

SENATE, No. 844

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

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SYNOPSIS

Establishes a partial return to work TDI program.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT permitting the payment of temporary disability benefits on
2 a part-time basis and amending P.L.1948, c.110.

3

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

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7 1. Section 5 of P.L.1948, c.110 (C.43:21-29) is amended to
8 read as follows:

9 5. (a) In the case of the disability of a covered individual,
10 disability shall be compensable subject to the limitations of
11 P.L.1948, c.110 (C.43:21-25 et al.) if: the disability is the result of
12 the covered individual suffering an accident or sickness not arising
13 out of and in the course of the individual's employment or if so
14 arising not compensable under the workers' compensation law,
15 R.S.34:15-1 et seq. **[,];** and **[resulting]** the disability results in the
16 individual's total inability to perform the duties of employment,
17 except that an individual who is otherwise eligible for benefits but
18 only able to return to work on a reduced basis while recovering
19 from the disability may receive benefits pursuant to the provisions
20 of subsection (b) of section 16 of P.L.1948, c.110 (C.43:21-40).

21 (b) In the case of an individual taking family temporary
22 disability leave, the leave shall be compensable subject to the
23 limitations of P.L.2008, c.17 (C.43:21-39.1 et al.).
24 (cf: P.L.2008, c.17, s.3)

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26 2. Section 16 of P.L.1948, c.110 (C.43:21-40) is amended to
27 read as follows:

28 16. (a) With respect to periods of disability commencing on or
29 after July 1, 1961, an individual's weekly benefit amount shall be
30 determined and computed by the division on the same basis as the
31 weekly benefit rate is determined and computed pursuant to
32 subsection (c) of R.S.43:21-3, except that for periods of disability
33 commencing on or after October 1, 1984, an individual's weekly
34 benefit rate shall be two-thirds of his average weekly wage, subject
35 to a maximum of 53% of the Statewide average weekly
36 remuneration paid to workers by employers, as determined under
37 subsection (c) of R.S.43:21-3; provided, however, that such
38 individual's benefit rate shall be computed to the next lower
39 multiple of \$1.00 if not already a multiple thereof. The amount of
40 benefits for each day of disability for which benefits are payable
41 shall be one-seventh of the corresponding weekly benefit amount;
42 provided that the total benefits for a fractional part of a week shall
43 be computed to the next lower multiple of \$1.00 if not already a
44 multiple thereof.

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 any week beginning on or after the effective date of**
2 **P.L. , c. (pending before the Legislature as this bill), with**
3 **respect to a period of disability of an individual who is otherwise**
4 **eligible for benefits but only able to return to work on a reduced**
5 **basis while recovering from the disability, the individual, if**
6 **permitted by the employer to return to work on the reduced basis,**
7 **shall be paid an amount of benefits with respect to that week such**
8 **that the sum of the wages and those benefits paid to the individual,**
9 **rounded to the next lower multiple of \$1.00, will equal the weekly**
10 **benefit amount the individual would have been paid if totally**
11 **unable to perform the duties of employment due to disability,**
12 **provided that:**

13 **(1) The individual must have been totally unable to perform the**
14 **duties of employment due to disability and receiving full benefits**
15 **for at least seven consecutive days prior to claiming partial benefits**
16 **under this subsection;**

17 **(2) The maximum duration of partial benefits paid pursuant to**
18 **this subsection is eight weeks, unless the division, after a review of**
19 **medical documentation from a qualified healthcare provider,**
20 **approves in writing an extension beyond eight weeks, but in no case**
21 **shall the duration be extended to more than 12 weeks; and**

22 **(3) If the individual is able to return to work on a reduced basis**
23 **but the employer is unable or otherwise chooses not to permit the**
24 **individual to do so, the individual will continue to be eligible for**
25 **benefits until the individual is fully recovered from the disability**
26 **and able to perform the duties of employment, but nothing in this**
27 **subsection shall be construed as increasing the total number of**
28 **weeks of disability benefits for which the individual is eligible.**

29 **For the purposes of this section, “qualified healthcare provider”**
30 **means a legally licensed physician, dentist, podiatrist, chiropractor,**
31 **certified nurse midwife, advanced practice nurse or public health**
32 **nurse designated by the division.**

33 (cf: P.L.1984, c.104, s.3)

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35 3. This act shall take effect on the 180th day after the date of
36 enactment.

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STATEMENT

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41 This bill establishes a partial return to work program which
42 permits the payment of temporary disability insurance (TDI)
43 benefits on a reduced basis to temporarily disabled workers who are
44 otherwise eligible for TDI benefits, but only able to return to work
45 on a reduced basis while recovering from disability. The bill
46 permits such partial benefits only after a worker has been
47 completely unable to work due to disability and receiving full TDI
48 benefits for at least seven days. Currently, the TDI law provides for

1 benefits only during the time that the worker is completely unable
2 to work due to the disability. The bill provides that the amount of
3 the part-time TDI benefit is the full-time TDI benefit amount minus
4 the wages paid to the worker during a week.

5 The bill sets a maximum duration of eight weeks for partial
6 benefits, unless the division, after a review of medical
7 documentation, approves an extension beyond eight weeks, but not
8 more than 12 weeks in any case. Employers are not required to
9 permit a worker to return to work on a reduced basis, but if a
10 worker is able to return to work on a reduced basis but the employer
11 does not permit the worker to do so, the worker will remain eligible
12 for benefits until fully recovered from the disability and able to
13 perform the duties of employment. The bill does not, in any case,
14 increase the total number of weeks of disability benefits for a
15 worker.

16 The purpose of the bill is to allow workers to transition back to
17 work by initially working on a part time basis, and to provide cost
18 savings to the TDI fund by reducing TDI benefit costs during those
19 transitions. The bill is based on a partial TDI benefit program
20 implemented in Rhode Island in 2007. It is reported that the
21 program resulted in savings every year the program has been
22 operational.