

ASSEMBLY, No. 4119

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED MAY 13, 2013

Sponsored by:

Assemblywoman SHEILA Y. OLIVER

District 34 (Essex and Passaic)

Assemblywoman CONNIE WAGNER

District 38 (Bergen and Passaic)

SYNOPSIS

Provides unemployment benefits to certain college and university adjunct faculty members.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/26/2013)

1 AN ACT providing unemployment benefits to certain college and
2 university adjunct faculty members and amending R.S.43:21-4.

3

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

6

7 1. R.S.43:21-4 is amended to read as follows:

8 43:21-4. Benefit eligibility conditions. An unemployed
9 individual shall be eligible to receive benefits with respect to any
10 week eligible only if:

11 (a) The individual has filed a claim at an unemployment
12 insurance claims office and thereafter continues to report at an
13 employment service office or unemployment insurance claims
14 office, as directed by the division in accordance with such
15 regulations as the division may prescribe, except that the division
16 may, by regulation, waive or alter either or both of the requirements
17 of this subsection as to individuals attached to regular jobs, and as
18 to such other types of cases or situations with respect to which the
19 division finds that compliance with such requirements would be
20 oppressive, or would be inconsistent with the purpose of this act;
21 provided that no such regulation shall conflict with subsection (a) of
22 R.S.43:21-3.

23 (b) The individual has made a claim for benefits in accordance
24 with the provisions of subsection (a) of R.S.43:21-6.

25 (c) (1) The individual is able to work, and is available for work,
26 and has demonstrated to be actively seeking work, except as
27 hereinafter provided in this subsection or in subsection (f) of this
28 section.

29 (2) The director may modify the requirement of actively seeking
30 work if such modification of this requirement is warranted by
31 economic conditions.

32 (3) No individual, who is otherwise eligible, shall be deemed
33 ineligible, or unavailable for work, because the individual is on
34 vacation, without pay, during said week, if said vacation is not the
35 result of the individual's own action as distinguished from any
36 collective action of a collective bargaining agent or other action
37 beyond the individual's control.

38 (4) (A) Subject to such limitations and conditions as the division
39 may prescribe, an individual, who is otherwise eligible, shall not be
40 deemed unavailable for work or ineligible because the individual is
41 attending a training program approved for the individual by the
42 division to enhance the individual's employment opportunities or
43 because the individual failed or refused to accept work while
44 attending such program.

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 (B) For the purpose of this paragraph (4), any training program
2 shall be regarded as approved by the division for the individual if
3 the program and the individual meet the following requirements:

4 (i) The training is for a labor demand occupation and is likely to
5 enhance the individual's marketable skills and earning power,
6 except that the training may be for an occupation other than a labor
7 demand occupation if the individual is receiving short-time benefits
8 pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et al.)
9 and the training is necessary to prevent a likely loss of jobs;

10 (ii) The training is provided by a competent and reliable private
11 or public entity approved by the Commissioner of Labor and
12 Workforce Development pursuant to the provisions of section 8 of
13 the "1992 New Jersey Employment and Workforce Development
14 Act," P.L.1992, c.43 (C.34:15D-8);

15 (iii) The individual can reasonably be expected to complete the
16 program, either during or after the period of benefits;

17 (iv) The training does not include on the job training or other
18 training under which the individual is paid by an employer for work
19 performed by the individual during the time that the individual
20 receives benefits; and

21 (v) The individual enrolls in vocational training, remedial
22 education or a combination of both on a full-time basis, except that
23 the training or education may be on a part-time basis if the
24 individual is receiving short-time benefits pursuant to the provisions
25 of P.L.2011, c.154 (C.43:21-20.3 et al.).

26 (C) If the requirements of subparagraph (B) of this paragraph (4)
27 are met, the division shall not withhold approval of the training
28 program for the individual for any of the following reasons:

29 (i) The training includes remedial basic skills education
30 necessary for the individual to successfully complete the vocational
31 component of the training;

32 (ii) The training is provided in connection with a program under
33 which the individual may obtain a college degree, including a post-
34 graduate degree;

35 (iii) The length of the training period under the program; or

36 (iv) The lack of a prior guarantee of employment upon
37 completion of the training.

38 (D) For the purpose of this paragraph (4), "labor demand
39 occupation" means **【an occupation for which there is or is likely to**
40 **be an excess of demand over supply for adequately trained workers,**
41 **including, but not limited to, an occupation designated as】** a labor
42 demand occupation **【by the Center for Occupational Employment**
43 **Information pursuant to the provisions of subsection d. of section**
44 **27 of P.L.2005, c.354 (C.34:1A-86)】** as defined in section 1 of
45 P.L.1992, c.48 (C.34:15B-35).

46 (5) An unemployed individual, who is otherwise eligible, shall
47 not be deemed unavailable for work or ineligible solely by reason of

1 the individual's attendance before a court in response to a summons
2 for service on a jury.

3 (6) An unemployed individual, who is otherwise eligible, shall
4 not be deemed unavailable for work or ineligible solely by reason of
5 the individual's attendance at the funeral of an immediate family
6 member, provided that the duration of the attendance does not
7 extend beyond a two-day period.

8 For purposes of this paragraph, "immediate family member"
9 includes any of the following individuals: father, mother, mother-
10 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,
11 child, child placed by the Division of Youth and Family Services in
12 the Department of Children and Families, sister or brother of the
13 unemployed individual and any relatives of the unemployed
14 individual residing in the unemployed individual's household.

15 (7) No individual, who is otherwise eligible, shall be deemed
16 ineligible or unavailable for work with respect to any week because,
17 during that week, the individual fails or refuses to accept work
18 while the individual is participating on a full-time basis in self-
19 employment assistance activities authorized by the division,
20 whether or not the individual is receiving a self-employment
21 allowance during that week.

22 (8) Any individual who is determined to be likely to exhaust
23 regular benefits and need reemployment services based on
24 information obtained by the worker profiling system shall not be
25 eligible to receive benefits if the individual fails to participate in
26 available reemployment services to which the individual is referred
27 by the division or in similar services, unless the division determines
28 that:

29 (A) The individual has completed the reemployment services; or

30 (B) There is justifiable cause for the failure to participate, which
31 shall include participation in employment and training, self-
32 employment assistance activities or other activities authorized by
33 the division to assist reemployment or enhance the marketable skills
34 and earning power of the individual and which shall include any
35 other circumstance indicated pursuant to this section in which an
36 individual is not required to be available for and actively seeking
37 work to receive benefits.

38 (9) An unemployed individual, who is otherwise eligible, shall
39 not be deemed unavailable for work or ineligible solely by reason of
40 the individual's work as a board worker for a county board of
41 elections on an election day.

42 (10) An individual who is employed by a shared work employer
43 and is otherwise eligible for benefits shall not be deemed ineligible
44 for short-time benefits because the individual is unavailable for
45 work with employers other than the shared work employer, so long
46 as:

1 (A) The individual is able to work and is available to work the
2 individual's normal full-time hours for the shared work employer;
3 or

4 (B) The individual is attending a training program which is in
5 compliance with the provisions of paragraph (4) of subsection (c) of
6 this section and the agreements and certifications required pursuant
7 to the provisions of section 2 of P.L.2011, c.154 (C.43:21-20.4).

8 (d) With respect to any benefit year commencing before January
9 1, 2002, the individual has been totally or partially unemployed for
10 a waiting period of one week in the benefit year which includes that
11 week. When benefits become payable with respect to the third
12 consecutive week next following the waiting period, the individual
13 shall be eligible to receive benefits as appropriate with respect to
14 the waiting period. No week shall be counted as a week of
15 unemployment for the purposes of this subsection:

16 (1) If benefits have been paid, or are payable with respect
17 thereto; provided that the requirements of this paragraph shall be
18 waived with respect to any benefits paid or payable for a waiting
19 period as provided in this subsection;

20 (2) If it has constituted a waiting period week under the
21 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
22 et al.);

23 (3) Unless the individual fulfills the requirements of subsections
24 (a) and (c) of this section;

25 (4) If with respect thereto, claimant was disqualified for benefits
26 in accordance with the provisions of subsection (d) of R.S.43:21-5.

27 The waiting period provided by this subsection shall not apply to
28 benefit years commencing on or after January 1, 2002. An
29 individual whose total benefit amount was reduced by the
30 application of the waiting period to a claim which occurred on or
31 after January 1, 2002 and before the effective date of P.L.2002,
32 c.13, shall be permitted to file a claim for the additional benefits
33 attributable to the waiting period in the form and manner prescribed
34 by the division, but not later than the 180th day following the
35 effective date of P.L.2002, c.13 unless the division determines that
36 there is good cause for a later filing.

37 (e) (1) (Deleted by amendment, P.L.2001, c.17).

38 (2) (Deleted by amendment, P.L.2008, c.17).

39 (3) (Deleted by amendment, P.L.2008, c.17).

40 (4) With respect to benefit years commencing on or after
41 January 7, 2001, except as otherwise provided in paragraph (5) of
42 this subsection, the individual has, during his base year as defined
43 in subsection (c) of R.S.43:21-19:

44 (A) Established at least 20 base weeks as defined in paragraphs
45 (2) and (3) of subsection (t) of R.S.43:21-19; or

46 (B) If the individual has not met the requirements of
47 subparagraph (A) of this paragraph (4), earned remuneration not
48 less than an amount 1,000 times the minimum wage in effect

1 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
2 1 of the calendar year preceding the calendar year in which the
3 benefit year commences, which amount shall be adjusted to the next
4 higher multiple of \$100 if not already a multiple thereof.

5 (5) With respect to benefit years commencing on or after
6 January 7, 2001, notwithstanding the provisions of paragraph (4) of
7 this subsection, an unemployed individual claiming benefits on the
8 basis of service performed in the production and harvesting of
9 agricultural crops shall, subject to the limitations of subsection (i)
10 of R.S.43:21-19, be eligible to receive benefits if during his base
11 year, as defined in subsection (c) of R.S.43:21-19, the individual:

12 (A) Has established at least 20 base weeks as defined in
13 paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

14 (B) Has earned remuneration not less than an amount 1,000
15 times the minimum wage in effect pursuant to section 5 of
16 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
17 preceding the calendar year in which the benefit year commences,
18 which amount shall be adjusted to the next higher multiple of \$100
19 if not already a multiple thereof; or

20 (C) Has performed at least 770 hours of service in the
21 production and harvesting of agricultural crops.

22 (6) The individual applying for benefits in any successive
23 benefit year has earned at least six times his previous weekly
24 benefit amount and has had four weeks of employment since the
25 beginning of the immediately preceding benefit year. This
26 provision shall be in addition to the earnings requirements specified
27 in paragraph (4) or (5) of this subsection, as applicable.

28 (f) (1) The individual has suffered any accident or sickness not
29 compensable under the workers' compensation law, R.S.34:15-1 et
30 seq. and resulting in the individual's total disability to perform any
31 work for remuneration, and would be eligible to receive benefits
32 under this chapter (R.S.43:21-1 et seq.) (without regard to the
33 maximum amount of benefits payable during any benefit year)
34 except for the inability to work and has furnished notice and proof
35 of claim to the division, in accordance with its rules and
36 regulations, and payment is not precluded by the provisions of
37 R.S.43:21-3(d); provided, however, that benefits paid under this
38 subsection (f) shall be computed on the basis of only those base
39 year wages earned by the claimant as a "covered individual," as
40 defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-
41 27); provided further that no benefits shall be payable under this
42 subsection to any individual:

43 (A) For any period during which such individual is not under the
44 care of a legally licensed physician, dentist, optometrist, podiatrist,
45 practicing psychologist, advanced practice nurse, or chiropractor,
46 who, when requested by the division, shall certify within the scope
47 of the practitioner's practice, the disability of the individual, the

1 probable duration thereof, and, where applicable, the medical facts
2 within the practitioner's knowledge;

3 (B) (Deleted by amendment, P.L.1980, c.90.)

4 (C) For any period of disability due to willfully or intentionally
5 self-inflicted injury, or to injuries sustained in the perpetration by
6 the individual of a crime of the first, second or third degree;

7 (D) For any week with respect to which or a part of which the
8 individual has received or is seeking benefits under any
9 unemployment compensation or disability benefits law of any other
10 state or of the United States; provided that if the appropriate agency
11 of such other state or the United States finally determines that the
12 individual is not entitled to such benefits, this disqualification shall
13 not apply;

14 (E) For any week with respect to which or part of which the
15 individual has received or is seeking disability benefits under the
16 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
17 et al.);

18 (F) For any period of disability commencing while such
19 individual is a "covered individual," as defined in subsection (b) of
20 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
21 c.110 (C.43:21-27).

22 (2) The individual is taking family temporary disability leave to
23 provide care for a family member with a serious health condition or
24 to be with a child during the first 12 months after the child's birth or
25 placement of the child for adoption with the individual, and the
26 individual would be eligible to receive benefits under R.S.43:21-1
27 et seq. (without regard to the maximum amount of benefits payable
28 during any benefit year) except for the individual's unavailability
29 for work while taking the family temporary disability leave, and the
30 individual has furnished notice and proof of claim to the division, in
31 accordance with its rules and regulations, and payment is not
32 precluded by the provisions of R.S.43:21-3(d) provided, however,
33 that benefits paid under this subsection (f) shall be computed on the
34 basis of only those base year wages earned by the claimant as a
35 "covered individual," as defined in subsection (b) of section 3 of
36 P.L.1948, c.110 (C.43:21-27); provided further that no benefits
37 shall be payable under this subsection to any individual:

38 (A) For any week with respect to which or a part of which the
39 individual has received or is seeking benefits under any
40 unemployment compensation or disability benefits law of any other
41 state or of the United States; provided that if the appropriate agency
42 of such other state or the United States finally determines that the
43 individual is not entitled to such benefits, this disqualification shall
44 not apply;

45 (B) For any week with respect to which or part of which the
46 individual has received or is seeking disability benefits for a
47 disability of the individual under the "Temporary Disability
48 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.);

1 (C) For any period of family temporary disability leave
2 commencing while the individual is a "covered individual," as
3 defined in subsection (b) of section 3 of the "Temporary Disability
4 Benefits Law," P.L.1948, c.110 (C.43:21-27); or

5 (D) For any period of family temporary disability leave for a
6 serious health condition of a family member of the claimant during
7 which the family member is not receiving inpatient care in a
8 hospital, hospice, or residential medical care facility and is not
9 subject to continuing medical treatment or continuing supervision
10 by a health care provider, who, when requested by the division,
11 shall certify within the scope of the provider's practice, the serious
12 health condition of the family member, the probable duration
13 thereof, and, where applicable, the medical facts within the
14 provider's knowledge.

15 (3) Benefit payments under this subsection (f) shall be charged
16 to and paid from the State disability benefits fund established by the
17 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
18 et al.), and shall not be charged to any employer account in
19 computing any employer's experience rate for contributions payable
20 under this chapter.

21 (g) Benefits based on service in employment defined in
22 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable
23 in the same amount and on the terms and subject to the same
24 conditions as benefits payable on the basis of other service subject
25 to the "unemployment compensation law"; except that,
26 notwithstanding any other provisions of the "unemployment
27 compensation law":

28 (1) With respect to service performed after December 31, 1977,
29 in an instructional, research, or principal administrative capacity for
30 an educational institution, benefits shall not be paid based on such
31 services for any week of unemployment commencing during the
32 period between two successive academic years, or during a similar
33 period between two regular terms, whether or not successive, or
34 during a period of paid sabbatical leave provided for in the
35 individual's contract, to any individual if such individual performs
36 such services in the first of such academic years (or terms) and if
37 there is a contract or a reasonable assurance that such individual
38 will perform services in any such capacity for any educational
39 institution in the second of such academic years or terms, except
40 that with respect to service performed in an instructional, research,
41 or principal administrative capacity for an institution of higher
42 education, including a State or county college or university, benefits
43 shall be paid to part-time and adjunct faculty, based on those
44 services for any weeks of unemployment occurring between two
45 successive semesters, unless there is a contract between the
46 institution and the employee for the employee to perform those
47 services in the next academic year;

1 (2) With respect to weeks of unemployment beginning after
2 September 3, 1982, on the basis of service performed in any **[other]**
3 capacity other than an instructional, research, or principal
4 administrative capacity for an institution of higher education, for an
5 educational institution, benefits shall not be paid on the basis of
6 such services to any individual for any week which commences
7 during a period between two successive academic years or terms if
8 such individual performs such services in the first of such academic
9 years or terms and there is a reasonable assurance that such
10 individual will perform such services in the second of such
11 academic years or terms, except that if benefits are denied to any
12 individual under this paragraph (2) and the individual was not
13 offered an opportunity to perform these services for the educational
14 institution for the second of any academic years or terms, the
15 individual shall be entitled to a retroactive payment of benefits for
16 each week for which the individual filed a timely claim for benefits
17 and for which benefits were denied solely by reason of this clause;

18 (3) With respect to those services described in paragraphs (1)
19 and (2) above, benefits shall not be paid on the basis of such
20 services to any individual for any week which commences during
21 an established and customary vacation period or holiday recess if
22 such individual performs such services in the period immediately
23 before such vacation period or holiday recess, and there is a
24 reasonable assurance that such individual will perform such
25 services in the period immediately following such period or holiday
26 recess;

27 (4) With respect to any services described in paragraphs (1) and
28 (2) above, benefits shall not be paid as specified in paragraphs (1),
29 (2), and (3) above to any individual who performed those services
30 in an educational institution while in the employ of an educational
31 service agency, and for this purpose the term "educational service
32 agency" means a governmental agency or governmental entity
33 which is established and operated exclusively for the purpose of
34 providing those services to one or more educational institutions.

35 (h) Benefits shall not be paid to any individual on the basis of
36 any services, substantially all of which consist of participating in
37 sports or athletic events or training or preparing to so participate,
38 for any week which commences during the period between two
39 successive sports seasons (or similar periods) if such individual
40 performed such services in the first of such seasons (or similar
41 periods) and there is a reasonable assurance that such individual
42 will perform such services in the later of such seasons (or similar
43 periods).

44 (i) (1) Benefits shall not be paid on the basis of services
45 performed by an alien unless such alien is an individual who was
46 lawfully admitted for permanent residence at the time the services
47 were performed and was lawfully present for the purpose of
48 performing the services or otherwise was permanently residing in

1 the United States under color of law at the time the services were
2 performed (including an alien who is lawfully present in the United
3 States as a result of the application of the provisions of section
4 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and
5 Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any
6 modifications of the provisions of section 3304(a)(14) of the
7 Federal Unemployment Tax Act (26 U.S.C. s. 3304 (a) (14)) as
8 provided by Pub.L.94-566, which specify other conditions or other
9 effective dates than stated herein for the denial of benefits based on
10 services performed by aliens and which modifications are required
11 to be implemented under State law as a condition for full tax credit
12 against the tax imposed by the Federal Unemployment Tax Act,
13 shall be deemed applicable under the provisions of this section.

14 (2) Any data or information required of individuals applying for
15 benefits to determine whether benefits are not payable to them
16 because of their alien status shall be uniformly required from all
17 applicants for benefits.

18 (3) In the case of an individual whose application for benefits
19 would otherwise be approved, no determination that benefits to such
20 individual are not payable because of alien status shall be made
21 except upon a preponderance of the evidence.

22 (j) Notwithstanding any other provision of this chapter, the
23 director may, to the extent that it may be deemed efficient and
24 economical, provide for consolidated administration by one or more
25 representatives or deputies of claims made pursuant to subsection
26 (f) of this section with those made pursuant to Article III (State
27 plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110
28 (C.43:21-25 et al.).
29 (cf: P.L.2011, c.154, s.11)

30

31 2. This act shall take effect immediately.

32

33

34

STATEMENT

35

36 This bill amends the unemployment insurance law to allow a
37 part-time or adjunct faculty member working in an instructional,
38 research or administrative capacity for an institution of higher
39 education, including a State or county college or university, to
40 receive unemployment benefits based on such services for any
41 weeks of unemployment occurring between two successive
42 semesters, unless there is a contract between the institution and the
43 employee to perform such services in the next academic year.