

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2094

STATE OF NEW JERSEY

ADOPTED SEPTEMBER 19, 1996

Sponsored by Assemblyman ROMA and
Assemblywoman ALLEN

1 AN ACT concerning Joint Safety and Health Committees and workers'
2 compensation premiums, supplementing chapter 15 of Title 34 of
3 the Revised Statutes, amending R.S.34:15-89, and making an
4 appropriation.

5

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

8

9 1. (New section) For the purposes of this act:

10 "Contractor" means an employer that is a construction or
11 maintenance contractor.

12 "Committee" means a Joint Safety and Health Committee
13 established pursuant to section 3 of this act.

14 "Commission" means the Workplace Safety and Health
15 Commission established pursuant to section 2 of this act.

16 "Designated industry" means an industry which is found and
17 designated by the Commission of Labor to have a relatively high level
18 of safety and health hazards and shall include, but not be limited to, all
19 industries under the following group numbers of the Standard
20 Industrial Classification (SIC), as designated by the Standard
21 Industrial Classification Manual prepared by the Federal Office of
22 Management and Budget: 01-09 (agriculture, forestry and fishing); 15-
23 17 (construction); 20-39 (manufacturing); and 41-49 (transportation,
24 communications, electric, gas and sanitary services).

25 "Employee representative" means an organization engaged in a
26 collective bargaining or collective negotiation relationship with an
27 employer.

28 "Employer" means any employer as defined in R.S.34:15-36,

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted January 29, 1997.

1 except for the State or any department, division, bureau, board,
2 council, agency or authority of the State other than a bi-State
3 authority.

4 "Facility" means all buildings, structures or other stationary items
5 located on a single site or on contiguous or adjacent sites used for the
6 conduct of business and which are owned or operated by the same
7 employer.

8 "Safety and health programs" means all safety and health programs
9 of a facility or contractor, including accident and illness prevention
10 programs and programs to minimize the danger of violence to
11 employees, including programs developed and implemented pursuant
12 to P.L.1996, c. ___ (C. ____)(now pending before the Legislature as
13 Assembly Bill No.1656).

14

15 2. (New section) a. There is established, in the Department of
16 Labor, the Workplace Safety and Health Commission. The
17 commission shall consist of 13 members as follows: the Commissioner
18 of Banking and Insurance, the Commissioner of Health ¹and Senior
19 Services¹, the Commissioner of Labor, the Commissioner of
20 Commerce and Economic Development and the Commissioner of
21 Personnel or their designees, who shall serve ex-officio and shall be
22 non-voting members; and eight public members who have knowledge,
23 competence or experience in connection with occupational safety and
24 health, workplace injuries and illnesses or safety and health programs.
25 Of the eight public members, four shall be appointed by the Governor
26 from a list or lists of nominees provided by one or more recognized
27 State-wide organizations representing businesses and the other four
28 shall be appointed by the Governor from a list or lists of nominees
29 provided by one or more recognized State-wide organizations
30 representing labor unions.

31 b. All appointments shall be made within 90 days after the
32 effective date of this act. The appointed members of the commission
33 shall serve for a term ending on December 31, 1999. Vacancies in the
34 membership of the appointed members of the commission shall be
35 filled in the same manner as the original appointments.

36 c. The members shall serve without compensation, but shall be
37 reimbursed for necessary expenditures incurred in the performance of
38 their duties as members of the commission, within the limits of funds
39 appropriated or otherwise made available to the commission for its
40 purposes.

41 d. The commission shall organize as soon as possible after the
42 appointments are made and shall select a chairperson from among its
43 members. The commission may appoint a secretary, who need not be
44 a member of the commission. The commission shall meet at least
45 quarterly and may hold meetings and hearings at such places and times
46 as it designates. No action shall be taken by the commission except by

1 an affirmative vote of a majority of the members of the commission
2 who are voting members pursuant to subsection a. of this section.

3 e. The commission shall:

4 (1) Review employer applications for workers' compensation
5 premium reductions, make recommendations to the compensation
6 rating and inspection bureau regarding the reductions pursuant to
7 section 3 of this act and make determinations, pursuant to R.S.34:15-
8 89, regarding whether Joint Safety and Health Committees are in
9 operation; and

10 (2) Issue a report to the Governor and the Legislature not later
11 than June 1, 1999 which evaluates and describes the effectiveness of
12 the provisions of this act and of P.L. __, c. _____ (C. _____)(now
13 pending before the Legislature as the Assembly Committee Substitute
14 for Assembly Bill No. 2093 of 1996) in improving workplace safety
15 and health. The report shall make recommendations regarding
16 whether to modify or continue after December 31, 1999 the provisions
17 of this act, recommendations whether to modify the provisions of
18 P.L. __, c. ____ (C. _____)(now pending before the Legislature as the
19 Assembly Committee Substitute for Assembly Bill No.2093 of 1996),
20 and recommendations regarding other possible methods to induce
21 more employers to establish Joint Safety and Health Committees. The
22 report shall include any draft legislation needed to implement
23 recommendations of the report. The commission shall expire on
24 December 31, 1999.

25 f. The commission may hold public hearings and shall have access
26 to ¹[relevant files and records of each Joint Safety and Health
27 committee established pursuant to the provisions of this act and
28 P.L. __, c. _____ (C. _____)(now pending before the Legislature as the
29 Assembly Committee Substitute for Assembly Bill No.2093 of 1996)
30 and]¹ relevant files and records of the Department of Banking and
31 Insurance, the Department of Labor, the Department of Health ¹and
32 Senior Services¹, the Department of Personnel and other relevant State
33 agencies and may call to its assistance and avail itself of the services
34 of the employees of those departments and agencies to provide
35 whatever information the commission deems relevant and necessary in
36 the performance of its functions ¹, except as otherwise provided in this
37 subsection. The Department of Labor shall have access to relevant
38 files and records of each Joint Safety and Health Committee
39 established pursuant to the provisions of this act and P.L. __, c. _____
40 (C. _____)(now pending before the Legislature as the Assembly
41 Committee Substitute for Assembly Bill No.2093 of 1996) and shall
42 provide the commission with any information that the commission
43 requires to carry out its duties, except that no information obtained
44 about any employer, employees of the employer or employee
45 representative of the employees by the Department of Labor from the
46 files or records of a Joint Safety and Health Committee which can be

1 identified with any specific employer, employee of the employer or
2 employee representative of the employees shall be disclosed to the
3 commission without the written consent of the employer and any
4 employee representative of the employer's employees. No information
5 obtained about any employer, employees of the employer or employee
6 representative of the employees by the Department of Labor from the
7 files or records of a Joint Safety and Health Committee shall be
8 disclosed by the department, except to the commission¹. Any
9 information obtained from or about any employer, employees of the
10 employer or employee representative of the employees by the
11 commission shall be retained solely for the use of the commission in
12 the implementation of this act, and shall not be disclosed, except as
13 part of a report made by the commission pursuant to this act. No
14 report of the commission shall include information which ¹[is
15 identifiable] can be identified¹ with any specific employer, employee
16 of the employer or ¹[employer] employee ¹representative of the
17 ¹[employee] employees¹ without the written consent of the employer
18 and any employee representative of the employer's employees.

19 g. Expenses of the commission deemed necessary by the
20 Commissioner of Labor to carry out its responsibilities under the
21 provisions of this 1996 amendatory and supplementary act, which shall
22 not exceed \$150,000 during any fiscal year, shall be regarded as
23 administrative expenses of the Division of Workers' Compensation for
24 the purposes of R.S.34:15-94.

25
26 3. (New section) An employer who, after the effective date of this
27 act, establishes a Joint Safety and Health Committee which complies
28 with the provisions of this act may submit an application to the
29 Commissioner of Banking and Insurance for a workers' compensation
30 premium reduction pursuant to the provisions of R.S.34:15-89. Upon
31 receipt of the application, the Commissioner of Banking and Insurance
32 shall refer the application to the Workplace Safety and Health
33 Commission, which shall determine whether the requirements of this
34 section are being met in connection with the application, and, if it
35 determines that the requirements are being met, recommend, not more
36 than 60 days after the referral, that the compensation rating and
37 inspection bureau reduce the workers' compensation premium of the
38 employer pursuant to the provisions of R.S.34:15-89. The commission
39 shall retain copies of the applications until the commission completes
40 the report it is required to make pursuant to section 2 of this ¹[section]
41 act¹.

42 An employer shall receive a workers' compensation premium
43 reduction pursuant to this section for establishing a Joint Safety and
44 Health Committee if the following requirements are met:

45 a. The employer shall establish one or more Joint Safety and
46 Health Committees at each facility covered by the workers'

1 compensation policy subject to the premium reduction, or, if the
2 employer is a contractor, the employer shall establish one or more
3 Joint Safety and Health Committees which have members at each
4 facility where employees of the contractor work;

5 b. Each committee shall have, taking into consideration the size of
6 the facility or facilities, a reasonable number of members, which shall
7 in no case be less than four members, to carry out its duties and each
8 committee shall consist of an equal number of employer members and
9 employee members;

10 c. If employees at the facility or the employees of the contractor
11 are represented by an employee representative, each committee shall
12 be established with the participation and the written consent of both
13 the employer and the employee representative;

14 d. If employees at the facility or the employees of the contractor
15 are represented by an employee representative, that employee
16 representative shall select the employee members of each committee;

17 e. If employees at the facility or the employees of the contractor
18 are represented by more than one employee representative:

19 (1) Each employee representative shall select a number of
20 employee members to the committee which is in proportion to the
21 number of employees represented by the employee representative at
22 the facility or in proportion to the number of employees of the
23 contractor represented by the employee representative; or

24 (2) A separate committee shall be established for each employee
25 representative;

26 f. If no employees at the facility or no employees of the contractor
27 are represented by an employee representative, the employee members
28 of each committee shall be employees who have volunteered to be
29 committee members and are not managers or supervisors;

30 g. Each committee shall be required, in a manner consistent with
31 standards set by the Commissioner of Labor, in consultation with the
32 commission and the Commissioner of Health ¹and Senior Services¹, to:

33 (1) Hold regular meetings, not less than once each month, unless
34 the employer and employee members of the committee agree to meet
35 less frequently than once each month, and prepare written minutes of
36 the meetings;

37 (2) Collect and analyze information regarding the effectiveness of
38 safety and health programs at the facility in preventing injury and
39 illness and prepare written reports for the employer of its findings;

40 (3) Collect and analyze information regarding safety and health
41 conditions at the facility, by means including inspections which cover
42 the facility not less than one time each calendar quarter if the facility
43 is in a designated industry, or not less than one time in six months if
44 the facility is not in a designated industry, and ¹[investigations of]
45 inquiries into¹ accidents and exposures, for which the committee shall
46 be given timely and reasonable access to conduct the ¹[investigations]

1 inquiries,¹ and prepare written reports for the employer of its findings;
2 (4) Reduce and prevent injury and illness by disseminating
3 information to employees and raising employee awareness regarding
4 safety and health conditions and the best practices; and
5 (5) Keep and make available to employees and the employer all
6 records of the committee, including all minutes and reports of the
7 committee, for a period of not less than three years, provided that, if
8 the operations of the committee are discontinued, the employer shall
9 keep and make available the records of the committee during the
10 required period;
11 h. All reports made by the committee pursuant to subsection g. of
12 this section shall fully reflect the views of the employer and employee
13 members of the committee;
14 i. If no employee at the facility or no employee of the contractor
15 is represented by an employee representative, the committee shall not
16 deal or bargain with the employer concerning grievances, labor
17 disputes, wages, rates of pay, hours of employment or conditions of
18 work and all findings of the committee shall be advisory;
19 j. If employees at the facility or the employees of the contractor
20 are represented by one or more employee representatives, the
21 operations of the committee shall not violate any provision of a
22 collective bargaining agreement; and, if the committee is established
23 pursuant to a collective bargaining agreement, the committee may
24 exercise, in addition to the responsibilities indicated in this section, any
25 other responsibilities permitted by law and the collective bargaining
26 agreement;
27 k. Committee members shall be compensated by the employer at
28 their regular wage for time spent performing committee duties and
29 training provided pursuant to subsection l. of this section; and
30 l. Committee members shall be provided with training which is
31 designed to enable them to carry out their duties as committee
32 members and which complies with standards set by the Commissioner
33 of Labor in consultation with the commission and the Commissioner
34 of Health ¹and Senior Services¹. The training for committee members
35 may include occupational safety and health training which complies
36 with those standards and is ¹funded by the Office of Customized
37 Training and¹ provided pursuant to the Workforce Development
38 Partnership Program established pursuant to P.L.1992, c.43
39 (C.34:15D-1 et seq.). ¹The Commissioner of Labor and the
40 commission shall make technical assistance available to coordinate an
41 employer's applications for funding from the Office of Customized
42 Training to train committee members and for workers' compensation
43 premium reductions pursuant to this act. If an employer does not
44 receive the funding to train the committee members, the employer shall
45 have the option of not using a premium reduction and not establishing
46 a Joint Safety and Health Committee.¹

1 If the employer, or any employee representative of employees of
2 the employer, elects to discontinue participation in the committee, the
3 committee shall be regarded as not in operation for the purpose of this
4 act.

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6 4. R.S.34:15-89 is amended to read as follows:

7 34:15-89. a. The compensation rating and inspection bureau as
8 created and established by the act entitled "An act concerning the
9 compulsory insurance of compensation payments arising under section
10 2 of an act entitled, 'An act prescribing the liability of an employer to
11 make compensation for injuries received by an employee in the course
12 of employment, establishing an elective schedule of compensation, and
13 regulating procedure for the determination of liability and
14 compensation thereunder,' approved April 4, 1911," approved March
15 27, 1917 (L.1917, c.178, p.522), as amended and supplemented is
16 continued under the supervision of the [Commissioner of Banking and
17 Insurance] commissioner.

18 It shall establish and maintain rules, regulations and premium rates
19 for [workmen's] workers' compensation and employer's liability
20 insurance and equitably adjust the same, as far as practicable, to the
21 hazard of individual risks, by inspection by the bureau.

22 It shall adopt means for assuring uniform and accurate audit of
23 payrolls as they relate to policies of [workmen's] workers'
24 compensation and employer's liability insurance by auditors, appointed
25 by the bureau, with the approval of the [said] commissioner or by such
26 other means as the bureau may, with the approval of the
27 [Commissioner of Banking and Insurance] commissioner, establish.

28 It shall furnish upon request to any of its members or to any
29 employer upon whose risk a rating has been promulgated by it,
30 information as to such rating, including the method of its computation,
31 and shall encourage employers to reduce the number and severity of
32 accidents by adjusting premiums and rates, through the use of credits
33 and debits or other proper factors, under such uniform system of
34 experience or other form of merit rating as may be approved by the
35 [said] commissioner.

36 b. On and after the effective date of P.L. , c. (now pending
37 before the Legislature as this bill) and until December 31, 1999, the
38 compensation rating and inspection bureau shall, upon the
39 recommendation of the Workplace Safety and Health Commission
40 pursuant to section 3 of P.L. , c. (C.) (now pending before
41 the Legislature as this bill), reduce, for a period of one year, the
42 workers' compensation premiums paid by an employer by 5%, if the
43 employer establishes, after that effective date, one or more Joint
44 Safety and Health Committees which comply with the provisions of
45 that act. An employer shall not receive a premium reduction pursuant
46 to this subsection more than one time. If the operation of a Joint

1 Safety and Health Committee for which an employer has received a
2 reduction in premiums pursuant to this subsection is discontinued
3 during the one-year period to which either premium reduction applies,
4 the employer shall notify the commission and the bureau and shall
5 repay to the insurer a portion of the premium reduction determined by
6 the bureau to be proportional to the amount of time during the one-
7 year period during which the commission determines that the
8 committee is not in operation. No payment by the employer shall be
9 required by the provisions of P.L. , c. (C.) (now pending
10 before the Legislature as this bill), other than the repayment of the
11 premium pursuant to this subsection.

12 (cf: P.L.1955, c.108, s.1)

13

14 5. (New section) The Commissioner of Labor, in consultation
15 with the Commissioner of Banking and Insurance, the Commissioner
16 of Health ¹and Senior Services¹ and the Workplace Safety and Health
17 Commission, shall, pursuant to the provisions of the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate
19 rules and regulations to effectuate the provisions of this 1996
20 amendatory and supplementary act.

21

22 6. There is appropriated from the General Fund to the Workplace
23 Safety and Health Commission \$75,000 to implement the provisions
24 of this act.

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26 7. This act shall take effect on the 180th day following enactment
27 and sections 1, 2, 3, 5 and 6 shall expire on December 31, 1999.

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32 Concerns Joint Safety and Health Committees and workers'
33 compensation; appropriates \$75,000.