

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1927

with committee amendments

STATE OF NEW JERSEY

DATED: February 6, 2003

The Assembly Labor Committee reports favorably, and with committee amendments, Assembly Bill No. 1927.

As amended by the committee, this bill provides that in any asbestos claim, if the employer or insurer who provided coverage when a claimant was last exposed to asbestos cannot be located or, in a case involving multiple employers in which the last employer where the worker was exposed cannot reasonably be identified, the claim will be paid from the Second Injury Fund. As amended, the bill provides that the Second Injury Fund may then seek recovery of its costs of paying the claim against any liable insurer or employer or against the stock workers' compensation security fund, or the mutual workers' compensation security fund, if an insolvent insurer is determined to be liable, or against the New Jersey Self-Insurers Guaranty Association if an insolvent self-insurer is determined to be liable.

The bill changes the procedures for calculating the weekly benefit amount in any occupational disease claim in which the disease manifests itself after the last date of exposure with the liable employer. Current law calculates benefit rates on the basis of the worker's weekly wage at the time of last exposure with a liable employer. The bill instead requires benefit rates to be calculated as if the worker had worked until the time of manifestation, or of death, in the case of benefits for surviving dependents, and be based on the amount that the worker's weekly wage would have been at the time of manifestation or death. The bill makes an exception for cases of death or permanent total disability occurring prior to January 1, 1980, because current law already provides a cost of living adjustment in those cases.

In addition, the bill repeals R.S.34:15-33, which currently requires the worker or the worker's dependents to notify the employer within five months after an exposure to an occupational disease ends, or 90 days after the worker knew, or should have known, about the disease and its relation to the employment, whichever is later. The employee is, however, still required by R.S.34:15-34 (which is not modified by the bill) to file a claim not more than two years after the date the employee knew the nature of the disability and its relationship to the employment.

Finally, the bill increases the benefit rate surviving dependents of a worker who dies because of occupational illness or injury to 70% of the worker's weekly wage without regard to the number of dependents. Current law sets benefits at 50% of the dead employee's wages for a single surviving dependent, plus 5% for each additional dependent, up to a maximum of 70%.

COMMITTEE AMENDMENTS:

The amendments modified the provisions of the bill regarding which employers are held liable to pay benefits in certain claims. Unamended, the bill permitted, in any claim involving exposure to a substance causing an occupational disease, the worker or surviving dependent of the worker to obtain workers' compensation from any employer or employers with whom the worker was exposed to the material, without regard to the latency period for the exposure or whether the employer was the last employer of the worker. The amendments modify these provisions to have the claims directed against the Second Injury Fund, which may then recover costs against other employers and insurers. The amendments also limit the application of those provisions only to cases involving asbestos, excluding their application to any other occupational disease claim.