

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,
29 except for the State or any department, division, bureau, board,
30 council, agency or authority of the State other than a bi-State
31 authority.

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

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

11

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

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

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

38 d. The commission shall organize as soon as possible after the
39 appointments are made and shall select a chairperson from among its
40 members. The commission may appoint a secretary, who need not be
41 a member of the commission. The commission shall meet at least
42 quarterly and may hold meetings and hearings at such places and times
43 as it designates. No action shall be taken by the commission except by
44 an affirmative vote of a majority of the members of the commission
45 who are voting members pursuant to subsection a. of this section.

1 e. The commission shall:

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

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

23 f. The commission may hold public hearings and shall have access
24 to relevant files and records of each Joint Safety and Health committee
25 established pursuant to the provisions of this act and P.L. __, c.
26 (C.____)(now pending before the Legislature as the Assembly
27 Committee Substitute for Assembly Bill No.2093 of 1996) and
28 relevant files and records of the Department of Banking and Insurance,
29 the Department of Labor, the Department of Health, the Department
30 of Personnel and other relevant State agencies and may call to its
31 assistance and avail itself of the services of the employees of those
32 departments and agencies to provide whatever information the
33 commission deems relevant and necessary in the performance of its
34 functions. Any information obtained from or about any employer,
35 employees of the employer or employee representative of the
36 employees by the commission shall be retained solely for the use of the
37 commission in the implementation of this act, and shall not be
38 disclosed except as part of a report made by the commission pursuant
39 to this act. No report of the commission shall include information
40 which is identifiable with any specific employer, employee of the
41 employer or employer representative of the employee without the
42 written consent of the employer and any employee representative of
43 the employer's employees.

44 g. Expenses of the commission deemed necessary by the
45 Commissioner of Labor to carry out its responsibilities under the

1 provisions of this 1996 amendatory and supplementary act, which shall
2 not exceed \$150,000 during any fiscal year, shall be regarded as
3 administrative expenses of the Division of Workers' Compensation for
4 the purposes of R.S.34:15-94.

5
6 3. (New section) An employer who, after the effective date of this
7 act, establishes a Joint Safety and Health Committee which complies
8 with the provisions of this act may submit an application to the
9 Commissioner of Banking and Insurance for a workers' compensation
10 premium reduction pursuant to the provisions of R.S.34:15-89. Upon
11 receipt of the application, the Commissioner of Banking and Insurance
12 shall refer the application to the Workplace Safety and Health
13 Commission, which shall determine whether the requirements of this
14 section are being met in connection with the application, and, if it
15 determines that the requirements are being met, recommend, not more
16 than 60 days after the referral, that the compensation rating and
17 inspection bureau reduce the workers' compensation premium of the
18 employer pursuant to the provisions of R.S.34:15-89. The commission
19 shall retain copies of the applications until the commission completes
20 the report it is required to make pursuant to section 2 of this section.

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

24 a. The employer shall establish one or more Joint Safety and
25 Health Committees at each facility covered by the workers'
26 compensation policy subject to the premium reduction, or, if the
27 employer is a contractor, the employer shall establish one or more
28 Joint Safety and Health Committees which have members at each
29 facility where employees of the contractor work;

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

35 c. If employees at the facility or the employees of the contractor
36 are represented by an employee representative, each committee shall
37 be established with the participation and the written consent of both
38 the employer and the employee representative;

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

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

44 (1) Each employee representative shall select a number of
45 employee members to the committee which is in proportion to the

- 1 number of employees represented by the employee representative at
2 the facility or in proportion to the number of employees of the
3 contractor represented by the employee representative; or
- 4 (2) A separate committee shall be established for each employee
5 representative;
- 6 f. If no employees at the facility or no employees of the contractor
7 are represented by an employee representative, the employee members
8 of each committee shall be employees who have volunteered to be
9 committee members and are not managers or supervisors;
- 10 g. Each committee shall be required, in a manner consistent with
11 standards set by the Commissioner of Labor, in consultation with the
12 commission and the Commissioner of Health, to:
- 13 (1) Hold regular meetings, not less than once each month, unless
14 the employer and employee members of the committee agree to meet
15 less frequently than once each month, and prepare written minutes of
16 the meetings;
- 17 (2) Collect and analyze information regarding the effectiveness of
18 safety and health programs at the facility in preventing injury and
19 illness and prepare written reports for the employer of its findings;
- 20 (3) Collect and analyze information regarding safety and health
21 conditions at the facility, by means including inspections which cover
22 the facility not less than one time each calendar quarter if the facility
23 is in a designated industry, or not less than one time in six months if
24 the facility is not in a designated industry, and investigations of
25 accidents and exposures, for which the committee shall be given timely
26 and reasonable access to conduct the investigations and prepare
27 written reports for the employer of its findings;
- 28 (4) Reduce and prevent injury and illness by disseminating
29 information to employees and raising employee awareness regarding
30 safety and health conditions and the best practices; and
- 31 (5) Keep and make available to employees and the employer all
32 records of the committee, including all minutes and reports of the
33 committee, for a period of not less than three years, provided that, if
34 the operations of the committee are discontinued, the employer shall
35 keep and make available the records of the committee during the
36 required period;
- 37 h. All reports made by the committee pursuant to subsection g. of
38 this section shall fully reflect the views of the employer and employee
39 members of the committee;
- 40 i. If no employee at the facility or no employee of the contractor
41 is represented by an employee representative, the committee shall not
42 deal or bargain with the employer concerning grievances, labor
43 disputes, wages, rates of pay, hours of employment or conditions of
44 work and all findings of the committee shall be advisory;
- 45 j. If employees at the facility or the employees of the contractor

1 are represented by one or more employee representatives, the
2 operations of the committee shall not violate any provision of a
3 collective bargaining agreement; and, if the committee is established
4 pursuant to a collective bargaining agreement, the committee may
5 exercise, in addition to the responsibilities indicated in this section, any
6 other responsibilities permitted by law and the collective bargaining
7 agreement;

8 k. Committee members shall be compensated by the employer at
9 their regular wage for time spent performing committee duties and
10 training provided pursuant to subsection l. of this section; and

11 l. Committee members shall be provided with training which is
12 designed to enable them to carry out their duties as committee
13 members and which complies with standards set by the Commissioner
14 of Labor in consultation with the commission and the Commissioner
15 of Health. The training for committee members may include
16 occupational safety and health training which complies with those
17 standards and is provided pursuant to the Workforce Development
18 Partnership Program established pursuant to P.L.1992, c.43
19 (C.34:15D-1 et seq.).

20 If the employer, or any employee representative of employees of
21 the employer, elects to discontinue participation in the committee, the
22 committee shall be regarded as not in operation for the purpose of this
23 act.

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

26 34:15-89. a. The compensation rating and inspection bureau as
27 created and established by the act entitled "An act concerning the
28 compulsory insurance of compensation payments arising under section
29 2 of an act entitled, 'An act prescribing the liability of an employer to
30 make compensation for injuries received by an employee in the course
31 of employment, establishing an elective schedule of compensation, and
32 regulating procedure for the determination of liability and
33 compensation thereunder,' approved April 4, 1911," approved March
34 27, 1917 (L.1917, c.178, p.522), as amended and supplemented is
35 continued under the supervision of the [Commissioner of Banking and
36 Insurance] commissioner.

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

41 It shall adopt means for assuring uniform and accurate audit of
42 payrolls as they relate to policies of [workmen's] workers'
43 compensation and employer's liability insurance by auditors, appointed
44 by the bureau, with the approval of the [said] commissioner or by such
45 other means as the bureau may, with the approval of the

1 **[Commissioner of Banking and Insurance]** commissioner, establish.

2 It shall furnish upon request to any of its members or to any
3 employer upon whose risk a rating has been promulgated by it,
4 information as to such rating, including the method of its computation,
5 and shall encourage employers to reduce the number and severity of
6 accidents by adjusting premiums and rates, through the use of credits
7 and debits or other proper factors, under such uniform system of
8 experience or other form of merit rating as may be approved by the
9 **[said]** commissioner.

10 b. On and after the effective date of P.L. , c. (now pending
11 before the Legislature as this bill) and until December 31, 1999, the
12 compensation rating and inspection bureau shall, upon the
13 recommendation of the Workplace Safety and Health Commission
14 pursuant to section 3 of P.L. , c. (C.) (now pending before
15 the Legislature as this bill), reduce, for a period of one year, the
16 workers' compensation premiums paid by an employer by 5%, if the
17 employer establishes, after that effective date, one or more Joint
18 Safety and Health Committees which comply with the provisions of
19 that act. An employer shall not receive a premium reduction pursuant
20 to this subsection more than one time. If the operation of a Joint
21 Safety and Health Committee for which an employer has received a
22 reduction in premiums pursuant to this subsection is discontinued
23 during the one-year period to which either premium reduction applies,
24 the employer shall notify the commission and the bureau and shall
25 repay to the insurer a portion of the premium reduction determined by
26 the bureau to be proportional to the amount of time during the one-
27 year period during which the commission determines that the
28 committee is not in operation. No payment by the employer shall be
29 required by the provisions of P.L. , c. (C.) (now pending
30 before the Legislature as this bill), other than the repayment of the
31 premium pursuant to this subsection.

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

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34 5. (New section) The Commissioner of Labor, in consultation
35 with the Commissioner of Banking and Insurance, the Commissioner
36 of Health and the Workplace Safety and Health Commission, shall,
37 pursuant to the provisions of the "Administrative Procedure Act,"
38 P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate rules and
39 regulations to effectuate the provisions of this 1996 amendatory and
40 supplementary act.

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

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