Fund to provide for the manpower training program and to restructure the state's Economic Development Program.

"This new law represents another major step we have taken in New Jersey to create new employment opportunities as quickly as possible," said Byrne.

"The new Economic Development Authority, which is granting low-interest loans to help finance new industries in the state and to assist in the expansion of existing ones, is another example," he said. "Through the work of the Authority and the implementation of the Emergency Employment Development Act, we expect to create 55,000 jobs this year for the working men and women of New Jersey."

The Emergency Employment Development Act establishes four basic programs. They are:

-- A Customized Manpower Training Program, to provide a trained work force in skills which fill the specific manpower needs for new and expanding companies at no cost to them;

-- An Office of Business Advocacy, to encourage the development of the economy, to assist industry in site selection, provide technical assistance in the design of a facility, provide information necessary to industry contemplating construction in New Jersey, and to expedite the cutting of red tape for these companies;

-- An International Trade Program, to develop and encourage the sale of New Jersey exports and solicit investment and development by foreign corporations in the state;

-- A Tourism and Promotion Program, to promote tourism in the State through assistance to developers wishing to construct tourist, convention, or recreational facilities in New Jersey, broaden the employment base of areas dependent on seasonal resort trade by encouraging the development of facilities which provide year-round employment, participate in the planning and establishment of Bicentennial attractions and activities, and develop a statewide plan for the establishment of Tourist Hospitality Information Centers.

"We must face the reality of recession," said Byrne. "We must address ourselves to the needs of our business community and dramatically improve our business climate. With programs such as the Emergency Employment Act and the Economic Development Authority, we can turn the economy around."

The money to be used in financing the Act's programs will not come from the regular unemployment fund, but from a fund built up by penalties. The initial grant of \$1 million authorized by the legislation is about what the auxiliary fund earns in interest annually.

According to Joseph A. Hoffman, Commissioner of the New Jersey Department of labor and Industry, immediate action will be taken to implement the four basic programs of the Act.

Explaining that inflation and recession are not the only factors influencing the employment crisis in New Jersey, the Commissioner said, "It is the state's responsibility to create jobs every year, just to keep pace with natural growth rates. If 500,000 jobs are not produced every ten years, we lose ground.

"With new and expanding industries being financed in New Jersey through the low interest loans obtained through the Economic Development Authority, and the proper use of the emergency employment programs, the jobs created should enable us to meet the state's growth rates."

###