

# 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**

As reported by the Assembly Labor Committee with technical review.



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

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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.