

**SENATE, No. 2173**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

INTRODUCED JULY 1, 2010

**Sponsored by:**

**Senator JOSEPH M. KYRILLOS, JR.**

**District 13 (Middlesex and Monmouth)**

**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.



S2173 KYRILLOS

2

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:

9  
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)

26  
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**  
44 **construed to affect the terms in any collective negotiations**

**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.**

**S2173 KYRILLOS**

1 agreement with a relevant provision in force on that effective date.】  
2 (cf: P.L.2010, c.3, s.5)

3

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

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

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

22

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

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

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

45

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

S2173 KYRILLOS

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

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

17

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

19 40A:4-53. A local unit may adopt an ordinance authorizing  
20 special emergency appropriations for the carrying out of any of the  
21 following purposes:

22 a. Preparation of an approved tax map.

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

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

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

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

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

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

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

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

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

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

S2173 KYRILLOS

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

2 11A:6-5. Sick leave. a. Full-time State and political subdivision  
3 employees shall receive a sick leave credit of no less than one  
4 working day for each completed month of service during the  
5 remainder of the first calendar year of service and 15 working days  
6 in every year thereafter. Unused sick leave shall accumulate without  
7 limit.

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

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

28

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

**S2173 KYRILLOS**

6

1 accumulated sick leave credited on the effective date of retirement  
2 upon which supplemental compensation, if any, for the officer or  
3 employee at the time of retirement is calculated, or (3) both.

4  
5 9. (New section) Notwithstanding any law, rule or regulation  
6 to the contrary, for officers or employees of a school board, or any  
7 agency or instrumentality thereof, the use of six or more  
8 consecutive days of accumulated sick leave by an officer or  
9 employee in twelve months prior to retirement in anticipation of  
10 that retirement and without medical necessity verified in writing by  
11 a physician shall be prohibited. The board shall promulgate rules  
12 and procedures to ensure that verification of medical necessity is  
13 provided. The rules shall provide that the employer may require the  
14 officer or employee to submit to an examination by a physician  
15 selected by the employer to verify the medical necessity. The  
16 employer shall (1) impose a fine and issue a reprimand against the  
17 officer or employee found to be in violation of this prohibition, with  
18 the fine to be an amount equivalent to three times the daily rate of  
19 compensation for each day of violation, or (2) for a subsequent  
20 violation of the prohibition, deduct a number of sick leave days  
21 equivalent to the number found to have been used in violation of  
22 this prohibition from the number of unused accumulated sick leave  
23 credited on the effective date of retirement upon which  
24 supplemental compensation, if any, for the officer or employee at  
25 the time of retirement is calculated, or (3) both.

26  
27 10. The provisions of P.L. , c. (pending before the Legislature  
28 as this bill) shall not be deemed to impair the obligation of a  
29 collective negotiations agreement or individual contract of  
30 employment with relevant provisions in effect on the effective date  
31 of P.L. , c. (pending before the Legislature as this bill).

32  
33 11. The following sections are repealed:  
34 section 42 of P.L.2007, c.92 (C.11A:6-19.1);  
35 section 43 of P.L.2007, c.92 (C.40A:9-10.2);  
36 section 44 of P.L.2007, c.92 (C.18A:30-3.5);  
37 section 45 of P.L.2007, c.92 (C.40A:9-10.3); and  
38 section 46 of P.L.2007, c.92 (C.18A:30-9).

39  
40 12. This act shall take effect July 1, 2010, or if enacted after that  
41 date, this act shall take effect immediately upon enactment.

42  
43  
44 **STATEMENT**

45  
46 This bill amends current law to make applicable for all current  
47 and future officers and employees of boards of education and local  
48 governments the limit of \$15,000 for the payment of supplemental

**S2173 KYRILLOS**

1 compensation at retirement for accumulated unused sick leave, and  
2 the limit on the carrying forward of vacation leave for one year  
3 only. Current law imposes these limits on officers and employees  
4 commencing service with an individual employer on or after May  
5 21, 2010 and for certain high-level officers and employees who  
6 were in service on June 8, 2007. The bill repeals the five sections  
7 of law that imposed these limits in 2007 only on certain high-level  
8 officers and employees of boards of education and local  
9 governments.

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

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

40 The bill would not be deemed to impair the obligation of a  
41 collective negotiations agreement or individual contract of  
42 employment with relevant provisions in effect on the bill's effective  
43 date. The bill would take effect on July 1, 2010, or if enacted after  
44 that date, immediately upon enactment.