

P.L. 2009, CHAPTER 159, *approved November 20, 2009*

Assembly, No. 2885

(Corrected Copy)

1 **AN ACT** concerning equity awards under certain employee benefit
2 plans and amending N.J.S.14A:8-1.

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

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7 1. N.J.S.14A:8-1 is amended to read as follows:

8 14A:8-1 Employee benefit plans

9 (1) A corporation may establish and carry out wholly or partly
10 at its expense, any one or more of the following plans for the
11 benefit of some or all employees, as hereinafter defined, and their
12 families, dependents or beneficiaries:

13 (a) Plans providing for the sale or distribution of its shares of
14 any class or series, held by it or issued or purchased by it for the
15 purpose, including stock option, stock purchase, stock bonus, profit-
16 sharing, savings, pension, retirement, deferred compensation and
17 other plans of similar nature, whether or not such plans also provide
18 for the distribution of cash or property other than its shares;

19 (b) Plans providing for payments solely in cash or property
20 other than shares of the corporation, including profit-sharing,
21 bonus, savings, pension, retirement, deferred compensation and
22 other plans of similar nature; and

23 (c) Plans for the furnishing of medical services; life, sickness,
24 accident, disability or unemployment insurance or benefits;
25 education; housing; social and recreational services; and other
26 similar aids and services.

27 (2) The term "employees" as used in this chapter means
28 employees, officers, directors, and agents of the corporation or any
29 subsidiary thereof, or other persons who are or have been actively
30 engaged in the conduct of the business of the corporation or any
31 subsidiary thereof, including any who have retired, become disabled
32 or died prior to the establishment of any plan heretofore or hereafter
33 adopted.

34 (3) Employee benefits plans may be adopted, amended or
35 terminated by a corporation by the act of its board, a committee of
36 the board, or officers to whom the responsibility has been
37 delegated. Notwithstanding the foregoing, any plan providing for
38 the issuance of shares shall be initially adopted by the board or any
39 committee thereof.

40 (4) The board of directors may, by a resolution adopted by the
41 board or a committee of the board, authorize one or more officers of

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

Matter underlined thus is new matter.

1 the corporation to do one or both of the following: (a) designate
2 officers and employees of the corporation or of any of its
3 subsidiaries to be recipients of shares of stock, rights or options
4 created by the corporation; or (b) determine the number of shares,
5 rights or options to be received by those officers and employees;
6 provided, however that the resolution authorizing those officers
7 shall specify the total number of shares, rights or options the
8 officers may award. A resolution adopted pursuant to this
9 paragraph shall prohibit any officer from designating himself as a
10 recipient of any shares, rights or options.

11 (cf: P.L.1988, c.94, s.49)

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13 2. This act shall take effect immediately.

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STATEMENT

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18 The bill provides greater flexibility in the types of equity awards
19 that a corporation may use. The bill recognizes that equity grants
20 are an integral part of the compensation systems at many
21 corporations; that it is cumbersome to require the board of directors
22 or a board committee to be involved in each individual equity grant;
23 that the officers of the corporation are in a better position to
24 evaluate employee performance and entitlement to equity grants
25 than is the board; and that officers should be given the authority to
26 provide employees with equity compensation in the same manner
27 and at the same times as they may provide cash compensation.

28 The bill does provide some constraints on the officers by leaving
29 to the board the determination of the size of the overall equity pool
30 available for grant and by prohibiting officers from granting equity
31 to themselves.

32 The bill is based on Section 157(c) of the Delaware General
33 Corporation Law, but extends that provision to cover the grant of
34 shares of stock as well as share rights and options, in recognition of
35 the recent trend in many corporations away from granting stock
36 options in favor of restricted stock grants.

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42 Allows officers of corporation to grant employees and officers of
corporation shares of stock, rights or options.