

ASSEMBLY, No. 2952

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 17, 2010

Sponsored by:

Assemblywoman CAROLINE CASAGRANDE

District 12 (Mercer and Monmouth)

Assemblywoman NANCY F. MUNOZ

District 21 (Essex, Morris, Somerset and Union)

SYNOPSIS

Limits unused sick leave pay and vacation leave carry-forward for school and local employees; permits local unit to pay certain benefits over 10 years; limits sick leave use by public employee before retirement.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning sick leave and vacation leave for public
2 employees, and amending P.L.2010, c.3, N.J.S.40A:4-53, and
3 N.J.S.11A:6-5, and supplementing Titles 18A and 40A of the
4 New Jersey Statutes, and repealing sections 42 through 46 of
5 P.L.2007, c.92.

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

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10 1. Section 3 of P.L.2010, c.3 (C.18A:30-3.6) is amended to
11 read as follows:

12 3. Notwithstanding any law, rule or regulation to the contrary,
13 a board of education, or an agency or instrumentality thereof, shall
14 not pay supplemental compensation to any officer or employee for
15 accumulated unused sick leave in an amount in excess of \$15,000.
16 Supplemental compensation shall be payable only at the time of
17 retirement from a State-administered or locally-administered
18 retirement system based on the leave credited on the date of
19 retirement. **[This provision shall apply only to officers and**
20 **employees who commence service with the board of education, or**
21 **the agency or instrumentality thereof, on or after the effective date**
22 **of P.L.2010, c.3. This section shall not be construed to affect the**
23 **terms in any collective negotiations agreement with a relevant**
24 **provision in force on that effective date.]**

25 (cf: P.L.2010, c.3, s.3)

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27 2. Section 5 of P.L.2010, c.3 (C.18A:30-9.1) is amended to
28 read as follows:

29 5. Notwithstanding any law, rule or regulation to the contrary,
30 an officer or employee of a board of education, or an agency or
31 instrumentality thereof, who does not take vacation leave that
32 accrues in a given year because of business demands shall be
33 granted that accrued leave only during the next succeeding year.
34 However, vacation leave not taken in a given year because of duties
35 directly related to a state of emergency declared by the Governor
36 may accumulate at the discretion of the appointing authority until,
37 pursuant to a plan established by the officer or employee's
38 appointing authority, the leave is used or the employee or officer is
39 compensated for that leave, which shall not be subject to collective
40 negotiation or collective bargaining. **[This provision shall apply**
41 **only to officers and employees who commence service with the**
42 **board of education, or the agency or instrumentality thereof, on or**
43 **after the effective date of P.L.2010, c.3. This section shall not be**

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 construed to affect the terms in any collective negotiations
2 agreement with a relevant provision in force on that effective date.】
3 (cf: P.L.2010, c.3, s.5)

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5 3. Section 2 of P.L.2010, c.3 (C.40A:9-10.4) is amended to
6 read as follows:

7 2. Notwithstanding any law, rule or regulation to the contrary,
8 a political subdivision of the State, or an agency, authority or
9 instrumentality thereof, that has not adopted the provisions of Title
10 11A of the New Jersey Statutes, shall not pay supplemental
11 compensation to any officer or employee for accumulated unused
12 sick leave in an amount in excess of \$15,000. Supplemental
13 compensation shall be payable only at the time of retirement from a
14 State-administered or locally-administered retirement system based
15 on the leave credited on the date of retirement. 【This provision
16 shall apply only to officers and employees who commence service
17 with the political subdivision of the State, or the agency, authority
18 or instrumentality thereof, on or after the effective date of P.L.2010,
19 c.3. This section shall not be construed to affect the terms in any
20 collective negotiations agreement with a relevant provision in force
21 on that effective date.】

22 (cf: P.L.2010, c.3, s.2)

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24 4. Section 4 of P.L.2010, c.3 (C.40A:9-10.5) is amended to
25 read as follows:

26 4. Notwithstanding any law, rule or regulation to the contrary,
27 an officer or employee of a political subdivision of the State, or an
28 agency, authority, or instrumentality thereof, that has not adopted
29 the provisions of Title 11A of the New Jersey Statutes, who does
30 not take vacation leave that accrues in a given year because of
31 business demands shall be granted that accrued leave only during
32 the next succeeding year. However, vacation leave not taken in a
33 given year because of duties directly related to a state of emergency
34 declared by the Governor may accumulate at the discretion of the
35 appointing authority until, pursuant to a plan established by the
36 officer or employee's appointing authority, the leave is used or the
37 employee or officer is compensated for that leave, which shall not
38 be subject to collective negotiation or collective bargaining. 【This
39 provision shall apply only to officers and employees who
40 commence service with the political subdivision of the State, or the
41 agency, authority or instrumentality thereof, on or after the effective
42 date of P.L.2010, c.3. This section shall not be construed to affect
43 the terms in any collective negotiations agreement with a relevant
44 provision in force on that effective date.】

45 (cf: P.L.2010, c.3, s.4)

1 5. Section 1 of P.L.2010, c.3 (C.11A:6-19.2) is amended to
2 read as follows:

3 1. Notwithstanding any law, rule or regulation to the contrary,
4 a political subdivision of the State, or an agency, authority or
5 instrumentality thereof, that has adopted the provisions of Title 11A
6 of the New Jersey Statutes, shall not pay supplemental
7 compensation to any officer or employee for accumulated unused
8 sick leave in an amount in excess of \$15,000. Supplemental
9 compensation shall be payable only at the time of retirement from a
10 State-administered or locally-administered retirement system based
11 on the leave credited on the date of retirement. **【This provision
12 shall apply only to officers and employees who commence service
13 with the political subdivision of the State, or the agency, authority
14 or instrumentality thereof, on or after the effective date of P.L.2010,
15 c.3. This section shall not be construed to affect the terms in any
16 collective negotiations agreement with a relevant provision in force
17 on that effective date.】**

18 (cf: P.L.2010, c.3, s.1)

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20 6. N.J.S.40A:4-53 is amended to read as follows:

21 40A:4-53. A local unit may adopt an ordinance authorizing
22 special emergency appropriations for the carrying out of any of the
23 following purposes:

24 a. Preparation of an approved tax map.

25 b. Preparation and execution of a complete program of
26 revaluation of real property for the use of the local assessor, or of
27 any program to update and make current any previous revaluation
28 program when such is ordered by the county board of taxation.

29 c. Preparation of a revision and codification of its ordinances.

30 d. Engagement of special consultants for the preparation, and
31 the preparation of a master plan or plans, when required to conform
32 to the planning laws of the State.

33 e. Preparation of drainage maps for flood control purposes.

34 f. Preliminary engineering studies and planning necessary for
35 the installation and construction of a sanitary sewer system.

36 g. Authorized expenses of a consolidation commission
37 established pursuant to the "Municipal Consolidation Act,"
38 P.L.1977, c.435 (C.40:43-66.35 et seq.).

39 h. Contractually required severance liabilities resulting from
40 the layoff or retirement of employees**【**, when the total liability is in
41 excess of 10 per cent of the amount to be raised by taxes for
42 municipal purposes in the fiscal year in which the layoffs or
43 retirements take place**】**. Such liabilities shall be paid without
44 interest and, at the sole discretion of the local unit, may be paid in
45 equal annual installments over a period not to exceed 10 years.

46 i. Preparation of a sanitary or storm system map.

1 A copy of all ordinances or resolutions as adopted relating to
2 special emergency appropriations shall be filed with the director.

3 (cf: P.L.1999, c.200, s.1)

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5 7. N.J.S.11A:6-5 is amended to read as follows:

6 11A:6-5. Sick leave. a. Full-time State and political subdivision
7 employees shall receive a sick leave credit of no less than one
8 working day for each completed month of service during the
9 remainder of the first calendar year of service and 15 working days
10 in every year thereafter. Unused sick leave shall accumulate without
11 limit.

12 b. Notwithstanding the provisions of any law, rule, or
13 regulation to the contrary, the use of six or more consecutive days
14 of accumulated sick leave by an employee in the twelve months
15 prior to retirement in anticipation of that retirement without a
16 medical necessity verified in writing by a physician shall be
17 prohibited. The commission shall promulgate rules and procedures
18 to ensure that verification of medical necessity is provided. The
19 rules shall provide that the employer may require the employee to
20 submit to an examination by a physician selected by the employer
21 to verify the medical necessity. The employer shall (1) impose a
22 fine and issue a reprimand against the employee found to be in
23 violation of this prohibition, with the fine to be an amount
24 equivalent to three times the daily rate of compensation for each
25 day of violation, or (2) for a subsequent violation of the prohibition,
26 deduct a number of sick leave days equivalent to the number found
27 to have been used in violation of this prohibition from the number
28 of unused accumulated sick leave credited on the effective date of
29 retirement upon which supplemental compensation, if any, for the
30 employee at the time of retirement is calculated, or (3) both.

31 (cf: N.J.S.11:A:6-5)

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33 8. (New section) Notwithstanding any law, rule or regulation to
34 the contrary, for officers or employees of a political subdivision of
35 the State, or any agency, authority or instrumentality thereof, that
36 has not adopted the provisions of Title 11A, Civil Service, of the
37 New Jersey Statutes, the use of six or more consecutive days of
38 accumulated sick leave by an officer or employee in the twelve
39 months prior to retirement in anticipation of that retirement without
40 a medical necessity verified in writing by a physician shall be
41 prohibited. The governing body of a political subdivision shall
42 promulgate rules and procedures to ensure that verification of
43 medical necessity is provided. The rules shall provide that the
44 employer may require the officer or employee to submit to an
45 examination by a physician selected by the employer to verify
46 medical necessity. The employer shall (1) impose a fine and issue a
47 reprimand against the officer or employee found to be in violation
48 of this prohibition, with the fine to be an amount equivalent to three

1 times the daily rate of compensation for each day of violation, or
2 (2) for a subsequent violation of the prohibition, deduct a number of
3 sick leave days equivalent to the number found to have been used in
4 violation of this prohibition from the number of unused
5 accumulated sick leave credited on the effective date of retirement
6 upon which supplemental compensation, if any, for the officer or
7 employee at the time of retirement is calculated, or (3) both.

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9 9. (New section) Notwithstanding any law, rule or regulation
10 to the contrary, for officers or employees of a school board, or any
11 agency or instrumentality thereof, the use of six or more
12 consecutive days of accumulated sick leave by an officer or
13 employee in twelve months prior to retirement in anticipation of
14 that retirement and without medical necessity verified in writing by
15 a physician shall be prohibited. The board shall promulgate rules
16 and procedures to ensure that verification of medical necessity is
17 provided. The rules shall provide that the employer may require the
18 officer or employee to submit to an examination by a physician
19 selected by the employer to verify the medical necessity. The
20 employer shall (1) impose a fine and issue a reprimand against the
21 officer or employee found to be in violation of this prohibition, with
22 the fine to be an amount equivalent to three times the daily rate of
23 compensation for each day of violation, or (2) for a subsequent
24 violation of the prohibition, deduct a number of sick leave days
25 equivalent to the number found to have been used in violation of
26 this prohibition from the number of unused accumulated sick leave
27 credited on the effective date of retirement upon which
28 supplemental compensation, if any, for the officer or employee at
29 the time of retirement is calculated, or (3) both.

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31 10. The provisions of P.L. , c. (pending before the Legislature
32 as this bill) shall not be deemed to impair the obligation of a
33 collective negotiations agreement or individual contract of
34 employment with relevant provisions in effect on the effective date
35 of P.L. , c. (pending before the Legislature as this bill).

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37 11. The following sections are repealed:
38 section 42 of P.L.2007, c.92 (C.11A:6-19.1);
39 section 43 of P.L.2007, c.92 (C.40A:9-10.2);
40 section 44 of P.L.2007, c.92 (C.18A:30-3.5);
41 section 45 of P.L.2007, c.92 (C.40A:9-10.3); and
42 section 46 of P.L.2007, c.92 (C.18A:30-9).

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44 12. This act shall take effect July 1, 2010, or if enacted after that
45 date, this act shall take effect immediately upon enactment.

STATEMENT

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This bill amends current law to make applicable for all current and future officers and employees of boards of education and local governments the limit of \$15,000 for the payment of supplemental compensation at retirement for accumulated unused sick leave, and the limit on the carrying forward of vacation leave for one year only. Current law imposes these limits on officers and employees commencing service with an individual employer on or after May 21, 2010 and for certain high-level officers and employees who were in service on June 8, 2007. The bill repeals the five sections of law that imposed these limits in 2007 only on certain high-level officers and employees of boards of education and local governments.

In addition, the bill amends a section of law that permits local units to adopt an ordinance authorizing special emergency appropriations for contractually required severance liabilities resulting from the layoff or retirement of employees by removing the condition that this occur only when the total liability is in excess of 10 per cent of the amount to be raised by taxes for municipal purposes in the fiscal year in which the layoffs or retirements take place. The bill goes on to provide that such liabilities are to be paid without interest and, at the sole discretion of the local unit, may be paid in equal annual installments over a period not to exceed 10 years.

Finally, the bill imposes limits on the use of sick leave by a State, local, or board of education employee in the twelve months before retirement. Specifically, the bill prohibits the use of six or more consecutive days of accumulated sick leave, without medical necessity verified in writing by a physician, by an officer or employee in the twelve months prior to retirement in anticipation of that retirement. The employer may require the officer or employee to submit to an examination by a physician selected by the employer to verify the medical necessity. The employer must (1) impose a fine and issue a reprimand against the officer or employee found to be in violation of this prohibition, with the fine to be an amount equivalent to three times the daily rate of compensation for each day of violation, or (2) for a subsequent violation of the prohibition, deduct a number of sick leave days equivalent to the number found to have been used in violation of this prohibition from the number of unused accumulated sick leave credited on the effective date of retirement upon which supplemental compensation, if any, for the officer or employee at the time of retirement is calculated, or (3) both.

The bill would not be deemed to impair the obligation of a collective negotiations agreement or individual contract of employment with relevant provisions in effect on the bill's effective

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- 1 date. The bill would take effect on July 1, 2010, or if enacted after
- 2 that date, immediately upon enactment.