

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.



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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.

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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)

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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)

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

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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)

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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)

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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

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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.

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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

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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.