

CHAPTER 77

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

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

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

C.34:13A-3 Definitions.

3. When used in this act:

The term "board" shall mean New Jersey State Board of Mediation.

The term "commission" shall mean New Jersey Public Employment Relations Commission.

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

The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer unless this act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of or in connection with any current labor dispute or because of any unfair labor practice and who has not obtained any other regular and substantially equivalent employment. This term, however, shall not include any individual taking the place of any employee whose work has ceased as aforesaid, nor shall it include any individual employed by his parent or spouse, or in the domestic service of any person in the home of the employer, or employed by any company owning or operating a railroad or railway express subject to the provisions of the Railway Labor Act (45 U.S.C. s.151 et seq.). This term shall include any public employee, i.e., any person holding a position, by appointment or contract, or employment in the service of a public employer, including the Delaware River Port Authority, except elected officials, members of boards and commissions, managerial executives and confidential employees. The exclusion of members of boards and commissions from the definition of "employee" contained within this subsection shall not apply to members of the Board of Review established pursuant to section 19 of P.L.1948, c.446 (C.34:1A-19) and subsection (d) of R.S. 43:21-10.

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

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

In the case of any public employer other than the State of New Jersey, "managerial executives" of a public employer means persons who formulate management policies and

practices, and persons who are charged with the responsibility of directing the effectuation of such management policies and practices, except that in any school district this term shall include only the superintendent or other chief administrator, and the assistant superintendent of the district.

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

"Confidential employees" of the State of New Jersey means employees who have direct involvement in representing the State in the collective negotiations process making their membership in any appropriate negotiating unit incompatible with their official duties.

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

C.34:1A-19 Board of Review in Division of Employment Security.

19. There shall be within the Division of Employment Security a Board of Review consisting of three members, who shall act as a final appeals board in cases of benefit disputes, including appeals from determinations with respect to demands by the deputy for refunds of benefits pursuant to subsection (d) of R.S.43:21-16, and who shall supervise the work of local appeal tribunals which may be organized pursuant to the unemployment compensation law. The members of the Board of Review shall be appointed by the director of the Division of Employment Security, subject to the approval of the commissioner, pursuant to the provisions of Title 11A of the New Jersey Statutes, Civil Service. No member of the Board of Review shall participate in any case in which the member is an interested party. The commissioner, at the commissioner's discretion, may on a temporary basis appoint three additional members to the Board of Review using either, or a combination of both, of the following two methods: (1) interim appointment, pursuant to N.J.A.C. 4A:4-1.6(d)3, of State employees who hold full-time primary employment in State service or (2) appointment, pursuant to N.J.A.C. 4A:3-3.8, of individuals who do not hold full-time primary employment in State service to an intermittent title. If three additional members of the Board of Review are appointed by the commissioner on a temporary basis, increasing the membership of the Board of Review from three to six, the commissioner shall designate two separate panels from among the six members of the Board of Review, and each of the two panels shall be empowered to act independently of the other as a final appeals board in cases of benefit disputes, including appeals from determinations with respect to demands by the deputy for refunds of benefits pursuant to subsection (d) of R.S.43:21-16. The commissioner may interchange panel members from among the six members of the Board of Review as operational needs dictate.

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

Unemployment compensation commission.

43:21-10. (a) Organization. There is hereby created a commission to be known as the Unemployment Compensation Commission of New Jersey. It shall consist of seven members who shall be appointed by the Governor, with confirmation by the Senate, not more than four of whom shall be of the same political affiliation. Each member shall be reimbursed for his traveling and other expenses actually and necessarily incurred by him in the performance of his duties, and, in addition, shall receive a per diem allowance of \$25 for each day, or part thereof, spent in the rendition of service to or for the commission under this act; provided,

however, that no member shall in any case receive per diem compensation as such member in an amount in excess of \$3,500 for any one fiscal year. The payment heretofore of any such per diem allowance to any member of the commission for services performed under this chapter during the period from April twentieth, one thousand nine hundred and forty-five, to October seventh, one thousand nine hundred and forty-seven, is hereby approved, ratified and confirmed; and the payment hereafter of any such per diem allowance to any member of the commission for services performed under this chapter, since September first, one thousand nine hundred and forty-seven, and for which no such per diem allowance was paid, is hereby authorized. No person may be appointed who is an officer or committee member of any political party organization. First appointees to the commission shall serve as designated by the Governor at the time of appointment, as follows: one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years. At the expiration of initial terms, appointments shall be made for a term of seven years in each case. Any vacancies created by death, resignation or removal shall be filled by appointment for the unexpired portion of the term so vacated.

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

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

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

- (1) To formulate necessary rules and regulations, subject to approval by the commission.
- (2) To appoint and fix the compensation of members of the staff, subject to approval by the commission and subject to the provisions of subsection (d) of R.S.43:21-11.
- (3) To make such expenditures as are necessary in the discharge of his functions hereunder as provided for in the budget to be approved annually by the commission, to make requisitions for any funds provided by the Federal Government for administration of this chapter, and he is hereby authorized to draw vouchers on the administration fund for the purpose of administering this chapter.
- (4) To draw vouchers upon the unemployment compensation fund and the appropriate accounts therein for the payment of benefits.
- (5) To delegate to other persons any of the powers conferred upon him by this chapter, so far as is reasonably necessary.

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

(d) Board of review. The executive director shall appoint, subject to the provisions of Title 11A of the New Jersey Statutes, Civil Service, from civil service eligible lists, subject to approval of the commission, a board of review, consisting of three members whose duties shall

be to act as a final appeals board in cases of benefit disputes, including appeals from determinations with respect to demands by the deputy for refunds of benefits pursuant to subsection (d) of R.S.43:21-16 and to whom shall be delegated the duty of supervising the work of local appeal tribunals to be organized as provided for elsewhere in this chapter. No member of the board of review shall participate in any case in which he is an interested party.

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

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

- (1) To designate its chairman.
- (2) To study the operation of this chapter and from time to time prepare recommendations to the Governor and Legislature with respect to any improvements which might be desirable.
- (3) To make rules and regulations governing its own procedure.
- (4) To advise the executive director and other members of the commission staff with particular respect to policies and procedures.

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

4. This act shall take effect immediately.

Approved September 12, 2024.