

ASSEMBLY, No. 2890

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

SYNOPSIS

Permits temporary appointment of additional members to the Board of Review in the Division of Employment Security.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A2890 VERRELLI

2

1 AN ACT concerning the Board of Review in the Division of
2 Employment Security and amending various parts of the
3 statutory law.
4

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

8 1. Section 3 of P.L.1941, c.100 (C.34:13A-3) is amended to
9 read as follows:

10 3. When used in this act:

11 (a) The term "board" shall mean New Jersey State Board of
12 Mediation.

13 (b) The term "commission" shall mean New Jersey Public
14 Employment Relations Commission.

15 (c) The term "employer" includes an employer and any person
16 acting, directly or indirectly, on behalf of or in the interest of an
17 employer with the employer's knowledge or ratification, but a labor
18 organization, or any officer or agent thereof, shall be considered an
19 employer only with respect to individuals employed by such
20 organization. This term shall include "public employers" and shall
21 mean the State of New Jersey, or the several counties and
22 municipalities thereof, or any other political subdivision of the
23 State, or a school district, or any special district, or any authority,
24 commission, or board, or any branch or agency of the public
25 service. The term shall also include the Delaware River Port
26 Authority, established pursuant to R.S.32:3-1 et seq.

27 (d) The term "employee" shall include any employee, and shall
28 not be limited to the employees of a particular employer unless this
29 act explicitly states otherwise, and shall include any individual
30 whose work has ceased as a consequence of or in connection with
31 any current labor dispute or because of any unfair labor practice and
32 who has not obtained any other regular and substantially equivalent
33 employment. This term, however, shall not include any individual
34 taking the place of any employee whose work has ceased as
35 aforesaid, nor shall it include any individual employed by his parent
36 or spouse, or in the domestic service of any person in the home of
37 the employer, or employed by any company owning or operating a
38 railroad or railway express subject to the provisions of the Railway
39 Labor Act (45 U.S.C. s.151 et seq.). This term shall include any
40 public employee, i.e., any person holding a position, by
41 appointment or contract, or employment in the service of a public
42 employer, including the Delaware River Port Authority, except
43 elected officials, members of boards and commissions, managerial
44 executives and confidential employees. The exclusion of members
45 of boards and commissions from the definition of "employee"

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 contained within this subsection, shall not apply to members of the
2 Board of Review established pursuant to section 19 of P.L.1948,
3 c.446 (C.34:1A-19) and subsection (d) of R.S. 43:21-10.

4 (e) The term "representative" is not limited to individuals but
5 shall include labor organizations, and individual representatives
6 need not themselves be employed by, and the labor organization
7 serving as a representative need not be limited in membership to the
8 employees of, the employer whose employees are represented. This
9 term shall include any organization, agency or person authorized or
10 designated by a public employer, public employee, group of public
11 employees, or public employee association to act on its behalf and
12 represent it or them.

13 (f) "Managerial executives" of a public employer, in the case of
14 the State of New Jersey, means persons who formulate management
15 policies and practices, but shall not mean persons who are charged
16 with the responsibility of directing the effectuation of such
17 management policies and practices, except that, in the case of the
18 Executive Branch of the State of New Jersey, "managerial
19 executive" shall include only personnel at or above the level of
20 assistant commissioner.

21 In the case of any public employer other than the State of New
22 Jersey, "managerial executives" of a public employer means persons
23 who formulate management policies and practices, and persons who
24 are charged with the responsibility of directing the effectuation of
25 such management policies and practices, except that in any school
26 district this term shall include only the superintendent or other chief
27 administrator, and the assistant superintendent of the district.

28 (g) "Confidential employees" of a public employer means
29 employees whose functional responsibilities or knowledge in
30 connection with the issues involved in the collective negotiations
31 process would make their membership in any appropriate
32 negotiating unit incompatible with their official duties.

33 "Confidential employees" of the State of New Jersey means
34 employees who have direct involvement in representing the State in
35 the collective negotiations process making their membership in any
36 appropriate negotiating unit incompatible with their official duties.
37 (cf: P.L.2009, c.314, s.1)

38
39 2. Section 19 of P.L.1948, c.446 (C.34:1A-19) is amended to
40 read as follows:

41 19. There shall be within the Division of Employment Security a
42 Board of Review consisting of three members, who shall act as a
43 final appeals board in cases of benefit disputes, including appeals
44 from determinations with respect to demands by the deputy for
45 refunds of benefits **【**under section 43:21-16(d) of the Revised
46 Statutes**】** pursuant to subsection (d) of R.S.43:21-16, and who shall
47 supervise the work of local appeal tribunals which may be
48 organized pursuant to the unemployment compensation law. The

1 members of the Board of Review shall be appointed by the director
2 of the Division of Employment Security, subject to the approval of
3 the commissioner, pursuant to the provisions of Title **[11]** 11A of
4 the **[Revised]** New Jersey Statutes, Civil Service. **[The first board**
5 **constituted under this act shall consist of the members of the Board**
6 **of Review constituted pursuant to section 43:21-10 of the Revised**
7 **Statutes in office on the effective date of this act. No member of**
8 **the Board of Review shall participate in any case in which he is an**
9 **interested party.]** The commissioner, at the commissioner's
10 discretion, may on a temporary basis appoint three additional
11 members to the Board of Review using either, or a combination of
12 both, of the following two methods: (1) interim appointment,
13 pursuant to N.J.A.C. 4A:4-1.6(d)3, of State employees who hold
14 full-time primary employment in State service, or (2) appointment,
15 pursuant to N.J.A.C. 4A:3-3.8, of individuals who do not hold full-
16 time primary employment in State service to an intermittent title. If
17 three additional members of the Board of Review are appointed by
18 the commissioner on a temporary basis, increasing the membership
19 of the Board of Review from three to six, the commissioner shall
20 designate two separate panels from among the six members of the
21 Board of Review, and each of the two panels shall be empowered to
22 act independently of the other as a final appeals board in cases of
23 benefit disputes, including appeals from determinations with respect
24 to demands by the deputy for refunds of benefits pursuant to
25 subsection (d) of R.S.43:21-16. The commissioner may interchange
26 panel members from among the six members of the Board of
27 Review as operational needs dictate.

28 (cf: P.L.1948, c.446, s.19)

29

30 3. R.S.43:21-10 is amended to read as follows:

31 43:21-10. (a) Organization. There is hereby created a
32 commission to be known as the Unemployment Compensation
33 Commission of New Jersey. It shall consist of seven members who
34 shall be appointed by the Governor, with confirmation by the
35 Senate, not more than four of whom shall be of the same political
36 affiliation. Each member shall be reimbursed for his traveling and
37 other expenses actually and necessarily incurred by him in the
38 performance of his duties, and, in addition, shall receive a per diem
39 allowance of **[twenty-five dollars (\$25.00)]** \$25 for each day, or
40 part thereof, spent in the rendition of service to or for the
41 commission under this act; provided, however, that no member
42 shall in any case receive per diem compensation as such member in
43 an amount in excess of **[three thousand five hundred dollars**
44 **(\$3,500.00)]** \$3,500 for any one fiscal year. The payment
45 heretofore of any such per diem allowance to any member of the
46 commission for services performed under this chapter during the
47 period from April twentieth, one thousand nine hundred and forty-

1 five, to October seventh, one thousand nine hundred and forty-
2 seven, is hereby approved, ratified and confirmed; and the
3 payment hereafter of any such per diem allowance to any member
4 of the commission for services performed under this chapter, since
5 September first, one thousand nine hundred and forty-seven, and
6 for which no such per diem allowance was paid, is hereby
7 authorized. No person may be appointed who is an officer or
8 committee member of any political party organization. First
9 appointees to the commission shall serve as designated by the
10 Governor at the time of appointment, as follows: one for a term of
11 one year, one for a term of two years, one for a term of three years,
12 one for a term of four years, one for a term of five years, one for a
13 term of six years, and one for a term of seven years. At the
14 expiration of initial terms, appointments shall be made for a term of
15 seven years in each case. Any vacancies created by death,
16 resignation or removal shall be filled by appointment for the
17 unexpired portion of the term so vacated.

18 The Governor may, at any time after a fair public hearing,
19 remove any member of the commission for gross inefficiency,
20 neglect of duty, malfeasance, misfeasance or nonfeasance in office.

21 (b) Executive director. The commission shall appoint an
22 executive director who shall be the chief executive and approval
23 officer of the commission and its official agent for all purposes, and
24 who shall hold office at its pleasure. He shall give his full time to
25 the duties of his office, shall be paid a suitable salary to be fixed by
26 the commission and shall have general charge and supervision of
27 the work of all departments of the commission as well as any
28 subdivisions thereof.

29 It shall be the duty of the executive director to administer this
30 chapter with the advice of the commission; and to that end, the
31 executive director shall have the following duties and powers:

32 (1) To formulate necessary rules and regulations, subject to
33 approval by the commission.

34 (2) To appoint and fix the compensation of members of the
35 staff, subject to approval by the commission and subject to the
36 provisions of subsection (d) of **[section eleven of this chapter]**
37 R.S.43:21-11.

38 (3) To make such expenditures as are necessary in the discharge
39 of his functions hereunder as provided for in the budget to be
40 approved annually by the commission, to make requisitions for any
41 funds provided by the Federal Government for administration of
42 this chapter, and he is hereby authorized to draw vouchers on the
43 administration fund for the purpose of administering this chapter.

44 (4) To draw vouchers upon the unemployment compensation
45 fund and the appropriate accounts therein for the payment of
46 benefits.

47 (5) To delegate to other persons any of the powers conferred
48 upon him by this chapter, so far as is reasonably necessary.

1 (c) Divisions. The executive director shall establish such
2 administrative divisions as may be necessary to carry out the
3 purposes of this chapter, subject to approval of the commission.
4 Among such divisions shall be New Jersey State Employment
5 Service Division, established pursuant to ~~section~~ R.S. 43:21-12
6 ~~of this Title~~. The New Jersey State Employment Service shall be
7 a separate administrative unit with respect to personnel, budget, and
8 duties, except insofar as the commission may find such separation
9 to be impracticable.

10 (d) Board of review. The executive director shall appoint,
11 subject to the provisions of Title ~~11~~ 11A of the New Jersey
12 Statutes, Civil Service, from civil service eligible lists, subject to
13 approval of the commission, a board of review, consisting of three
14 members whose duties shall be to act as a final appeals board in
15 cases of benefit disputes, including appeals from determinations
16 with respect to demands by the deputy for refunds of benefits
17 ~~under section 43:21-16(d) of this chapter~~ pursuant to subsection
18 (d) of R.S.43:21-16 and to whom shall be delegated the duty of
19 supervising the work of local appeal tribunals to be organized as
20 provided for elsewhere in this chapter. No member of the board of
21 review shall participate in any case in which he is an interested
22 party.

23 The commissioner, at the commissioner's discretion, may on a
24 temporary basis appoint three additional members to the Board of
25 Review using either, or a combination of both, of the following two
26 methods: (1) interim appointment, pursuant to
27 N.J.A.C. 4A:4-1.6(d)3, of State employees who hold full-time
28 primary employment in State service, or (2) appointment, pursuant
29 to N.J.A.C. 4A:3-3.8, of individuals who do not hold full-time
30 primary employment in State service to an intermittent title. If
31 three additional members of the Board of Review have been
32 appointed by the commissioner on a temporary basis, increasing the
33 membership of the Board of Review from three to six, the
34 commissioner shall designate two separate panels from among the
35 six members of the Board of Review, and each of the two panels
36 shall be empowered to act independently of the other as a final
37 appeals board in cases of benefit disputes, including appeals from
38 determinations with respect to demands by the deputy for refunds of
39 benefits pursuant to subsection (d) of R.S.43:21-16. The
40 commissioner may interchange panel members from among the six
41 members of the Board of Review as operational needs dictate.

42 (e) Powers and duties. The commission shall have the
43 following specific powers and duties:

- 44 (1) To designate its chairman.
- 45 (2) To study the operation of this chapter and from time to time
46 prepare recommendations to the Governor and Legislature with
47 respect to any improvements which might be desirable.
- 48 (3) To make rules and regulations governing its own procedure.

1 (4) To advise the executive director and other members of the
2 commission staff with particular respect to policies and procedures.

3 (f) Quorum. Any four commissioners shall constitute a
4 quorum. No vacancies shall impair the right of the remaining
5 commissioners to exercise all of the powers of the commissioner.

6 (cf: P.L.1948, c. 184, s. 1)

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8 4. This act shall take effect immediately.

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STATEMENT

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13 This bill permits the Commissioner of Labor and Workforce
14 Development to appoint on a temporary basis three additional
15 members to the Board of Review in the Division of Employment
16 Security using either, or a combination of both, of the following
17 two methods:

18 1. interim appointment, pursuant to N.J.A.C. 4A:4-1.6(d)3, of
19 State employees who hold full-time primary employment in State
20 service; or

21 2. appointment, pursuant to N.J.A.C. 4A:3-3.8, of individuals
22 who do not hold full-time primary employment in State service to
23 an intermittent title.

24 If the commissioner appoints three additional members of the
25 Board of Review, increasing the board membership from three to
26 six, the commissioner shall designate two separate panels from
27 among the six board members, each of which shall be empowered
28 to act independently of the other as a final appeals board in cases of
29 benefit disputes, including appeals from determinations with respect
30 to demands for refunds of benefits pursuant to subsection (d) of
31 R.S.43:21-16. The commissioner may interchange panel members
32 from among the six board members as operational needs dictate.

33 The bill also removes the prohibition of any board member
34 participating in a case in which the member is an interested party.