

ASSEMBLY, No. 873

STATE OF NEW JERSEY

213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Assemblyman NELSON T. ALBANO
District 1 (Cape May, Atlantic and Cumberland)

Assemblywoman SHEILA Y. OLIVER
District 34 (Essex and Passaic)

Assemblywoman LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

Assemblyman WAYNE P. DEANGELO
District 14 (Mercer and Middlesex)

Co-Sponsored by:

Assemblymen Vas, Giblin, Burzichelli, Assemblywoman Stender,
Assemblymen Johnson, Scalera, Egan, Diegnan, Assemblywomen Vainieri
Huttle and Jasey

SYNOPSIS

Extends TDI to provide family leave benefits for workers caring for sick family members, newborn and newly adopted children.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/29/2008)

1 AN ACT providing benefits for family temporary disability leave,
2 amending R.S.43:21-4 and R.S.43:21-7 and amending and
3 supplementing P.L.1948, c.110.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. Section 2 of P.L.1948, c.110 (C.43:21-26) is amended to
9 read as follows:

10 2. Purpose. This act shall be liberally construed as remedial
11 legislation enacted upon the following declarations of public policy
12 and legislative findings of fact:

13 The public policy of this State, already established, is to protect
14 employees against the suffering and hardship generally caused by
15 involuntary unemployment. But the **[unemployment compensation**
16 **law]** "unemployment compensation law" provides benefit payments
17 to replace wage loss caused by involuntary unemployment only so
18 long as an individual is "able to work, and is available for work,"
19 and fails to provide any protection against wage loss suffered
20 because of inability to perform the duties of a job interrupted by
21 nonoccupational illness, injury, or other disability of the individual
22 or of members of the individual's family. Nor is there any other
23 comprehensive and systematic provision for the protection of
24 working people against loss of earnings due to a nonoccupational
25 sickness **[or]**, accident, or other disability.

26 The prevalence and incidence of nonoccupational sickness
27 **[and]**, accident, and other disability among employed people is
28 greatest among the lower income groups, who either cannot or will
29 not voluntarily provide out of their own resources against the
30 hazard of an earnings loss caused by nonoccupational sickness **[or]**,
31 accident, or other disability. Disabling sickness or accident occurs
32 throughout the working population at one time or another, and
33 approximately fifteen per centum (15%) of the number of people at
34 work may be expected to suffer disabling illness of more than one
35 week each year.

36 It **[has been]** was found, prior to the enactment of the
37 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
38 et seq.), that then existing voluntary plans for the payment of cash
39 sickness benefits **[cover]** covered less than one-half of the number
40 of working people of this State who **[are now]** were covered by the
41 **[unemployment compensation law,]** "unemployment compensation
42 law," and that even **[this]** that degree of voluntary protection
43 **[affords]** afforded uneven, unequal and sometimes uncertain

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 protection among the various voluntary benefit programs.

2 While the enactment of that law has provided stable protection
3 for New Jersey's disabled workers, very few workers are protected
4 from income losses caused by the need to take time off from work
5 to care for family members who are incapable of self-care,
6 including newborn and newly-adopted children. The growing
7 portion of middle-income families in which all adult family
8 members work, largely due to economic necessity, points to the
9 desperate need for replacement income when a working family
10 member must take time to care for family members who are unable
11 to take care of themselves. Moreover, the United States is the only
12 industrialized nation in the world which does not have a mandatory
13 workplace-based program for such income support. It is therefore
14 desirable and necessary to fill the gap in existing provisions for
15 protection against the loss of earnings caused by involuntary
16 unemployment, by extending such protection to meet the hazard of
17 earnings loss due to inability to work caused by nonoccupational
18 sickness **[or accident]**, accidents, or other disabilities of workers
19 and members of their families. Developing systems that help
20 families adapt to the competing interests of work and home not only
21 benefits workers, but also benefits employers by reducing employee
22 turnover and increasing worker productivity.

23 The foregoing facts and considerations require that there be a
24 uniform minimum program providing in a systematic manner for
25 the payment of reasonable benefits to replace partially such
26 earnings loss and to meet the continuing need for benefits where an
27 individual becomes disabled during unemployment or needs to care
28 for family members incapable of self-care. In order to maintain
29 consumer purchasing power, relieve the serious menace to health,
30 morals and welfare of the people caused by insecurity and the loss
31 of earnings, to reduce the necessity for public relief of needy
32 persons, to increase workplace productivity and alleviate the
33 enormous and growing stress on working families of balancing the
34 demands of work and family needs, and in the interest of the health,
35 welfare and security of the people of this State, such a system,
36 enacted under the police power, is hereby established, requiring the
37 payment of reasonable cash benefits to eligible individuals
38 **[suffering]** who are subject to accident or illness which is not
39 compensable under the **[workmen's]** worker's compensation law or
40 who need to care for family members incapable of self-care.

41 Since the enactment of the "Temporary Disability Benefits Law,"
42 P.L.1948, c.110 (C.43:21-25 et seq.), the State government-operated
43 State temporary disability benefits plan, or "State plan," has proven
44 to be highly efficient and cost effective in providing temporary
45 disability benefits to New Jersey workers. The State plan
46 guarantees the availability of coverage for all employers, regardless
47 of experience, with low overhead costs and a rapid processing of

1 claims and appeals by knowledgeable, impartial public employees.
2 Consequently, the percentage of all employers using the State plan
3 increased from 64% in 1952 to 98% in 2005, while the percentage
4 of employees covered by the State plan increased from 28% to 79%.
5 A publicly-operated, nonprofit State plan is therefore indispensable
6 to achieving the goals of the "Temporary Disability Benefits Law,"
7 P.L.1948, c.110 (C.43:21-25 et seq.).
8 (cf: P.L.1948, c.110, s.2)
9

10 2. Section 3 of P.L.1948, c.110 (C.43:21-27) is amended to
11 read as follows:

12 3. As used in this act, unless the context clearly requires
13 otherwise:

14 (a) (1) "Covered employer" means, with respect to whether an
15 employer is required to provide benefits during an employee's own
16 disability pursuant to P.L.1948, c.110 (C.43:21-25 et seq.), any
17 individual or type of organization, including any partnership,
18 association, trust, estate, joint-stock company, insurance company
19 or corporation, whether domestic or foreign, or the receiver, trustee
20 in bankruptcy, trustee or successor thereof, or the legal
21 representative of a deceased person, who is an employer subject to
22 the [chapter to which this act is a supplement, designated as the]
23 "unemployment compensation law" (R.S.43:21-1 et seq.), except
24 the State, its political subdivisions, and any instrumentality of the
25 State unless such governmental entity elects to become a covered
26 employer [under the "Temporary Disability Benefits Law"]
27 pursuant to paragraph (2) of this subsection (a); provided, however,
28 that commencing with the effective date of this act, the State of
29 New Jersey, including Rutgers, The State University, the University
30 of Medicine and Dentistry of New Jersey and the New Jersey
31 Institute of Technology, shall be deemed a covered employer, as
32 defined herein.

33 "Covered employer" means, after June 30, 2008 with respect to
34 whether an employer is required to provide benefits during an
35 employee's period of family temporary disability leave pursuant to
36 P.L.1948, c.110 (C.43:21-25 et seq.), any individual or type of
37 organization, including any partnership, association, trust, estate,
38 joint-stock company, insurance company or corporation, whether
39 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
40 successor thereof, or the legal representative of a deceased person,
41 who is an employer subject to the "unemployment compensation
42 law" (R.S.43:21-1 et seq.), including any governmental entity or
43 instrumentality which is an employer under R.S.43:21-19(h)(5).

44 (2) Any governmental entity or instrumentality which is an
45 employer under R.S.43:21-19(h)(5) may, with respect to the
46 provision of benefits during an employee's own disability pursuant
47 to P.L.1948, c.110 (C.43:21-25 et seq.), elect to become a "covered

1 employer" under this subsection beginning with the date on which
2 its coverage under ~~【subsection 19(h)(5)】~~R.S.43:21-19(h)(5) begins
3 or as of January 1 of any year thereafter by filing written notice of
4 such election with the division within at least 30 days of the
5 effective date. Such election shall remain in effect for at least two
6 full calendar years and may be terminated as of January 1 of any
7 year thereafter by filing with the division a written notice of
8 termination at least 30 days prior to the termination date.

9 (b) (1) "Covered individual" means, with respect to whether an
10 individual is eligible for benefits during an individual's own
11 disability pursuant to P.L.1948, c.110 (C.43:21-25 et seq.), any
12 person who is in employment, as defined in the 【chapter to which
13 this act is a supplement】, "unemployment compensations law"
14 (R.S.43:21-1 et seq.) for which the individual is entitled to
15 remuneration from a covered employer, or who has been out of such
16 employment for less than two weeks【. However,】. ~~except that~~
17 "covered individual" who is employed by the State of New Jersey,
18 including Rutgers, The State University, the University of Medicine
19 and Dentistry of New Jersey and the New Jersey Institute of
20 Technology, or by any governmental entity or instrumentality
21 which elects to become a "covered employer" pursuant to this
22 amendatory act, shall not be eligible to receive any benefits under
23 the "Temporary Disability Benefits Law" until such individual has
24 exhausted all sick leave accumulated as an employee in the
25 classified service of the State or accumulated under terms and
26 conditions similar to classified employees or accumulated under the
27 terms and conditions pursuant to the laws of this State or as the
28 result of a negotiated contract with any governmental entity or
29 instrumentality which elects to become a "covered employer."

30 "Covered individual" shall not mean, with respect to whether an
31 individual is eligible for benefits during an individual's own
32 disability pursuant to P.L.1948, c.110 (C.43:21-25 et seq.), any
33 member of the Division of State Police in the Department of Law
34 and Public Safety.

35 (2) "Covered individual" means, with respect to whether an
36 employer is required to provide benefits during an employee's
37 period of family temporary disability leave pursuant to P.L.1948,
38 c.110 (C.43:21-25 et seq.), any individual who is in employment, as
39 defined in the "unemployment compensation law" (R.S.43:21-1 et
40 seq.), for which the individual is entitled to remuneration from a
41 covered employer, or who has been out of that employment for less
42 than two weeks.

43 (c) "Division" or "commission" means the Division of
44 Unemployment and Temporary Disability Insurance of the
45 Department of Labor and Workforce Development, and any
46 transaction or exercise of authority by the director of the division
47 shall be deemed to be performed by the division.

1 (d) "Day" shall mean a full calendar day beginning and ending
2 at midnight.

3 (e) "Disability" shall mean such disability as is compensable
4 under section 5 of this act.

5 (f) "Disability benefits" shall mean any cash payments which
6 are payable to a covered individual for all or part of a period of
7 disability pursuant to this act.

8 (g) "Period of disability" with respect to any covered individual
9 shall mean **[the]**:

10 (1) The entire period of time during which the covered
11 individual is continuously and totally unable to perform the duties
12 of **[his]** the covered individual's employment because of the
13 covered individual's own disability, except that two periods of
14 disability due to the same or related cause or condition and
15 separated by a period of not more than 14 days shall be considered
16 as one continuous period of disability; provided the individual has
17 earned wages during such 14-day period with the employer who
18 was the individual's last employer immediately preceding the first
19 period of disability; and

20 (2) On or after July 1, 2008, the entire period of family
21 temporary disability leave taken from employment by the covered
22 individual.

23 (h) "Wages" shall mean all compensation payable by covered
24 employers to covered individuals for personal services, including
25 commissions and bonuses and the cash value of all compensation
26 payable in any medium other than cash.

27 (i) (1) (Deleted by amendment, P.L.2001, c.17).

28 (2) (Deleted by amendment, P.L.2001, c.17).

29 (3) "Base week" with respect to periods of disability
30 commencing on or after October 1, 1985 and before January 1,
31 2001, means any calendar week during which **[an]** a covered
32 individual earned in employment from a covered employer
33 remuneration equal to not less than 20% of the Statewide average
34 weekly remuneration as determined under subsection (c) of
35 R.S.43:21-3, which shall be adjusted to the next higher multiple of
36 \$1.00 if not already a multiple thereof.

37 (4) "Base week" with respect to periods of disability
38 commencing on or after January 1, 2001, means any calendar week
39 of **[an]** a covered individual's base year during which the covered
40 individual earned in employment from a covered employer
41 remuneration not less than an amount 20 times the minimum wage
42 in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on
43 October 1 of the calendar year preceding the calendar year in which
44 the benefit year commences, which amount shall be adjusted to the
45 next higher multiple of \$1.00 if not already a multiple thereof,
46 except that if in any calendar week an individual subject to this
47 paragraph is in employment with more than one employer, the

1 covered individual may in that calendar week establish a base week
2 with respect to each of the employers from whom the covered
3 individual earns remuneration equal to not less than the amount
4 defined in this paragraph during that week.

5 (j) "Average weekly wage" means the amount derived by
6 dividing a covered individual's total wages earned from the
7 individual's most recent covered employer during the base weeks in
8 the eight calendar weeks immediately preceding the calendar week
9 in which a period of disability commenced, by the number of such
10 base weeks. If this computation yields a result which is less than
11 the individual's average weekly earnings in employment, as defined
12 in the chapter to which this act is a supplement, with all covered
13 employers during the base weeks in such eight calendar weeks, then
14 the average weekly wage shall be computed on the basis of earnings
15 from all covered employers during the eight base weeks
16 immediately preceding the week in which the disability
17 commenced.

18 (k) "Child" means a biological, adopted, or foster child,
19 stepchild or legal ward of a covered individual, or child of a
20 domestic partner of the covered individual, who is less than 19
21 years of age or is 19 years of age or older but incapable of self-care
22 because of mental or physical impairment.

23 (l) "Domestic partner" means a domestic partner as defined in
24 section 3 of P.L.2003, c.246 (C.26:8A-3).

25 (m) "Family member" means a child, spouse, domestic partner or
26 parent of a covered individual.

27 (n) "Family temporary disability leave" means leave taken by a
28 covered individual from work with an employer to (1) participate in
29 the providing of care for a family member of the individual made
30 necessary by a serious health condition of the family member,
31 including providing psychological comfort and arranging third party
32 care for the family member; or (2) be with a child during the first 12
33 months after the child's birth, if the individual or the domestic
34 partner of the individual is a biological parent of the child, or the
35 first 12 months after the placement of the child for adoption with
36 the individual. "Family temporary disability leave" does not
37 include any period of time in which a covered individual is paid
38 benefits pursuant to P.L.1948, c.110 (C.43:21-25 et seq.) because
39 the individual is unable to perform the duties of the individual's
40 employment due to the individual's own disability.

41 (o) "Parent of a covered individual" means a biological parent,
42 foster parent, adoptive parent, or stepparent of the covered
43 individual or a person who was a legal guardian of the covered
44 individual when the covered individual was a child.

45 (p) "Placement for adoption" means the time when a covered
46 individual adopts a child or becomes responsible for a child pending
47 adoption by the covered individual.

1 (q) "Serious health condition" means an illness, injury,
2 impairment or physical or mental condition which requires:
3 inpatient care in a hospital, hospice, or residential medical care
4 facility; or continuing medical treatment or continuing supervision
5 by a legally licensed physician, dentist, optometrist, podiatrist,
6 practicing psychologist, advanced practice nurse, or chiropractor.
7 (cf: P.L.2001, c.17, s.3)

8
9 3. Section 5 of P.L.1948, c.110 (C.43:21-29) is amended to
10 read as follows:

11 5. Compensable disability. **【Disability】** (a) In the case of the
12 disability of a covered individual, disability shall be compensable
13 subject to the limitations of this act**【, where a】** if the disability is
14 the result of the covered individual **【suffers any】** suffering an
15 accident or sickness not arising out of and in the course of the
16 individual's employment or if so arising not compensable under the
17 workers' compensation law **【(Title 34 of the Revised Statutes)】**
18 R.S.34:15-1 et seq., and resulting in the individual's total inability
19 to perform the duties of employment.

20 (b) In the case of an individual taking family temporary
21 disability leave, the leave shall be compensable subject to the
22 limitations of P.L. c. (C.)(pending before the
23 Legislature as this bill).
24 (cf: P.L.1980, c.90, s.13)

25
26 4. Section 11 of P.L.1948, c.110 (C.43:21-35) is amended to
27 read as follows:

28 11. (a) If the division is furnished satisfactory evidence that a
29 majority of the employees covered by an approved private plan
30 have made election in writing to discontinue such plan, the division
31 shall withdraw its approval of such plan effective at the end of the
32 calendar quarter next succeeding that in which such evidence is
33 furnished. Upon receipt of a petition therefor signed by not less
34 than 10% of the employees covered by an approved private plan,
35 the division shall require the employer upon 30 days' written notice
36 to conduct an election by ballot in writing to determine whether or
37 not a majority of the employees covered by such private plan favor
38 discontinuance thereof; provided, that such election shall not be
39 required more often than once in any 12-month period.

40 (b) Unless sooner permitted, for cause, by the division, no
41 approved private plan shall be terminated by an employer, in whole
42 or in part, until at least 30 days after written notice of intention so
43 to do has been given by the employer to the division and after
44 notices are conspicuously posted so as reasonably to assure their
45 being seen, or after individual notices are given to the employees
46 concerned.

1 (c) The division may, after notice and hearing, withdraw its
2 approval of any approved private plan if it finds that there is danger
3 that the benefits accrued or to accrue will not be paid, that the
4 security for such payment is insufficient, or for other good cause
5 shown. No employer, and no union or association representing
6 employees, shall so administer or apply the provisions of an
7 approved private plan as to derive any profit therefrom. The
8 division may withdraw its approval from any private plan which is
9 administered or applied in violation of this provision.

10 (d) No termination of an approved private plan shall affect the
11 payment of benefits, in accordance with the provisions of the plan,
12 to **[disabled]** employees whose period of disability commenced
13 prior to the date of termination. Employees who have ceased to be
14 covered by an approved private plan because of its termination
15 shall, subject to the limitations and restrictions of this act, become
16 eligible forthwith for benefits from the State Disability Benefits
17 Fund for a period of disability commencing after such cessation,
18 and contributions with respect to their wages shall immediately
19 become payable as otherwise provided by law. Any withdrawal of
20 approval of a private plan pursuant to this section shall be
21 reviewable by writ of certiorari or by such other procedure as may
22 be provided by law.

23 (e) Anything in this act to the contrary notwithstanding, a
24 covered employer who, under an approved private plan, is
25 providing benefits at least equal to those required by the State plan,
26 may modify the benefits under the private plan so as to provide
27 benefits not less than the benefits required by the State plan**;**
28 **provided, that individuals].** Individuals covered under **[such] a**
29 private plan shall not be required to contribute to **[such] the** plan at
30 a rate exceeding 3/4 of 1% of the amount of "wages" established for
31 any calendar year under the provisions of R.S.43:21-7(b) prior to
32 January 1, 1975, and 1/2 of 1% for calendar years beginning on or
33 after January 1, 1975, except that, for calendar years beginning after
34 December 31, 2007, if the employer is a covered employer with
35 respect to being required to provide benefits during periods of
36 family temporary disability, the employer may require the
37 individuals covered by the private plan to contribute an additional
38 amount not exceeding the amount the individuals would pay
39 pursuant to paragraph (1)(G)(ii) of subsection (d) of R.S.43:21-7.
40 Notification of **[such] the** proposed modification shall be given by
41 the employer to the division and to the individuals covered under
42 **[such] the plan[, on or before May 1, 1975].**

43 (cf: P.L.1974, c.86, s.8)

44
45 5. Section 14 of P.L.1948, c.110 (C.43:21-38) is amended to
46 read as follows:

1 14. Duration of benefits. With respect to periods of disability
2 commencing on or after January 1, 1953, disability benefits, not in
3 excess of an individual's maximum benefits, shall be payable with
4 respect to disability which commences while a person is a covered
5 individual under the Temporary Disability Benefits Law, and shall
6 be payable with respect to the eighth consecutive day of such
7 disability and each day thereafter that such period of disability
8 continues; and if benefits shall be payable for three consecutive
9 weeks with respect to any period of disability commencing on or
10 after January 1, 1968, then benefits shall also be payable with
11 respect to the first seven days thereof. The maximum total benefits
12 payable to any eligible individual for any period of disability of the
13 individual commencing on or after January 1, 1968, shall be either
14 26 times his weekly benefit amount or 1/3 of his total wages in his
15 base year, whichever is the lesser; provided that such maximum
16 amount shall be computed in the next lower multiple of \$1.00 if not
17 already a multiple thereof. The maximum total benefits payable to
18 any eligible individual for any period of family temporary disability
19 leave commencing on or after July 1, 2008, shall be 12 times the
20 individual's weekly benefit amount; provided that the maximum
21 amount shall be computed in the next lower multiple of \$1.00, if not
22 already a multiple thereof.

23 (cf: P.L.1984, c.104, s.2)

24
25 6. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to
26 read as follows:

27 15. Limitation of benefits. Notwithstanding any other provision
28 of the "Temporary Disability Benefits Law," P.L.1948, c.110
29 (C.43:21-25 et seq.), no benefits shall be payable under the State
30 plan to any **[person]** individual:

31 (a) for the first seven consecutive days of each period of
32 disability; except that if benefits shall be payable for three
33 consecutive weeks with respect to any period of disability
34 **[commencing on or after January 1, 1968]**, then benefits shall also
35 be payable with respect to the first seven days thereof, and, in the
36 case of intermittent leave in a single period of family temporary
37 disability leave taken to provide care for a family member of the
38 individual with a serious health condition, the seven-day waiting
39 period shall apply only one time during the entire period of leave,
40 provided that no benefits shall in any case be paid for family
41 temporary disability leave which is shorter in duration than one
42 workweek;

43 (b) (1) for more than 26 weeks with respect to any one period of
44 disability of the individual;

45 (2) for more than 12 weeks with respect to any one period of
46 family temporary disability leave; or

1 (3) for more than 12 weeks of family temporary disability leave
2 during any 12-month period, including family temporary disability
3 leave taken pursuant to paragraph (2) of subsection (f) of
4 R.S.43:21-4 while unemployed.

5 (c) for any period of disability which did not commence while
6 the claimant was a covered individual;

7 (d) for any period of disability during which the claimant, or, in
8 a case of family temporary disability leave for a serious health
9 condition of a family member of the claimant, the family member,
10 is not under the care of a legally licensed physician, dentist,
11 optometrist, podiatrist, practicing psychologist, advanced practice
12 nurse, or chiropractor, who, when requested by the division, shall
13 certify within the scope of the practitioner's practice, the disability
14 of the claimant or the serious health condition of the family
15 member, the probable duration thereof, and, where applicable, the
16 medical facts within the practitioner's knowledge;

17 (e) (Deleted by amendment, P.L.1980, c.90.)

18 (f) for any period of disability due to willfully and intentionally
19 self-inflicted injury, or to injury sustained in the perpetration by the
20 claimant of a crime of the first, second, or third degree;

21 (g) for any period during which the claimant performs any work
22 for remuneration or profit;

23 (h) in a weekly amount which together with any remuneration
24 the claimant continues to receive from the employer would exceed
25 regular weekly wages immediately prior to disability;

26 (i) for any period during which a covered individual would be
27 disqualified for unemployment compensation benefits under
28 subsection (d) of R.S.43:21-5, unless the disability commenced
29 prior to such disqualification; and there shall be no other cause of
30 disqualification or ineligibility to receive disability benefits
31 hereunder except as may be specifically provided in this act.

32 (cf: P.L.2004, c.168, s.2)

33
34 7. (New section) a. Family temporary disability leave shall be
35 compensable subject to the limitations of P.L. , c. (C.)
36 (pending before the Legislature as this bill) for any period of family
37 temporary disability leave taken by a covered individual which
38 commences after June 30, 2008.

39 b. The employer of an individual may permit or require the
40 individual, during a period of family temporary disability leave, to
41 use any paid sick leave, vacation time or other leave at full pay
42 made available by the employer before the individual is eligible for
43 disability benefits for family temporary disability leave pursuant to
44 this act, except that the employer may not require the individual to
45 use more than two weeks worth of leave at full pay. The employer
46 may also have the total number of days worth of disability benefits
47 paid pursuant to P.L. , c. (C.) (pending before the

1 Legislature as this bill) to the individual during a period of family
2 temporary disability leave reduced by the number of days of leave
3 at full pay paid by the employer to the individual during that period.
4 If the employer requires the individual to use one week or more of
5 leave at full pay, the employee shall be permitted to take that fully-
6 paid leave during the waiting period required pursuant to subsection
7 (a) of section 15 of P.L.1948, c.110 (C.43:21-39). Nothing in
8 P.L. , c. (C.) (pending before the Legislature as this bill)
9 shall be construed as nullifying any provision of an existing
10 collective bargaining agreement or employer policy, or preventing
11 any new provision of a collective bargaining agreement or employer
12 policy, which provides employees more generous leave or gives
13 employees greater rights to select which kind of leave is used or
14 select the order in which the different kinds of leave are used.

15 c. An individual shall not simultaneously receive disability
16 benefits for family temporary disability leave and any other
17 disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et seq.)
18 or any unemployment compensation.

19 d. Each covered employer shall conspicuously post
20 notification, in a place or places accessible to all employees in each
21 of the employer's workplaces, in a form issued in regulation
22 promulgated by the commissioner, of each covered employee's
23 rights regarding benefits payable pursuant to this section. The
24 employer shall also provide each employee of the employer with a
25 written copy of the notification: (1) not later than 30 days after the
26 form of the notification is issued by regulation; (2) at the time of the
27 employee's hiring, if the employee is hired after the issuance; (3)
28 whenever the employee notifies the employer that the employee is
29 taking time off for circumstances under which the employee is
30 eligible for benefits pursuant to this section; and (4) at any time,
31 upon the first request of the employee.

32

33 8. (New section) a. In the case of a family member who has a
34 serious health condition, the benefits for family temporary disability
35 leave may be taken intermittently when medically necessary, if: the
36 total time within which the leave is taken does not exceed 12
37 months; the covered individual provides the employer with prior
38 notice of the leave in a reasonable and practicable manner and with
39 a copy of the certification required pursuant to subsection b. of this
40 section; and the covered individual makes a reasonable effort to
41 schedule the leave so as not to unduly disrupt the operations of the
42 employer.

43 b. Any period of family temporary disability leave for the
44 serious health condition of a family member of the covered
45 individual shall be supported by certification provided by a legally
46 licensed physician, dentist, optometrist, podiatrist, practicing

1 psychologist, advanced practice nurse, or chiropractor. The
2 certification shall be sufficient if it states:

3 (1) The date, if known, on which the serious health condition
4 commenced;

5 (2) The probable duration of the condition;

6 (3) The medical facts within the knowledge of the provider of
7 the certification regarding the condition;

8 (4) A statement that the serious health condition warrants the
9 participation of the covered individual in providing health care,
10 including providing psychological comfort and arranging third party
11 care for the family member;

12 (5) An estimate of the amount of time that the covered
13 individual is needed for participation in the care of the family
14 member;

15 (6) If the leave is intermittent, a statement of the medical
16 necessity for the intermittent leave and the expected duration of the
17 intermittent leave; and

18 (7) If the leave is intermittent and for planned medical
19 treatment, the dates of the treatment.

20 c. A covered individual claiming benefits to provide care for a
21 family member with a serious health condition under the State plan
22 or during unemployment shall, if requested by the division, have the
23 family member submit to an examination by a legally licensed
24 physician, dentist, optometrist, podiatrist, chiropractor, practicing
25 psychologist or public health nurse designated by the division. The
26 examinations shall not be more frequent than once a week, shall be
27 made without cost to the claimant and shall be held at a reasonable
28 time and place. Refusal to have the family member submit to an
29 examination requested pursuant to this subsection shall disqualify
30 the claimant from all benefits for the period in question, except
31 from benefits already paid.

32

33 9. (New section) a. All of the disability benefits paid to an
34 individual during a period of family temporary disability leave with
35 respect to any one birth or adoption shall be for a single continuous
36 period of time, except that the employer of the individual may
37 permit the individual to receive the disability benefits during non-
38 consecutive weeks in a manner mutually agreed to by the employer
39 and the individual and disclosed to the division by the employer.

40 b. The individual shall provide the employer with notice of the
41 period of family temporary disability leave with respect to birth or
42 adoption not less than 30 days before the leave commences, unless
43 it commences while the individual is receiving unemployment
44 benefits, in which case the individual shall notify the division. The
45 amount of benefits shall be reduced by two weeks worth of benefits
46 if the individual does not provide notice to an employer as required

1 by this subsection b., unless the time of the leave is unforeseeable
2 or the time of the leave changes for unforeseeable reasons.

3 c. Family temporary disability leave taken because of the birth
4 or placement for adoption of a child may be taken at any time
5 within a year after the date of the birth or placement for adoption.

6

7 10. R.S.43:21-4 is amended to read as follows:

8 43:21-4. Benefit eligibility conditions. An unemployed
9 individual shall be eligible to receive benefits with respect to any
10 week only if:

11 (a) The individual has filed a claim at an unemployment
12 insurance claims office and thereafter continues to report at an
13 employment service office or unemployment insurance claims
14 office, as directed by the division in accordance with such
15 regulations as the division may prescribe, except that the division
16 may, by regulation, waive or alter either or both of the requirements
17 of this subsection as to individuals attached to regular jobs, and as
18 to such other types of cases or situations with respect to which the
19 division finds that compliance with such requirements would be
20 oppressive, or would be inconsistent with the purpose of this act;
21 provided that no such regulation shall conflict with subsection (a) of
22 R.S.43:21-3.

23 (b) The individual has made a claim for benefits in accordance
24 with the provisions of subsection (a) of R.S.43:21-6.

25 (c) (1) The individual is able to work, and is available for work,
26 and has demonstrated to be actively seeking work, except as
27 hereinafter provided in this subsection or in subsection (f) of this
28 section.

29 (2) The director may modify the requirement of actively seeking
30 work if such modification of this requirement is warranted by
31 economic conditions.

32 (3) No individual, who is otherwise eligible, shall be deemed
33 ineligible, or unavailable for work, because the individual is on
34 vacation, without pay, during said week, if said vacation is not the
35 result of the individual's own action as distinguished from any
36 collective action of a collective bargaining agent or other action
37 beyond the individual's control.

38 (4) (A) Subject to such limitations and conditions as the division
39 may prescribe, an individual, who is otherwise eligible, shall not be
40 deemed unavailable for work or ineligible because the individual is
41 attending a training program approved for the individual by the
42 division to enhance the individual's employment opportunities or
43 because the individual failed or refused to accept work while
44 attending such program.

45 (B) For the purpose of this paragraph (4), any training program
46 shall be regarded as approved by the division for the individual if
47 the program and the individual meet the following requirements:

- 1 (i) The training is for a labor demand occupation and is likely to
2 enhance the individual's marketable skills and earning power;
- 3 (ii) The training is provided by a competent and reliable private
4 or public entity approved by the Commissioner of Labor and
5 Workforce Development pursuant to the provisions of section 8 of
6 the "1992 New Jersey Employment and Workforce Development
7 Act," P.L.1992, c.43 (C.34:15D-8);
- 8 (iii) The individual can reasonably be expected to complete the
9 program, either during or after the period of benefits;
- 10 (iv) The training does not include on the job training or other
11 training under which the individual is paid by an employer for work
12 performed by the individual during the time that the individual
13 receives benefits; and
- 14 (v) The individual enrolls in vocational training, remedial
15 education or a combination of both on a full-time basis.
- 16 (C) If the requirements of subparagraph (B) of this paragraph (4)
17 are met, the division shall not withhold approval of the training
18 program for the individual for any of the following reasons:
- 19 (i) The training includes remedial basic skills education
20 necessary for the individual to successfully complete the vocational
21 component of the training;
- 22 (ii) The training is provided in connection with a program under
23 which the individual may obtain a college degree, including a post-
24 graduate degree;
- 25 (iii) The length of the training period under the program; or
- 26 (iv) The lack of a prior guarantee of employment upon
27 completion of the training.
- 28 (D) For the purpose of this paragraph (4), "labor demand
29 occupation" means an occupation for which there is or is likely to
30 be an excess of demand over supply for adequately trained workers,
31 including, but not limited to, an occupation designated as a labor
32 demand occupation by the **【New Jersey】 Center for Occupational**
33 **Employment Information 【Coordinating Committee】** pursuant to
34 the provisions of subsection **【h.】 d.** of section **【1 of P.L.1987, c.457**
35 **(C.34:1A-76) or section 12 of P.L.1992, c.43 (C.34:1A-78)】** 27 of
36 P.L.2005, c.354 (C.34:1A-86).
- 37 (5) An unemployed individual, who is otherwise eligible, shall
38 not be deemed unavailable for work or ineligible solely by reason of
39 the individual's attendance before a court in response to a summons
40 for service on a jury.
- 41 (6) An unemployed individual, who is otherwise eligible, shall
42 not be deemed unavailable for work or ineligible solely by reason of
43 the individual's attendance at the funeral of an immediate family
44 member, provided that the duration of the attendance does not
45 extend beyond a two-day period.
- 46 For purposes of this paragraph, "immediate family member"
47 includes any of the following individuals: father, mother, mother-

1 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,
2 child, child placed by the Division of Youth and Family Services in
3 the Department of Children and Families, sister or brother of the
4 unemployed individual and any relatives of the unemployed
5 individual residing in the unemployed individual's household.

6 (7) No individual, who is otherwise eligible, shall be deemed
7 ineligible or unavailable for work with respect to any week because,
8 during that week, the individual fails or refuses to accept work
9 while the individual is participating on a full-time basis in self-
10 employment assistance activities authorized by the division,
11 whether or not the individual is receiving a self-employment
12 allowance during that week.

13 (8) Any individual who is determined to be likely to exhaust
14 regular benefits and need reemployment services based on
15 information obtained by the worker profiling system shall not be
16 eligible to receive benefits if the individual fails to participate in
17 available reemployment services to which the individual is referred
18 by the division or in similar services, unless the division determines
19 that:

20 (A) The individual has completed the reemployment services; or
21 (B) There is justifiable cause for the failure to participate, which
22 shall include participation in employment and training, self-
23 employment assistance activities or other activities authorized by
24 the division to assist reemployment or enhance the marketable skills
25 and earning power of the individual and which shall include any
26 other circumstance indicated pursuant to this section in which an
27 individual is not required to be available for and actively seeking
28 work to receive benefits.

29 (9) An unemployed individual, who is otherwise eligible, shall
30 not be deemed unavailable for work or ineligible solely by reason of
31 the individual's work as a board worker for a county board of
32 elections on an election day.

33 (d) With respect to any benefit year commencing before January
34 1, 2002, the individual has been totally or partially unemployed for
35 a waiting period of one week in the benefit year which includes that
36 week. When benefits become payable with respect to the third
37 consecutive week next following the waiting period, the individual
38 shall be eligible to receive benefits as appropriate with respect to
39 the waiting period. No week shall be counted as a week of
40 unemployment for the purposes of this subsection:

41 (1) If benefits have been paid, or are payable with respect
42 thereto; provided that the requirements of this paragraph shall be
43 waived with respect to any benefits paid or payable for a waiting
44 period as provided in this subsection;

45 (2) If it has constituted a waiting period week under the
46 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
47 et seq.);

1 (3) Unless the individual fulfills the requirements of subsections
2 (a) and (c) of this section;

3 (4) If with respect thereto, claimant was disqualified for benefits
4 in accordance with the provisions of subsection (d) of R.S.43:21-5.

5 The waiting period provided by this subsection shall not apply to
6 benefit years commencing on or after January 1, 2002. An
7 individual whose total benefit amount was reduced by the
8 application of the waiting period to a claim which occurred on or
9 after January 1, 2002 and before the effective date of P.L.2002,
10 c.13, shall be permitted to file a claim for the additional benefits
11 attributable to the waiting period in the form and manner prescribed
12 by the division, but not later than the 180th day following the
13 effective date of P.L.2002, c.13 unless the division determines that
14 there is good cause for a later filing.

15 (e) (1) (Deleted by amendment, P.L.2001, c.17).

16 (2) With respect to benefit years commencing on or after
17 January 1, 1996 and before January 7, 2001, except as otherwise
18 provided in paragraph (3) of this subsection, the individual has,
19 during his base year as defined in subsection (c) of R.S.43:21-19:

20 (A) Established at least 20 base weeks as defined in paragraph
21 (2) of subsection (t) of R.S.43:21-19; or

22 (B) If the individual has not met the requirements of
23 subparagraph (A) of this paragraph (2), earned remuneration not
24 less than an amount 12 times the Statewide average weekly
25 remuneration paid to workers, as determined under **[R.S.43:21-**
26 **3(c)] subsection (c) of R.S.43:21-3**, which amount shall be adjusted
27 to the next higher multiple of \$100 if not already a multiple thereof;
28 or

29 If the individual has not met the requirements of subparagraph
30 (A) or (B) of this paragraph (2), earned remuneration not less than
31 an amount 1,000 times the minimum wage in effect pursuant to
32 section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the
33 calendar year preceding the calendar year in which the benefit year
34 commences, which amount shall be adjusted to the next higher
35 multiple of \$100 if not already a multiple thereof.

36 (3) With respect to benefit years commencing before January 7,
37 2001, notwithstanding the provisions of paragraph (2) of this
38 subsection, an unemployed individual claiming benefits on the basis
39 of service performed in the production and harvesting of
40 agricultural crops shall, subject to the limitations of subsection (i)
41 of R.S.43:21-19, be eligible to receive benefits if during his base
42 year, as defined in subsection of R.S.43:21-19, the individual:

43 (A) Has established at least 20 base weeks as defined in
44 paragraph (2) of subsection (t) of R.S.43:21-19; or

45 (B) Has earned 12 times the Statewide average weekly
46 remuneration paid to workers, as determined under R.S.43:21-3(c),

1 raised to the next higher multiple of \$100.00 if not already a
2 multiple thereof, or more; or

3 (C) Has performed at least 770 hours of service in the
4 production and harvesting of agricultural crops.

5 (4) With respect to benefit years commencing on or after
6 January 7, 2001, except as otherwise provided in paragraph (5) of
7 this subsection, the individual has, during his base year as defined
8 in subsection (c) of R.S.43:21-19:

9 (A) Established at least 20 base weeks as defined in paragraphs
10 (2) and (3) of subsection (t) of R.S.43:21-19; or

11 (B) If the individual has not met the requirements of
12 subparagraph (A) of this paragraph (4), earned remuneration not
13 less than an amount 1,000 times the minimum wage in effect
14 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
15 1 of the calendar year preceding the calendar year in which the
16 benefit year commences, which amount shall be adjusted to the next
17 higher multiple of \$100 if not already a multiple thereof.

18 (5) With respect to benefit years commencing on or after
19 January 7, 2001, notwithstanding the provisions of paragraph (4) of
20 this subsection, an unemployed individual claiming benefits on the
21 basis of service performed in the production and harvesting of
22 agricultural crops shall, subject to the limitations of subsection (i)
23 of R.S.43:21-19, be eligible to receive benefits if during his base
24 year, as defined in subsection (c) of R.S.43:21-19, the individual:

25 (A) Has established at least 20 base weeks as defined in
26 paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

27 (B) Has earned remuneration not less than an amount 1,000
28 times the minimum wage in effect pursuant to section 5 of
29 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
30 preceding the calendar year in which the benefit year commences,
31 which amount shall be adjusted to the next higher multiple of \$100
32 if not already a multiple thereof; or

33 (C) Has performed at least 770 hours of service in the
34 production and harvesting of agricultural crops.

35 (6) The individual applying for benefits in any successive
36 benefit year has earned at least six times his previous weekly
37 benefit amount and has had four weeks of employment since the
38 beginning of the immediately preceding benefit year. This
39 provision shall be in addition to the earnings requirements specified
40 in paragraph (2), (3), (4) or (5) of this subsection, as applicable.

41 (f) (1) The individual has suffered any accident or sickness not
42 compensable under the workers' compensation law, R.S.34:15-1 et
43 seq. and resulting in the individual's total disability to perform any
44 work for remuneration, and would be eligible to receive benefits
45 under this chapter (R.S.43:21-1 et seq.) (without regard to the
46 maximum amount of benefits payable during any benefit year)
47 except for the inability to work and has furnished notice and proof

1 of claim to the division, in accordance with its rules and
2 regulations, and payment is not precluded by the provisions of
3 **【R.S.43:21-3(d)】** subsection (d) of R.S.43:21-3; provided, however,
4 that benefits paid under this subsection (f) shall be computed on the
5 basis of only those base year wages earned by the claimant as a
6 "covered individual," as defined in **【R.S.43:21-27(b)】** subsection
7 (b) of R.S.43:21-27; provided further that no benefits shall be
8 payable under this subsection to any individual:

9 (A) For any period during which such individual is not under the
10 care of a legally licensed physician, dentist, optometrist, podiatrist,
11 practicing psychologist, advanced practice nurse, or chiropractor;

12 (B) (Deleted by amendment, P.L.1980, c.90.)

13 (C) For any period of disability due to willfully or intentionally
14 self-inflicted injury, or to injuries sustained in the perpetration by
15 the individual of a crime of the first, second or third degree;

16 (D) For any week with respect to which or a part of which the
17 individual has received or is seeking benefits under any
18 unemployment compensation or disability benefits law of any other
19 state or of the United States; provided that if the appropriate agency
20 of such other state or the United States finally determines that the
21 individual is not entitled to such benefits, this disqualification shall
22 not apply;

23 (E) For any week with respect to which or part of which the
24 individual has received or is seeking disability benefits under the
25 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
26 et seq.);

27 (F) For any period of disability commencing while such
28 individual is a "covered individual," as defined in subsection (b) of
29 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
30 c.110 (C.43:21-27).

31 (2) The individual is taking family temporary disability leave to
32 provide care for a family member with a serious health condition or
33 to be with a child during the first 12 months after the child's birth or
34 placement of the child for adoption with the individual, and the
35 individual would be eligible to receive benefits under R.S.43:21-1
36 et seq. (without regard to the maximum amount of benefits payable
37 during any benefit year) except for the individual's unavailability
38 for work while taking the family temporary disability leave, and the
39 individual has furnished notice and proof of claim to the division, in
40 accordance with its rules and regulations, and payment is not
41 precluded by the provisions of subsection (d) of R.S.43:21-3
42 provided, however, that benefits paid under this subsection (f) shall
43 be computed on the basis of only those base year wages earned by
44 the claimant as a "covered individual," as defined in subsection (b)
45 of R.S.43:21-27; provided further that no benefits shall be payable
46 under this subsection to any individual:

1 (A) For any week with respect to which or a part of which the
2 individual has received or is seeking benefits under any
3 unemployment compensation or disability benefits law of any other
4 state or of the United States; provided that if the appropriate agency
5 of such other state or the United States finally determines that the
6 individual is not entitled to such benefits, this disqualification shall
7 not apply;

8 (B) For any week with respect to which or part of which the
9 individual has received or is seeking disability benefits for a
10 disability of the individual under the "Temporary Disability
11 Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.); or

12 (C) For any period of family temporary disability leave
13 commencing while the individual is a "covered individual," as
14 defined in subsection (b) of section 3 of the "Temporary Disability
15 Benefits Law," P.L.1948, c.110 (C.43:21-27).

16 (3) Benefit payments under this subsection (f) shall be charged
17 to and paid from the State disability benefits fund established by the
18 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
19 et seq.), and shall not be charged to any employer account in
20 computing any employer's experience rate for contributions payable
21 under this chapter.

22 (g) Benefits based on service in employment defined in
23 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable
24 in the same amount and on the terms and subject to the same
25 conditions as benefits payable on the basis of other service subject
26 to the "unemployment compensation law"; except that,
27 notwithstanding any other provisions of the "unemployment
28 compensation law":

29 (1) With respect to service performed after December 31, 1977,
30 in an instructional research, or principal administrative capacity for
31 an educational institution, benefits shall not be paid based on such
32 services for any week of unemployment commencing during the
33 period between two successive academic years, or during a similar
34 period between two regular terms, whether or not successive, or
35 during a period of paid sabbatical leave provided for in the
36 individual's contract, to any individual if such individual performs
37 such services in the first of such academic years (or terms) and if
38 there is a contract or a reasonable assurance that such individual
39 will perform services in any such capacity for any educational
40 institution in the second of such academic years or terms;

41 (2) With respect to weeks of unemployment beginning after
42 September 3, 1982, on the basis of service performed in any other
43 capacity for an educational institution, benefits shall not be paid on
44 the basis of such services to any individual for any week which
45 commences during a period between two successive academic years
46 or terms if such individual performs such services in the first of
47 such academic years or terms and there is a reasonable assurance

1 that such individual will perform such services in the second of
2 such academic years or terms, except that if benefits are denied to
3 any individual under this paragraph (2) and the individual was not
4 offered an opportunity to perform these services for the educational
5 institution for the second of any academic years or terms, the
6 individual shall be entitled to a retroactive payment of benefits for
7 each week for which the individual filed a timely claim for benefits
8 and for which benefits were denied solely by reason of this clause;

9 (3) With respect to those services described in paragraphs (1)
10 and (2) above, benefits shall not be paid on the basis of such
11 services to any individual for any week which commences during
12 an established and customary vacation period or holiday recess if
13 such individual performs such services in the period immediately
14 before such vacation period or holiday recess, and there is a
15 reasonable assurance that such individual will perform such
16 services in the period immediately following such period or holiday
17 recess;

18 (4) With respect to any services described in paragraphs (1) and
19 (2) above, benefits shall not be paid as specified in paragraphs (1),
20 (2), and (3) above to any individual who performed those services
21 in an educational institution while in the employ of an educational
22 service agency, and for this purpose the term "educational service
23 agency" means a governmental agency or governmental entity
24 which is established and operated exclusively for the purpose of
25 providing those services to one or more educational institutions.

26 (h) Benefits shall not be paid to any individual on the basis of
27 any services, substantially all of which consist of participating in
28 sports or athletic events or training or preparing to so participate,
29 for any week which commences during the period between two
30 successive sports seasons (or similar periods) if such individual
31 performed such services in the first of such seasons (or similar
32 periods) and there is a reasonable assurance that such individual
33 will perform such services in the later of such seasons (or similar
34 periods).

35 (i) (1) Benefits shall not be paid on the basis of services
36 performed by an alien unless such alien is an individual who was
37 lawfully admitted for permanent residence at the time the services
38 were performed and was lawfully present for the purpose of
39 performing the services or otherwise was permanently residing in
40 the United States under color of law at the time the services were
41 performed (including an alien who is lawfully present in the United
42 States as a result of the application of the provisions of section
43 212(d)(5) (8 U.S.C.s.1182 (d)(5)) of the Immigration and
44 Nationality Act (8 U.S.C.s.1101 et seq.)); provided that any
45 modifications of the provisions of section 3304(a)(14) of the
46 Federal Unemployment Tax Act (26 U.S.C.s.3304 (a)(14)), as
47 provided by Pub.L.94-566, which specify other conditions or other

1 effective dates than stated herein for the denial of benefits based on
2 services performed by aliens and which modifications are required
3 to be implemented under State law as a condition for full tax credit
4 against the tax imposed by the Federal Unemployment Tax Act,
5 shall be deemed applicable under the provisions of this section.

6 (2) Any data or information required of individuals applying for
7 benefits to determine whether benefits are not payable to them
8 because of their alien status shall be uniformly required from all
9 applicants for benefits.

10 (3) In the case of an individual whose application for benefits
11 would otherwise be approved, no determination that benefits to such
12 individual are not payable because of alien status shall be made
13 except upon a preponderance of the evidence.

14 (j) Notwithstanding any other provision of this chapter, the
15 director may, to the extent that it may be deemed efficient and
16 economical, provide for consolidated administration by one or more
17 representatives or deputies of claims made pursuant to subsection
18 (f) of this section with those made pursuant to Article III (State
19 plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110
20 (C.43:21-25 et seq.).
21 (cf: P.L.2006, c.47, s.187)

22

23 11. R.S.43:21-7 is amended to read as follows:

24 43:21-7. Contributions. Employers other than governmental
25 entities, whose benefit financing provisions are set forth in section 4
26 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations
27 liable for payment in lieu of contributions on the basis set forth in
28 section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the
29 controller for the unemployment compensation fund, contributions
30 as set forth in subsections (a), (b) and (c) hereof, and the provisions
31 of subsections (d) and (e) shall be applicable to all employers,
32 consistent with the provisions of the "unemployment compensation
33 law" and the "Temporary Disability Benefits Law," P.L.1948, c.110
34 (C.43:21-25 et seq.).

35 (a) Payment.

36 (1) Contributions shall accrue and become payable by each
37 employer for each calendar year in which he is subject to this
38 chapter (R.S.43:21-1 et seq.), with respect to having individuals in
39 his employ during that calendar year, at the rates and on the basis
40 hereinafter set forth. Such contributions shall become due and be
41 paid by each employer to the controller for the fund, in accordance
42 with such regulations as may be prescribed, and shall not be
43 deducted, in whole or in part, from the remuneration of individuals
44 in his employ.

45 (2) In the payment of any contributions, a fractional part of a
46 cent shall be disregarded unless it amounts to \$0.005 or more, in
47 which case it shall be increased to \$0.01.

1 (b) Rate of contributions. Each employer shall pay the
2 following contributions:

3 (1) For the calendar year 1947, and each calendar year
4 thereafter, 2 7/10% of wages paid by him during each such calendar
5 year, except as otherwise prescribed by subsection (c) of this
6 section.

7 (2) The "wages" of any individual, with respect to any one
8 employer, as the term is used in this subsection (b) and in
9 subsections (c), (d) and (e) of this section 7, shall include the first
10 \$4,800.00 paid during calendar year 1975, for services performed
11 either within or without this State; provided that no contribution
12 shall be required by this State with respect to services performed in
13 another state if such other state imposes contribution liability with
14 respect thereto. If an employer (hereinafter referred to as a
15 successor employer) during any calendar year acquires substantially
16 all the property used in a trade or business of another employer
17 (hereinafter referred to as a predecessor), or used in a separate unit
18 of a trade or business of a predecessor, and immediately after the
19 acquisition employs in his trade or business an individual who
20 immediately prior to the acquisition was employed in the trade or
21 business of such predecessors, then, for the purpose of determining
22 whether the successor employer has paid wages with respect to
23 employment equal to the first \$4,800.00 paid during calendar year
24 1975, any wages paid to such individual by such predecessor during
25 such calendar year and prior to such acquisition shall be considered
26 as having been paid by such successor employer.

27 (3) For calendar years beginning on and after January 1, 1976,
28 the "wages" of any individual, as defined in the preceding
29 paragraph (2) of this subsection (b), shall be established and
30 promulgated by the Commissioner of Labor and Workforce
31 Development on or before September 1 of the preceding year and
32 shall be, 28 times the Statewide average weekly remuneration paid
33 to workers by employers, as determined under R.S.43:21-3(c),
34 raised to the next higher multiple of \$100.00 if not already a
35 multiple thereof, provided that if the amount of wages so
36 determined for a calendar year is less than the amount similarly
37 determined for the preceding year, the greater amount will be used;
38 provided, further, that if the amount of such wages so determined
39 does not equal or exceed the amount of wages as defined in
40 subsection (b) of section 3306 of the Federal Unemployment Tax
41 Act, Chapter 23 of the Internal Revenue Code of 1986 (26
42 U.S.C.s.3306(b)), the wages as determined in this paragraph in any
43 calendar year shall be raised to equal the amount established under
44 the Federal Unemployment Tax Act for that calendar year; provided
45 further that, for the purposes of determining the amount of
46 contributions made by an individual in calendar years beginning on
47 and after January 1, 2008 under the provisions of paragraph (1)

1 (G)(ii) of subsection (d) of this section, the "wages" of the
2 individual shall be all wages paid to the individual by an employer
3 not exceeding the contribution and benefit base as determined under
4 section 230 of the Social Security Act (42 U.S.C. s. 430).

5 (c) Future rates based on benefit experience.

6 (1) A separate account for each employer shall be maintained
7 and this shall be credited with all the contributions which he has
8 paid on his own behalf on or before January 31 of any calendar year
9 with respect to employment occurring in the preceding calendar
10 year; provided, however, that if January 31 of any calendar year
11 falls on a Saturday or Sunday, an employer's account shall be
12 credited as of January 31 of such calendar year with all the
13 contributions which he has paid on or before the next succeeding
14 day which is not a Saturday or Sunday. But nothing in this chapter
15 (R.S.43:21-1 et seq.) shall be construed to grant any employer or
16 individuals in his service prior claims or rights to the amounts paid
17 by him into the fund either on his own behalf or on behalf of such
18 individuals. Benefits paid with respect to benefit years
19 commencing on and after January 1, 1953, to any individual on or
20 before December 31 of any calendar year with respect to
21 unemployment in such calendar year and in preceding calendar
22 years shall be charged against the account or accounts of the
23 employer or employers in whose employment such individual
24 established base weeks constituting the basis of such benefits,
25 except that, with respect to benefit years commencing after January
26 4, 1998, an employer's account shall not be charged for benefits
27 paid to a claimant if the claimant's employment by that employer
28 was ended in any way which, pursuant to subsection (a), (b), (c),
29 (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant
30 for benefits if the claimant had applied for benefits at the time when
31 that employment ended. Benefits paid under a given benefit
32 determination shall be charged against the account of the employer
33 to whom such determination relates. When each benefit payment is
34 made, either a copy of the benefit check or other form of
35 notification shall be promptly sent to the employer against whose
36 account the benefits are to be charged. Such copy or notification
37 shall identify the employer against whose account the amount of
38 such payment is being charged, shall show at least the name and
39 social security account number of the claimant and shall specify the
40 period of unemployment to which said check applies. If the total
41 amount of benefits paid to a claimant and charged to the account of
42 the appropriate employer exceeds 50% of the total base year, base
43 week wages paid to the claimant by that employer, then such
44 employer shall have canceled from his account such excess benefit
45 charges as specified above.

46 Each employer shall be furnished an annual summary statement
47 of benefits charged to his account.

1 (2) Regulations may be prescribed for the establishment,
2 maintenance, and dissolution of joint accounts by two or more
3 employers, and shall, in accordance with such regulations and upon
4 application by two or more employers to establish such an account,
5 or to merge their several individual accounts in a joint account,
6 maintain such joint account as if it constituted a single employer's
7 account.

8 (3) No employer's rate shall be lower than 5.4% unless
9 assignment of such lower rate is consistent with the conditions
10 applicable to additional credit allowance for such year under section
11 3303(a)(1) of the Internal Revenue Code of 1986 (26
12 U.S.C.s.3303(a)(1)), any other provision of this section to the
13 contrary notwithstanding.

14 (4) Employer Reserve Ratio. (A) Each employer's rate shall be
15 $2\frac{8}{10}\%$, except as otherwise provided in the following provisions.
16 No employer's rate for the 12 months commencing July 1 of any
17 calendar year shall be other than $2\frac{8}{10}\%$, unless as of the
18 preceding January 31 such employer shall have paid contributions
19 with respect to wages paid in each of the three calendar years
20 immediately preceding such year, in which case such employer's
21 rate for the 12 months commencing July 1 of any calendar year
22 shall be determined on the basis of his record up to the beginning of
23 such calendar year. If, at the beginning of such calendar year, the
24 total of all his contributions, paid on his own behalf, for all past
25 years exceeds the total benefits charged to his account for all such
26 years, his contribution rate shall be:

27 (1) $2\frac{5}{10}\%$, if such excess equals or exceeds 4%, but less than
28 5%, of his average annual payroll (as defined in paragraph (2),
29 subsection (a) of R.S.43:21-19);

30 (2) $2\frac{2}{10}\%$, if such excess equals or exceeds 5%, but is less
31 than 6%, of his average annual payroll;

32 (3) $1\frac{9}{10}\%$, if such excess equals or exceeds 6%, but is less
33 than 7%, of his average annual payroll;

34 (4) $1\frac{6}{10}\%$, if such excess equals or exceeds 7%, but is less
35 than 8%, of his average annual payroll;

36 (5) $1\frac{3}{10}\%$, if such excess equals or exceeds 8%, but is less
37 than 9%, of his average annual payroll;

38 (6) 1%, if such excess equals or exceeds 9%, but is less than
39 10%, of his average annual payroll;

40 (7) $\frac{7}{10}$ of 1%, if such excess equals or exceeds 10%, but is less
41 than 11%, of his average annual payroll;

42 (8) $\frac{4}{10}$ of 1%, if such excess equals or exceeds 11% of his
43 average annual payroll.

44 (B) If the total of an employer's contributions, paid on his own
45 behalf, for all past periods for the purposes of this paragraph (4), is
46 less than the total benefits charged against his account during the
47 same period, his rate shall be:

- 1 (1) 4%, if such excess is less than 10% of his average annual
2 payroll;
- 3 (2) $4\frac{3}{10}\%$, if such excess equals or exceeds 10%, but is less
4 than 20%, of his average annual payroll;
- 5 (3) $4\frac{6}{10}\%$, if such excess equals or exceeds 20% of his
6 average annual payroll.
- 7 (C) Specially assigned rates.
- 8 (i) If no contributions were paid on wages for employment in
9 any calendar year used in determining the average annual payroll of
10 an employer eligible for an assigned rate under this paragraph (4),
11 the employer's rate shall be specially assigned as follows:
- 12 if the reserve balance in its account is positive, its assigned rate
13 shall be the highest rate in effect for positive balance accounts for
14 that period, or 5.4%, whichever is higher, and
- 15 if the reserve balance in its account is negative, its assigned rate
16 shall be the highest rate in effect for deficit accounts for that period.
- 17 (ii) If, following the purchase of a corporation with little or no
18 activity, known as a corporate shell, the resulting employing unit
19 operates a new or different business activity, the employing unit
20 shall be assigned a new employer rate.
- 21 (iii) Entities operating under common ownership, management or
22 control, when the operation of the entities is not identifiable,
23 distinguishable and severable, shall be considered a single employer
24 for the purposes of this chapter (R.S. 43:21-1 et seq.).
- 25 (D) The contribution rates prescribed by subparagraphs (A) and
26 (B) of this paragraph (4) shall be increased or decreased in
27 accordance with the provisions of paragraph (5) of this subsection
28 (c) for experience rating periods through June 30, 1986.
- 29 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March
30 31 of any calendar year the balance in the unemployment trust fund
31 equals or exceeds 4% but is less than 7% of the total taxable wages
32 reported to the controller as of that date in respect to employment
33 during the preceding calendar year, the contribution rate, effective
34 July 1 following, of each employer eligible for a contribution rate
35 calculation based upon benefit experience, shall be increased by
36 $\frac{3}{10}$ of 1% over the contribution rate otherwise established under
37 the provisions of paragraph (3) or (4) of this subsection. If on
38 March 31 of any calendar year the balance of the unemployment
39 trust fund exceeds $2\frac{1}{2}\%$ but is less than 4% of the total taxable
40 wages reported to the controller as of that date in respect to
41 employment during the preceding calendar year, the contribution
42 rate, effective July 1 following, of each employer eligible for a
43 contribution rate calculation based upon benefit experience, shall be
44 increased by $\frac{6}{10}$ of 1% over the contribution rate otherwise
45 established under the provisions of paragraph (3) or (4) of this
46 subsection.

1 If on March 31 of any calendar year the balance of the
2 unemployment trust fund is less than 2 1/2% of the total taxable
3 wages reported to the controller as of that date in respect to
4 employment during the preceding calendar year, the contribution
5 rate, effective July 1 following, of each employer (1) eligible for a
6 contribution rate calculation based upon benefit experience, shall be
7 increased by (i) 6/10 of 1% over the contribution rate otherwise
8 established under the provisions of paragraph (3), (4)(A) or (4)(B)
9 of this subsection, and (ii) an additional amount equal to 20% of the
10 total rate established herein, provided, however, that the final
11 contribution rate for each employer shall be computed to the nearest
12 multiple of 1/10% if not already a multiple thereof; (2) not eligible
13 for a contribution rate calculation based upon benefit experience,
14 shall be increased by 6/10 of 1% over the contribution rate
15 otherwise established under the provisions of paragraph (4) of this
16 subsection. For the period commencing July 1, 1984 and ending
17 June 30, 1986, the contribution rate for each employer liable to pay
18 contributions under R.S.43:21-7 shall be increased by a factor of
19 10% computed to the nearest multiple of 1/10% if not already a
20 multiple thereof.

21 (B) If on March 31 of any calendar year the balance in the
22 unemployment trust fund equals or exceeds 10% but is less than 12
23 1/2% of the total taxable wages reported to the controller as of that
24 date in respect to employment during the preceding calendar year,
25 the contribution rate, effective July 1 following, of each employer
26 eligible for a contribution rate calculation based upon benefit
27 experience, shall be reduced by 3/10 of 1% under the contribution
28 rate otherwise established under the provisions of paragraphs (3)
29 and (4) of this subsection; provided that in no event shall the
30 contribution rate of any employer be reduced to less than 4/10 of
31 1%. If on March 31 of any calendar year the balance in the
32 unemployment trust fund equals or exceeds 12 1/2% of the total
33 taxable wages reported to the controller as of that date in respect to
34 employment during the preceding calendar year, the contribution
35 rate, effective July 1 following, of each employer eligible for a
36 contribution rate calculation based upon benefit experience, shall be
37 reduced by 6/10 of 1% if his account for all past periods reflects an
38 excess of contributions paid over total benefits charged of 3% or
39 more of his average annual payroll, otherwise by 3/10 of 1% under
40 the contribution rate otherwise established under the provisions of
41 paragraphs (3) and (4) of this subsection; provided that in no event
42 shall the contribution rate of any employer be reduced to less than
43 4/10 of 1%.

44 (C) The "balance" in the unemployment trust fund, as the term is
45 used in subparagraphs (A) and (B) above, shall not include moneys
46 credited to the State's account under section 903 of the Social
47 Security Act, as amended (42 U.S.C.s.1103), during any period in

1 which such moneys are appropriated for the payment of expenses
 2 incurred in the administration of the "unemployment compensation
 3 law."

4 (D) Prior to July 1 of each calendar year the controller shall
 5 determine the Unemployment Trust Reserve Ratio, which shall be
 6 calculated by dividing the balance of the unemployment trust fund
 7 as of the prior March 31 by total taxable wages reported to the
 8 controller by all employers as of March 31 with respect to their
 9 employment during the last calendar year.

10 (E) (i) (Deleted by amendment, P.L.1997, c.263).

11 (ii) (Deleted by amendment, P.L.2001, c.152).

12 (iii) (Deleted by amendment, P.L.2003, c.107).

13 (iv) (Deleted by amendment, P.L.2004, c.45).

14 (v) [With respect to the experience rating year beginning on
 15 July 1, 2003, the new employer rate or the unemployment
 16 experience rate of an employer under this section shall be the rate
 17 which appears in the column headed by the Unemployment Trust
 18 Fund Reserve Ratio as of the applicable calculation date and on the
 19 line with the Employer Reserve Ratio, as defined in paragraph 4 of
 20 this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
 21 table:

22 EXPERIENCE RATING TAX TABLE

23 Fund Reserve Ratio¹

	2.50%	2.00%	1.50%	1.00%	0.99%
Employer	and	to	to	to	and
Reserve	Over	2.49%	1.99%	1.49%	Under
Ratio ²	A	B	C	D	E
29 Positive Reserve Ratio:					
30 17% and over	0.3	0.4	0.5	0.6	1.2
31 16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
32 15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
33 14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
34 13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
35 12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
36 11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
37 10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
38 9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
39 8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
40 7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
41 6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
42 5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
43 4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
44 3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
45 2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
46 1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
47 0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3

1	Deficit Reserve Ratio:					
2	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
3	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
4	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
5	-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
6	-12.00% to-14.99%	3.6	4.6	5.4	6.0	6.5
7	-15.00% to-19.99%	3.6	4.6	5.5	6.1	6.6
8	-20.00% to-24.99%	3.7	4.7	5.6	6.2	6.7
9	-25.00% to-29.99%	3.7	4.8	5.6	6.3	6.8
10	-30.00%to-34.99%	3.8	4.8	5.7	6.3	6.9
11	-35.00% and under	5.4	5.4	5.8	6.4	7.0
12	New Employer Rate	2.8	2.8	2.8	3.1	3.4

13 ¹Fund balance as of March 31 as a percentage of taxable wages
 14 in the prior calendar year.

15 ²Employer Reserve Ratio (Contributions minus benefits as a
 16 percentage of employer's taxable wages). **】 (Deleted by amendment,**
 17 **P.L. _____, c. _____)**

18 (vi) With respect to experience rating years beginning on or after
 19 July 1, 2004, the new employer rate or the unemployment
 20 experience rate of an employer under this section shall be the rate
 21 which appears in the column headed by the Unemployment Trust
 22 Fund Reserve Ratio as of the applicable calculation date and on the
 23 line with the Employer Reserve Ratio, as defined in paragraph 4 of
 24 this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
 25 table:

26
 27 **EXPERIENCE RATING TAX TABLE**

28 **Fund Reserve Ratio¹**

29		1.40%	1.00%	0.75%	0.50%	0.49%
30		and	to	to	to	and
31	Employer	Over	1.39%	0.99%	0.74%	Under
32	Reserve	A	B	C	D	E
33	Ratio ²					
34	Positive Reserve Ratio:					
35	17% and over	0.3	0.4	0.5	0.6	1.2
36	16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
37	15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
38	14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
39	13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
40	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
41	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
42	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
43	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
44	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
45	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
46	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
47	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4

1	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
2	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
3	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
4	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
5	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
6	Deficit Reserve Ratio:					
7	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
8	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
9	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
10	-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
11	-12.00% to-14.99%	3.6	4.6	5.4	6.0	6.5
12	-15.00% to-19.99%	3.6	4.6	5.5	6.1	6.6
13	-20.00% to-24.99%	3.7	4.7	5.6	6.2	6.7
14	-25.00% to-29.99%	3.7	4.8	5.6	6.3	6.8
15	-30.00% to-34.99%	3.8	4.8	5.7	6.3	6.9
16	-35.00% and under	5.4	5.4	5.8	6.4	7.0
17	New Employer Rate	2.8	2.8	2.8	3.1	3.4

18 ¹Fund balance as of March 31 as a percentage of taxable wages
19 in the prior calendar year.

20 ²Employer Reserve Ratio (Contributions minus benefits as a
21 percentage of employer's taxable wages).

22 (F) (i) (Deleted by amendment, P.L.1997, c.263).

23 (ii) **[**With respect to experience rating years beginning on or
24 after July 1, 1997, if the fund reserve ratio, based on the fund
25 balance as of the prior March 31, is less than 1.00%, the
26 contribution rate for each employer liable to pay contributions, as
27 computed under subparagraph (E) of this paragraph (5), shall be
28 increased by a factor of 10% computed to the nearest multiple of
29 1/10% if not already a multiple thereof.**]** (Deleted by amendment,
30 P.L. , c.)

31 (iii) With respect to experience rating years beginning on or after
32 July 1, 2004, if the fund reserve ratio, based on the fund balance as
33 of the prior March 31, is less than 0.50%, the contribution rate for
34 each employer liable to pay contributions, as computed under
35 subparagraph (E) of this paragraph (5), shall be increased by a
36 factor of 10% computed to the nearest multiple of 1/10% if not
37 already a multiple thereof.

38 (G) On or after January 1, 1993, notwithstanding any other
39 provisions of this paragraph (5), the contribution rate for each
40 employer liable to pay contributions, as computed under
41 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,
42 except that, during any experience rating year starting before
43 January 1, 1998 in which the fund reserve ratio is equal to or greater
44 than 7.00% or during any experience rating year starting on or after
45 January 1, 1998, in which the fund reserve ratio is equal to or
46 greater than 3.5%, there shall be no decrease pursuant to this

1 subparagraph (G) in the contribution of any employer who has a
2 deficit reserve ratio of negative 35.00% or under.

3 (H) [On or after January 1, 1993 until December 31, 1993,
4 notwithstanding any other provisions of this paragraph (5), the
5 contribution rate for each employer liable to pay contributions, as
6 computed under subparagraph (E) of this paragraph (5), shall be
7 decreased by a factor of 52.0% computed to the nearest multiple of
8 1/10%, except that, if an employer has a deficit reserve ratio of
9 negative 35.0% or under, the employer's rate of contribution shall
10 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
11 The amount of the reduction in the employer contributions
12 stipulated by this subparagraph (H) shall be in addition to the
13 amount of the reduction in the employer contributions stipulated by
14 subparagraph (G) of this paragraph (5), except that the rate of
15 contribution of an employer who has a deficit reserve ratio of
16 negative 35.0% or under shall not be reduced pursuant to this
17 subparagraph (H) to less than 5.4% and the rate of contribution of
18 any other employer shall not be reduced to less than 0.0%. On or
19 after January 1, 1994 until December 31, 1995, except as provided
20 pursuant to subparagraph (I) of this paragraph (5), notwithstanding
21 any other provisions of this paragraph (5), the contribution rate for
22 each employer liable to pay contributions, as computed under
23 subparagraph (E) of this paragraph (5), shall be decreased by a
24 factor of 36.0% computed to the nearest multiple of 1/10%, except
25 that, if an employer has a deficit reserve ratio of negative 35.0% or
26 under, the employer's rate of contribution shall not be reduced
27 pursuant to this subparagraph (H) to less than 5.4%. The amount of
28 the reduction in the employer contributions stipulated by this
29 subparagraph (H) shall be in addition to the amount of the reduction
30 in the employer contributions stipulated by subparagraph (G) of this
31 paragraph (5), except that the rate of contribution of an employer
32 who has a deficit reserve ratio of negative 35.0% or under shall not
33 be reduced pursuant to this subparagraph (H) to less than 5.4% and
34 the rate of contribution of any other employer shall not be reduced
35 to less than 0.0%.

36 On or after April 1, 1996 until December 31, 1996, the
37 contribution rate for each employer liable to pay contributions, as
38 computed under subparagraph (E) of this paragraph (5), shall be
39 decreased by a factor of 25.0% computed to the nearest multiple of
40 1/10%, except that, if an employer has a deficit reserve ratio of
41 negative 35.0% or under, the employer's rate of contribution shall
42 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
43 The amount of the reduction in the employer contributions
44 stipulated by this subparagraph (H) shall be in addition to the
45 amount of the reduction in the employer contributions stipulated by
46 subparagraph (G) of this paragraph (5), except that the rate of
47 contribution of an employer who has a deficit reserve ratio of

1 negative 35.0% or under shall not be reduced pursuant to this
2 subparagraph (H) to less than 5.4% and the rate of contribution of
3 any other employer shall not be reduced to less than 0.0%.

4 On or after January 1, 1997 until December 31, 1997, the
5 contribution rate for each employer liable to pay contributions, as
6 computed under subparagraph (E) of this paragraph (5), shall be
7 decreased by a factor of 10.0% computed to the nearest multiple of
8 1/10%, except that, if an employer has a deficit reserve ratio of
9 negative 35.0% or under, the employer's rate of contribution shall
10 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
11 The amount of the reduction in the employer contributions
12 stipulated by this subparagraph (H) shall be in addition to the
13 amount of the reduction in the employer contributions stipulated by
14 subparagraph (G) of this paragraph (5), except that the rate of
15 contribution of an employer who has a deficit reserve ratio of
16 negative 35.0% or under shall not be reduced pursuant to this
17 subparagraph (H) to less than 5.4% and the rate of contribution of
18 any other employer shall not be reduced to less than 0.0%.
19 (Deleted by amendment, P.L. ____, c. __)

20 On and after January 1, 1998 until December 31, 2000 and on or
21 after January 1, 2002 until June 30, 2006, the contribution rate for
22 each employer liable to pay contributions, as computed under
23 subparagraph (E) of this paragraph (5), shall be decreased by a
24 factor, as set out below, computed to the nearest multiple of 1/10%,
25 except that, if an employer has a deficit reserve ratio of negative
26 35.0% or under, the employer's rate of contribution shall not be
27 reduced pursuant to this subparagraph (H) to less than 5.4%:

28 From January 1, 1998 until December 31, 1998, a factor of 12%;
29 From January 1, 1999 until December 31, 1999, a factor of 10%;
30 From January 1, 2000 until December 31, 2000, a factor of 7%;
31 From January 1, 2002 until March 31, 2002, a factor of 36%;
32 From April 1, 2002 until June 30, 2002, a factor of 85%;
33 From July 1, 2002 until June 30, 2003, a factor of 15%;
34 From July 1, 2003 until June 30, 2004, a factor of 15%;
35 From July 1, 2004 until June 30, 2005, a factor of 7%;
36 From July 1, 2005 until December 31, 2005, a factor of 16%; and
37 From January 1, 2006 until June 30, 2006, a factor of 34%.

38 The amount of the reduction in the employer contributions
39 stipulated by this subparagraph (H) shall be in addition to the
40 amount of the reduction in the employer contributions stipulated by
41 subparagraph (G) of this paragraph (5), except that the rate of
42 contribution of an employer who has a deficit reserve ratio of
43 negative 35.0% or under shall not be reduced pursuant to this
44 subparagraph (H) to less than 5.4% and the rate of contribution of
45 any other employer shall not be reduced to less than 0.0%.

46 (I) [If the fund reserve ratio decreases to a level of less than
47 4.00% on March 31 of calendar year 1994 or calendar year 1995,

1 the provisions of subparagraph (H) of this paragraph (5) shall cease
2 to be in effect as of July 1 of that calendar year.

3 If, upon calculating the unemployment compensation fund
4 reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31,
5 1997, March 31, 1998 or March 31, 1999, the controller finds that
6 the fund reserve ratio has decreased to a level of less than 3.00%,
7 the Commissioner of Labor and Workforce Development shall
8 notify the State Treasurer of this fact and of the dollar amount
9 necessary to bring the fund reserve ratio up to a level of 3.00%.
10 The State Treasurer shall, prior to March 31, 1997, March 31, 1998
11 or March 31, 1999, as applicable, transfer from the General Fund to
12 the unemployment compensation fund, revenues in the amount
13 specified by the commissioner and which, upon deposit in the
14 unemployment compensation fund, shall result, upon recalculation,
15 in a fund reserve ratio used to determine employer contributions
16 beginning July 1, 1997, July 1, 1998, July 1, 1999, as applicable, of
17 at least 3.00%. If, upon calculating the unemployment
18 compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D)
19 prior to March 31, 2000, the controller finds that the fund reserve
20 ratio has decreased to a level of less than 3.00%, the Commissioner
21 of Labor and Workforce Development shall notify the State
22 Treasurer of this fact and of the dollar amount necessary to bring
23 the fund reserve ratio up to a level of 3.00%. The State Treasurer
24 shall, prior to March 31, 2000, transfer from the General Fund to
25 the unemployment compensation fund, revenues in the amount
26 specified by the commissioner and which, upon deposit in the
27 unemployment compensation fund, shall result, upon recalculation,
28 in a fund reserve ratio used to determine employer contributions
29 beginning July 1, 2000 of at least 3.00%.] (Deleted by amendment,
30 P.L. , c.)

31 (J) On or after July 1, 2001, notwithstanding any other
32 provisions of this paragraph (5), the contribution rate for each
33 employer liable to pay contributions, as computed under
34 subparagraph (E) of this paragraph (5), shall be decreased by
35 0.0175%, except that, during any experience rating year starting on
36 or after July 1, 2001, in which the fund reserve ratio is equal to or
37 greater than 3.5%, there shall be no decrease pursuant to this
38 subparagraph (J) in the contribution of any employer who has a
39 deficit reserve ratio of negative 35.00% or under. The amount of the
40 reduction in the employer contributions stipulated by this
41 subparagraph (J) shall be in addition to the amount of the reduction
42 in the employer contributions stipulated by subparagraphs (G) and
43 (H) of this paragraph (5), except that the rate of contribution of an
44 employer who has a deficit reserve ratio of negative 35.0% or under
45 shall not be reduced pursuant to this subparagraph (J) to less than
46 5.4% and the rate of contribution of any other employer shall not be
47 reduced to less than 0.0%.

1 (6) Additional contributions.

2 Notwithstanding any other provision of law, any employer who
3 has been assigned a contribution rate pursuant to subsection (c) of
4 this section for the year commencing July 1, 1948, and for any year
5 commencing July 1 thereafter, may voluntarily make payment of
6 additional contributions, and upon such payment shall receive a
7 recomputation of the experience rate applicable to such employer,
8 including in the calculation the additional contribution so made,
9 except that, following a transfer as described under R.S.43:21-
10 7(c)(7)(D), neither the predecessor nor successor in interest shall be
11 eligible to make a voluntary payment of additional contributions
12 during the year the transfer occurs and the next full calendar year.
13 Any such additional contribution shall be made during the 30-day
14 period following the date of the mailing to the employer of the
15 notice of his contribution rate as prescribed in this section, unless,
16 for good cause, the time for payment has been extended by the
17 controller for not to exceed an additional 60 days; provided that in
18 no event may such payments which are made later than 120 days
19 after the beginning of the year for which such rates are effective be
20 considered in determining the experience rate for the year in which
21 the payment is made. Any employer receiving any extended period
22 of time within which to make such additional payment and failing
23 to make such payment timely shall be, in addition to the required
24 amount of additional payment, liable for a penalty of 5% thereof or
25 \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment
26 under this subsection shall be made only in the form of credits
27 against accrued or future contributions.

28 (7) Transfers.

29 (A) Upon the transfer of the organization, trade or business, or
30 substantially all the assets of an employer to a successor in interest,
31 whether by merger, consolidation, sale, transfer, descent or
32 otherwise, the controller shall transfer the employment experience
33 of the predecessor employer to the successor in interest, including
34 credit for past years, contributions paid, annual payrolls, benefit
35 charges, et cetera, applicable to such predecessor employer,
36 pursuant to regulation, if it is determined that the employment
37 experience of the predecessor employer with respect to the
38 organization, trade, assets or business which has been transferred
39 may be considered indicative of the future employment experience
40 of the successor in interest. The successor in interest may, within
41 four months of the date of such transfer of the organization, trade,
42 assets or business, or thereafter upon good cause shown, request a
43 reconsideration of the transfer of employment experience of the
44 predecessor employer. The request for reconsideration shall
45 demonstrate, to the satisfaction of the controller, that the
46 employment experience of the predecessor is not indicative of the
47 future employment experience of the successor.

1 (B) An employer who transfers part of his or its organization,
2 trade, assets or business to a successor in interest, whether by
3 merger, consolidation, sale, transfer, descent or otherwise, may
4 jointly make application with such successor in interest for transfer
5 of that portion of the employment experience of the predecessor
6 employer relating to the portion of the organization, trade, assets or
7 business transferred to the successor in interest, including credit for
8 past years, contributions paid, annual payrolls, benefit charges, et
9 cetera, applicable to such predecessor employer. The transfer of
10 employment experience may be allowed pursuant to regulation only
11 if it is found that the employment experience of the predecessor
12 employer with respect to the portion of the organization, trade,
13 assets or business which has been transferred may be considered
14 indicative of the future employment experience of the successor in
15 interest. Credit shall be given to the successor in interest only for
16 the years during which contributions were paid by the predecessor
17 employer with respect to that part of the organization, trade, assets
18 or business transferred.

19 (C) A transfer of the employment experience in whole or in part
20 having become final, the predecessor employer thereafter shall not
21 be entitled to consideration for an adjusted rate based upon his or its
22 experience or the part thereof, as the case may be, which has thus
23 been transferred. A successor in interest to whom employment
24 experience or a part thereof is transferred pursuant to this
25 subsection shall, as of the date of the transfer of the organization,
26 trade, assets or business, or part thereof, immediately become an
27 employer if not theretofore an employer subject to this chapter
28 (R.S.43:21-1 et seq.).

29 (D) If an employer who transfers in whole or in part his or its
30 organization, trade, assets or business to a successor in interest,
31 whether by merger, consolidation, sale, transfer, descent or
32 otherwise and both the employer and successor in interest are at the
33 time of the transfer under common ownership, management or
34 control, then the employment experience attributable to the
35 transferred business shall also be transferred to and combined with
36 the employment experience of the successor in interest. The
37 transfer of the employment experience is mandatory and not subject
38 to appeal or protest.

39 (E) The transfer of part of an employer's employment experience
40 to a successor in interest shall become effective as of the first day of
41 the calendar quarter following the acquisition by the successor in
42 interest. As of the effective date, the successor in interest shall
43 have its employer rate recalculated by merging its existing
44 employment experience, if any, with the employment experience
45 acquired. If the successor in interest is not an employer as of the
46 date of acquisition, it shall be assigned the new employer rate until
47 the effective date of the transfer of employment experience.

1 (F) Upon the transfer in whole or in part of the organization,
2 trade, assets or business to a successor in interest, the employment
3 experience shall not be transferred if the successor in interest is not
4 an employer at the time of the acquisition and the controller finds
5 that the successor in interest acquired the business solely or
6 primarily for the purpose of obtaining a lower rate of contributions.

7 (d) Contributions of workers to the unemployment
8 compensation fund and the State disability benefits fund.

9 (1) (A) For periods after January 1, 1975, each worker shall
10 contribute to the fund 1% of his wages with respect to his
11 employment with an employer, which occurs on and after January
12 1, 1975, after such employer has satisfied the condition set forth in
13 subsection (h) of R.S.43:21-19 with respect to becoming an
14 employer; provided, however, that such contributions shall be at the
15 rate of 1/2 of 1% of wages paid with respect to employment while
16 the worker is in the employ of the State of New Jersey, or any
17 governmental entity or instrumentality which is an employer as
18 defined under R.S.43:21-19(h)(5), or is covered by an approved
19 private plan under the "Temporary Disability Benefits Law" or
20 while the worker is exempt from the provisions of the "Temporary
21 Disability Benefits Law" under section 7 of that law, P.L.1948,
22 c.110 (C.43:21-31).

23 (B) Effective January 1, 1978 there shall be no contributions by
24 workers in the employ of any governmental or nongovernmental
25 employer electing or required to make payments in lieu of
26 contributions unless the employer is covered by the State plan under
27 the "Temporary Disability Benefits Law" (C.43:21-25 et seq.), and
28 in that case contributions shall be at the rate of 1/2 of 1%, except
29 that commencing July 1, 1986, workers in the employ of any
30 nongovernmental employer electing or required to make payments
31 in lieu of contributions shall be required to make contributions to
32 the fund at the same rate prescribed for workers of other
33 nongovernmental employers.

34 (C) (i) Notwithstanding the above provisions of this paragraph
35 (1), during the period starting July 1, 1986 and ending December
36 31, 1992, each worker shall contribute to the fund 1.125% of wages
37 paid with respect to his employment with a governmental employer
38 electing or required to pay contributions or nongovernmental
39 employer, including a nonprofit organization which is an employer
40 as defined under R.S.43:21-19(h)(6), regardless of whether that
41 nonprofit organization elects or is required to finance its benefit
42 costs with contributions to the fund or by payments in lieu of
43 contributions, after that employer has satisfied the conditions set
44 forth in subsection R.S.43:21-19(h) with respect to becoming an
45 employer. Contributions, however, shall be at the rate of 0.625%
46 while the worker is covered by an approved private plan under the
47 "Temporary Disability Benefits Law" while the worker is exempt

1 under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any
2 other provision of that law; provided that such contributions shall
3 be at the rate of 0.625% of wages paid with respect to employment
4 with the State of New Jersey or any other governmental entity or
5 instrumentality electing or required to make payments in lieu of
6 contributions and which is covered by the State plan under the
7 "Temporary Disability Benefits Law," except that, while the worker
8 is exempt from the provisions of the "Temporary Disability Benefits
9 Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or
10 any other provision of that law, or is covered for disability benefits
11 by an approved private plan of the employer, the contributions to
12 the fund shall be 0.125%.

13 (ii) (Deleted by amendment, P.L.1995, c.422.)

14 (D) Notwithstanding any other provisions of this paragraph (1),
15 during the period starting January 1, 1993 and ending June 30,
16 1994, each worker shall contribute to the unemployment
17 compensation fund 0.5% of wages paid with respect to the worker's
18 employment with a governmental employer electing or required to
19 pay contributions or nongovernmental employer, including a
20 nonprofit organization which is an employer as defined under
21 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of
22 whether that nonprofit organization elects or is required to finance
23 its benefit costs with contributions to the fund or by payments in
24 lieu of contributions, after that employer has satisfied the conditions
25 set forth in subsection (h) of R.S.43:21-19 with respect to becoming
26 an employer. No contributions, however, shall be made by the
27 worker while the worker is covered by an approved private plan
28 under the "Temporary Disability Benefits Law," P.L.1948, c.110
29 (C.43:21-25 et seq.) or while the worker is exempt under section 7
30 of P.L.1948, c.110 (C.43:21-31) or any other provision of that law;
31 provided that the contributions shall be at the rate of 0.50% of
32 wages paid with respect to employment with the State of New
33 Jersey or any other governmental entity or instrumentality electing
34 or required to make payments in lieu of contributions and which is
35 covered by the State plan under the "Temporary Disability Benefits
36 Law," except that, while the worker is exempt from the provisions
37 of the "Temporary Disability Benefits Law" under section 7 of that
38 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that
39 law, or is covered for disability benefits by an approved private plan
40 of the employer, no contributions shall be made to the fund.

41 Each worker shall, starting on January 1, 1996 and ending March
42 31, 1996, contribute to the unemployment compensation fund
43 0.60% of wages paid with respect to the worker's employment with
44 a governmental employer electing or required to pay contributions
45 or nongovernmental employer, including a nonprofit organization
46 which is an employer as defined under paragraph (6) of subsection
47 (h) of R.S.43:21-19, regardless of whether that nonprofit

1 organization elects or is required to finance its benefit costs with
2 contributions to the fund or by payments in lieu of contributions,
3 after that employer has satisfied the conditions set forth in
4 subsection (h) of R.S.43:21-19 with respect to becoming an
5 employer, provided that the contributions shall be at the rate of
6 0.10% of wages paid with respect to employment with the State of
7 New Jersey or any other governmental entity or instrumentality
8 electing or required to make payments in lieu of contributions.

9 Each worker shall, starting on January 1, 1998 and ending
10 December 31, 1998, contribute to the unemployment compensation
11 fund 0.10% of wages paid with respect to the worker's employment
12 with a governmental employer electing or required to pay
13 contributions or nongovernmental employer, including a nonprofit
14 organization which is an employer as defined under paragraph (6)
15 of subsection (h) of R.S.43:21-19, regardless of whether that
16 nonprofit organization elects or is required to finance its benefit
17 costs with contributions to the fund or by payments in lieu of
18 contributions, after that employer has satisfied the conditions set
19 forth in subsection (h) of R.S.43:21-19 with respect to becoming an
20 employer, provided that the contributions shall be at the rate of
21 0.10% of wages paid with respect to employment with the State of
22 New Jersey or any other governmental entity or instrumentality
23 electing or required to make payments in lieu of contributions.

24 Each worker shall, starting on January 1, 1999 until December
25 31, 1999, contribute to the unemployment compensation fund
26 0.15% of wages paid with respect to the worker's employment with
27 a governmental employer electing or required to pay contributions
28 or nongovernmental employer, including a nonprofit organization
29 which is an employer as defined under paragraph (6) of subsection
30 (h) of R.S.43:21-19, regardless of whether that nonprofit
31 organization elects or is required to finance its benefit costs with
32 contributions to the fund or by payments in lieu of contributions,
33 after that employer has satisfied the conditions set forth in
34 subsection (h) of R.S.43:21-19 with respect to becoming an
35 employer, provided that the contributions shall be at the rate of
36 0.10% of wages paid with respect to employment with the State of
37 New Jersey or any other governmental entity or instrumentality
38 electing or required to make payments in lieu of contributions.

39 Each worker shall, starting on January 1, 2000 until December
40 31, 2001, contribute to the unemployment compensation fund
41 0.20% of wages paid with respect to the worker's employment with
42 a governmental employer electing or required to pay contributions
43 or nongovernmental employer, including a nonprofit organization
44 which is an employer as defined under paragraph (6) of subsection
45 (h) of R.S.43:21-19, regardless of whether that nonprofit
46 organization elects or is required to finance its benefit costs with
47 contributions to the fund or by payments in lieu of contributions,

1 after that employer has satisfied the conditions set forth in
2 subsection (h) of R.S.43:21-19 with respect to becoming an
3 employer, provided that the contributions shall be at the rate of
4 0.10% of wages paid with respect to employment with the State of
5 New Jersey or any other governmental entity or instrumentality
6 electing or required to make payments in lieu of contributions.

7 Each worker shall, starting on January 1, 2002 until June 30,
8 2004, contribute to the unemployment compensation fund 0.1825%
9 of wages paid with respect to the worker's employment with a
10 governmental employer electing or required to pay contributions or
11 a nongovernmental employer, including a nonprofit organization
12 which is an employer as defined under paragraph (6) of subsection
13 (h) of R.S.43:21-19, regardless of whether that nonprofit
14 organization elects or is required to finance its benefit costs with
15 contributions to the fund or by payments in lieu of contributions,
16 after that employer has satisfied the conditions set forth in
17 subsection (h) of R.S.43:21-19 with respect to becoming an
18 employer, provided that the contributions shall be at the rate of
19 0.0825% of wages paid with respect to employment with the State
20 of New Jersey or any other governmental entity or instrumentality
21 electing or required to make payments in lieu of contributions.

22 Each worker shall, starting on and after July 1, 2004, contribute
23 to the unemployment compensation fund 0.3825% of wages paid
24 with respect to the worker's employment with a governmental
25 employer electing or required to pay contributions or
26 nongovernmental employer, including a nonprofit organization
27 which is an employer as defined under paragraph (6) of subsection
28 (h) of R.S.43:21-19, regardless of whether that nonprofit
29 organization elects or is required to finance its benefit costs with
30 contributions to the fund or by payments in lieu of contributions,
31 after that employer has satisfied the conditions set forth in
32 subsection (h) of R.S.43:21-19 with respect to becoming an
33 employer, provided that the contributions shall be at the rate of
34 0.0825% of wages paid with respect to employment with the State
35 of New Jersey or any other governmental entity or instrumentality
36 electing or required to make payments in lieu of contributions.

37 (E) Each employer shall, notwithstanding any provision of law
38 in this State to the contrary, withhold in trust the amount of his
39 workers' contributions from their wages at the time such wages are
40 paid, shall show such deduction on his payroll records, shall furnish
41 such evidence thereof to his workers as the division or controller
42 may prescribe, and shall transmit all such contributions, in addition
43 to his own contributions, to the office of the controller in such
44 manner and at such times as may be prescribed. If any employer
45 fails to deduct the contributions of any of his workers at the time
46 their wages are paid, or fails to make a deduction therefor at the
47 time wages are paid for the next succeeding payroll period, he alone

1 shall thereafter be liable for such contributions, and for the purpose
2 of R.S.43:21-14, such contributions shall be treated as employer's
3 contributions required from him.

4 (F) As used in this chapter (R.S.43:21-1 et seq.), except when
5 the context clearly requires otherwise, the term "contributions" shall
6 include the contributions of workers pursuant to this section.

7 (G) (i) Each worker shall, starting on July 1, 1994, contribute to
8 the State disability benefits fund an amount equal to 0.50% of
9 wages paid with respect to the worker's employment with a
10 government employer electing or required to pay contributions to
11 the State disability benefits fund or nongovernmental employer,
12 including a nonprofit organization which is an employer as defined
13 under paragraph (6) of subsection (h) of R.S.43:21-19, unless the
14 employer is covered by an approved private disability plan or is
15 exempt from the provisions of the "Temporary Disability Benefits
16 Law," P.L.1948, c.110 (C.43:21-25 et seq.) under section 7 of that
17 law (C.43:21-31) or any other provision of that law.

18 (ii) During calendar year 2008, each worker shall contribute to
19 the State disability benefits fund, in addition to any amount
20 contributed pursuant to subparagraph (i) of this subparagraph (G),
21 an amount equal to 0.1% of wages paid with respect to the worker's
22 employment with any covered employer, including a governmental
23 employer which is an employer as defined under paragraph (5) of
24 subsection (h) of R.S.43:21-19, unless the employer is covered by
25 an approved private disability plan. The contributions made
26 pursuant to this subparagraph (ii) to the State disability benefits
27 fund shall be deposited into an account reserved for the payment of
28 benefits during periods of family disability leave as defined in
29 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
30 c.110 (C.43:21-27) and for the administration of those payments
31 and shall not be used for any other purpose. For calendar year 2009
32 and each calendar year after that year, the Commissioner of Labor
33 and Workforce Development shall make a determination of the
34 annual rate of contribution to be paid by workers pursuant to this
35 paragraph (ii), which shall be the rate that the commissioner finds
36 sufficient to obtain a total amount of contributions equal to 125% of
37 the benefits estimated by the commissioner to be payable for
38 periods of family disability leave during the calendar year plus
39 100% of the amount estimated by the commissioner to be necessary
40 for the cost of administration of the payment of those benefits, less
41 the amount estimated by the commissioner of net assets which will
42 remain in the account as of December 31 of the immediately
43 preceding year. Necessary administration costs shall include the
44 cost of an outreach program to inform employees of the availability
45 of the benefits and the cost of issuing annual reports on usage rates,
46 reasons for leave, benefits paid, demographics of participants, and
47 other relevant information as determined by the commissioner.

- 1 (2) (A) (Deleted by amendment, P.L.1984, c.24.)
2 (B) (Deleted by amendment, P.L.1984, c.24.)
3 (C) (Deleted by amendment, P.L.1994, c.112.)
4 (D) (Deleted by amendment, P.L.1994, c.112.)
5 (E) (i) (Deleted by amendment, P.L.1994, c.112.)
6 (ii) (Deleted by amendment, P.L.1996, c.28.)
7 (iii) (Deleted by amendment, P.L.1994, c.112.)
8 (3) If an employee receives wages from more than one employer
9 during any calendar year, and either the sum of his contributions
10 deposited in and credited to the State disability benefits fund plus
11 the amount of his contributions, if any, required towards the costs
12 of benefits under one or more approved private plans under the
13 provisions of section 9 of the "Temporary Disability Benefits Law"
14 (C.43:21-33) and deducted from his wages, or the sum of such latter
15 contributions, if the employee is covered during such calendar year
16 only by two or more private plans, exceeds an amount equal to 1/2
17 of 1% of the "wages" determined in accordance with the provisions
18 of R.S.43:21-7(b)(3) during the calendar years beginning on or after
19 January 1, 1976, the employee shall be entitled to a refund of the
20 excess if he makes a claim to the controller within two years after
21 the end of the calendar year in which the wages are received with
22 respect to which the refund is claimed and establishes his right to
23 such refund. Such refund shall be made by the controller from the
24 State disability benefits fund. No interest shall be allowed or paid
25 with respect to any such refund. The controller shall, in accordance
26 with prescribed regulations, determine the portion of the aggregate
27 amount of such refunds made during any calendar year which is
28 applicable to private plans for which deductions were made under
29 section 9 of the "Temporary Disability Benefits Law" (C.43:21-33)
30 such determination to be based upon the ratio of the amount of such
31 wages exempt from contributions to such fund, as provided in
32 subparagraph (B) of paragraph (1) of this subsection with respect to
33 coverage under private plans, to the total wages so exempt plus the
34 amount of such wages subject to contributions to the disability
35 benefits fund, as provided in subparagraph (G) of paragraph (1) of
36 this subsection. The controller shall, in accordance with prescribed
37 regulations, prorate the amount so determined among the applicable
38 private plans in the proportion that the wages covered by each plan
39 bear to the total private plan wages involved in such refunds, and
40 shall assess against and recover from the employer, or the insurer if
41 the insurer has indemnified the employer with respect thereto, the
42 amount so prorated. The provisions of R.S.43:21-14 with respect to
43 collection of employer contributions shall apply to such
44 assessments. The amount so recovered by the controller shall be
45 paid into the State disability benefits fund.
46 (4) If an individual does not receive any wages from the
47 employing unit which for the purposes of this chapter (R.S.43:21-1

1 et seq.) is treated as his employer, or receives his wages from some
2 other employing unit, such employer shall nevertheless be liable for
3 such individual's contributions in the first instance; and after
4 payment thereof such employer may deduct the amount of such
5 contributions from any sums payable by him to such employing
6 unit, or may recover the amount of such contributions from such
7 employing unit, or, in the absence of such an employing unit, from
8 such individual, in a civil action; provided proceedings therefor are
9 instituted within three months after the date on which such
10 contributions are payable. General rules shall be prescribed
11 whereby such an employing unit may recover the amount of such
12 contributions from such individuals in the same manner as if it were
13 the employer.

14 (5) Every employer who has elected to become an employer
15 subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an
16 employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to
17 the provisions of R.S.43:21-8, shall post and maintain printed
18 notices of such election on his premises, of such design, in such
19 numbers, and at such places as the director may determine to be
20 necessary to give notice thereof to persons in his service.

21 (6) Contributions by workers, payable to the controller as herein
22 provided, shall be exempt from garnishment, attachment, execution,
23 or any other remedy for the collection of debts.

24 (e) Contributions by employers to State disability benefits fund.

25 (1) Except as hereinafter provided, each employer shall, in
26 addition to the contributions required by subsections (a), (b), and
27 (c) of this section, contribute 1/2 of 1% of the wages paid by such
28 employer to workers with respect to employment unless he is not a
29 covered employer as defined in section 3 of the "Temporary
30 Disability Benefits Law" (C.43:21-27 (a)), except that the rate for
31 the State of New Jersey shall be 1/10 of 1% for the calendar year
32 1980 and for the first six months of 1981. Prior to July 1, 1981 and
33 prior to July 1 each year thereafter, the controller shall review the
34 experience accumulated in the account of the State of New Jersey
35 and establish a rate for the next following fiscal year which, in
36 combination with worker contributions, will produce sufficient
37 revenue to keep the account in balance; except that the rate so
38 established shall not be less than 1/10 of 1%. Such contributions
39 shall become due and be paid by the employer to the controller for
40 the State disability benefits fund as established by law, in
41 accordance with such regulations as may be prescribed, and shall
42 not be deducted, in whole or in part, from the remuneration of
43 individuals in his employ. In the payment of any contributions, a
44 fractional part of a cent shall be disregarded unless it amounts to
45 \$0.005 or more, in which case it shall be increased to \$0.01.

46 (2) During the continuance of coverage of a worker by an
47 approved private plan of disability benefits under the "Temporary

1 Disability Benefits Law," the employer shall be exempt from the
2 contributions required by subparagraph (1) above with respect to
3 wages paid to such worker.

4 (3) (A) The rates of contribution as specified in subparagraph (1)
5 above shall be subject to modification as provided herein with
6 respect to employer contributions due on and after July 1, 1951.

7 (B) A separate disability benefits account shall be maintained for
8 each employer required to contribute to the State disability benefits
9 fund and such account shall be credited with contributions
10 deposited in and credited to such fund with respect to employment
11 occurring on and after January 1, 1949. Each employer's account
12 shall be credited with all contributions paid on or before January 31
13 of any calendar year on his own behalf and on behalf of individuals
14 in his service with respect to employment occurring in preceding
15 calendar years; provided, however, that if January 31 of any
16 calendar year falls on a Saturday or Sunday an employer's account
17 shall be credited as of January 31 of such calendar year with all the
18 contributions which he has paid on or before the next succeeding
19 day which is not a Saturday or Sunday. But nothing in this act shall
20 be construed to grant any employer or individuals in his service
21 prior claims or rights to the amounts paid by him to the fund either
22 on his own behalf or on behalf of such individuals. Benefits paid to
23 any covered individual in accordance with Article III of the
24 "Temporary Disability Benefits Law" on or before December 31 of
25 any calendar year with respect to disability in such calendar year
26 and in preceding calendar years shall be charged against the account
27 of the employer by whom such individual was employed at the
28 commencement of such disability or by whom he was last
29 employed, if out of employment.

30 (C) The controller may prescribe regulations for the
31 establishment, maintenance, and dissolution of joint accounts by
32 two or more employers, and shall, in accordance with such
33 regulations and upon application by two or more employers to
34 establish such an account, or to merge their several individual
35 accounts in a joint account, maintain such joint account as if it
36 constituted a single employer's account.

37 (D) Prior to July 1 of each calendar year, the controller shall
38 make a preliminary determination of the rate of contribution for the
39 12 months commencing on such July 1 for each employer subject to
40 the contribution requirements of this subsection (e).

41 (1) Such preliminary rate shall be 1/2 of 1% unless on the
42 preceding January 31 of such year such employer shall have been a
43 covered employer who has paid contributions to the State disability
44 benefits fund with respect to employment in the three calendar
45 years immediately preceding such year.

1 (2) If the minimum requirements in (1) above have been
2 fulfilled and the credited contributions exceed the benefits charged
3 by more than \$500.00, such preliminary rate shall be as follows:

4 (i) $\frac{2}{10}$ of 1% if such excess over \$500.00 exceeds 1% but is
5 less than $1\frac{1}{4}$ % of his average annual payroll as defined in this
6 chapter (R.S.43:21-1 et seq.);

7 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
8 $1\frac{1}{4}$ % but is less than $1\frac{1}{2}$ % of his average annual payroll;

9 (iii) $\frac{1}{10}$ of 1% if such excess over \$500.00 equals or exceeds $1\frac{1}{2}$
10 % of his average annual payroll.

11 (3) If the minimum requirements in (1) above have been
12 fulfilled and the contributions credited exceed the benefits charged
13 but by not more than \$500.00 plus 1% of his average annual
14 payroll, or if the benefits charged exceed the contributions credited
15 but by not more than \$500.00, the preliminary rate shall be $\frac{1}{4}$ of
16 1%.

17 (4) If the minimum requirements in (1) above have been
18 fulfilled and the benefits charged exceed the contributions credited
19 by more than \$500.00, such preliminary rate shall be as follows:

20 (i) $\frac{35}{100}$ of 1% if such excess over \$500.00 is less than $\frac{1}{4}$ of
21 1% of his average annual payroll;

22 (ii) $\frac{45}{100}$ of 1% if such excess over \$500.00 equals or exceeds
23 $\frac{1}{4}$ of 1% but is less than $\frac{1}{2}$ of 1% of his average annual payroll;

24 (iii) $\frac{55}{100}$ of 1% if such excess over \$500.00 equals or exceeds
25 $\frac{1}{2}$ of 1% but is less than $\frac{3}{4}$ of 1% of his average annual payroll;

26 (iv) $\frac{65}{100}$ of 1% if such excess over \$500.00 equals or exceeds
27 $\frac{3}{4}$ of 1% but is less than 1% of his average annual payroll;

28 (v) $\frac{75}{100}$ of 1% if such excess over \$500.00 equals or exceeds
29 1% of his average annual payroll.

30 (5) Determination of the preliminary rate as specified in (2), (3)
31 and (4) above shall be subject, however, to the condition that it
32 shall in no event be decreased by more than $\frac{1}{10}$ of 1% of wages or
33 increased by more than $\frac{2}{10}$ of 1% of wages from the preliminary
34 rate determined for the preceding year in accordance with (1), (2),
35 (3) or (4), whichever shall have been applicable.

36 (E) (1) Prior to July 1 of each calendar year the controller shall
37 determine the amount of the State disability benefits fund as of
38 December 31 of the preceding calendar year, increased by the
39 contributions paid thereto during January of the current calendar
40 year with respect to employment occurring in the preceding
41 calendar year. If such amount exceeds the net amount withdrawn
42 from the unemployment trust fund pursuant to section 23 of the
43 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47)
44 plus the amount at the end of such preceding calendar year of the
45 unemployment disability account as defined in section 22 of said
46 law (C.43:21-46), such excess shall be expressed as a percentage of
47 the wages on which contributions were paid to the State disability

1 benefits fund on or before January 31 with respect to employment
2 in the preceding calendar year.

3 (2) The controller shall then make a final determination of the
4 rates of contribution for the 12 months commencing July 1 of such
5 year for employers whose preliminary rates are determined as
6 provided in (D) hereof, as follows:

7 (i) If the percentage determined in accordance with paragraph
8 (E)(1) of this subsection equals or exceeds $1\frac{1}{4}\%$, the final
9 employer rates shall be the preliminary rates determined as
10 provided in (D) hereof, except that if the employer's preliminary
11 rate is determined as provided in (D)(2) or (D)(3) hereof, the final
12 employer rate shall be the preliminary employer rate decreased by
13 such percentage of excess taken to the nearest $\frac{5}{100}$ of 1%, but in
14 no case shall such final rate be less than $\frac{1}{10}$ of 1%.

15 (ii) If the percentage determined in accordance with paragraph
16 (E)(1) of this subsection equals or exceeds $\frac{3}{4}$ of 1% and is less
17 than $1\frac{1}{4}$ of 1%, the final employer rates shall be the preliminary
18 employer rates.

19 (iii) If the percentage determined in accordance with paragraph
20 (E)(1) of this subsection is less than $\frac{3}{4}$ of 1%, but in excess of $\frac{1}{4}$
21 of 1%, the final employer rates shall be the preliminary employer
22 rates determined as provided in (D) hereof increased by the
23 difference between $\frac{3}{4}$ of 1% and such percentage taken to the
24 nearest $\frac{5}{100}$ of 1%; provided, however, that no such final rate
25 shall be more than $\frac{1}{4}$ of 1% in the case of an employer whose
26 preliminary rate is determined as provided in (D)(2) hereof, more
27 than $\frac{1}{2}$ of 1% in the case of an employer whose preliminary rate is
28 determined as provided in (D)(1) and (D)(3) hereof, nor more than
29 $\frac{3}{4}$ of 1% in the case of an employer whose preliminary rate is
30 determined as provided in (D)(4) hereof.

31 (iv) If the amount of the State disability benefits fund determined
32 as provided in paragraph (E)(1) of this subsection is equal to or less
33 than $\frac{1}{4}$ of 1%, then the final rate shall be $\frac{2}{5}$ of 1% in the case of
34 an employer whose preliminary rate is determined as provided in
35 (D)(2) hereof, $\frac{7}{10}$ of 1% in the case of an employer whose
36 preliminary rate is determined as provided in (D)(1) and (D)(3)
37 hereof, and 1.1% in the case of an employer whose preliminary rate
38 is determined as provided in (D)(4) hereof. Notwithstanding any
39 other provision of law or any determination made by the controller
40 with respect to any 12-month period commencing on July 1, 1970,
41 the final rates for all employers for the period beginning January 1,
42 1971, shall be as set forth herein.

43 (F) Notwithstanding any other provisions of this subsection (e),
44 the rate of contribution paid to the State disability benefits fund by
45 each covered employer as defined in paragraph (1) of subsection (a)
46 of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as
47 if:

1 the average worker would pay less than \$1.00 per week in
2 assessments. In each successive year, the Commissioner of Labor
3 and Workforce Development would set a contribution rate for
4 workers based on estimates of the expected cost of benefits and
5 administration, less funds left over from the preceding year. The
6 funds raised through that assessment would be deposited into an
7 account to be used only for family leave benefits and their
8 administration, including the cost of an outreach program to eligible
9 employees and the cost of issuing annual reports on the use of the
10 benefits. Neither the assessments nor the benefits would be
11 considered in determining the TDI tax rates of employers.

12 Finally, the bill reaffirms the State's commitment to sustaining
13 the State-operated, nonprofit State disability benefits plan, which
14 has been found to be a highly efficient and cost-effective means of
15 ensuring the availability of coverage for employers and workers
16 with low overhead costs and impartial claims processing.