

**SENATE, No. 2220**

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

INTRODUCED AUGUST 23, 2010

**Sponsored by:**

**Senator PAUL A. SARLO**

**District 36 (Bergen, Essex and Passaic)**

**SYNOPSIS**

Limits certain 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 new public employees before retirement.

**CURRENT VERSION OF TEXT**

As introduced.



S2220 SARLO

2

1 AN ACT concerning the accumulation of sick leave and vacation  
2 leave by certain public employees, and amending P.L.2010, c.3,  
3 N.J.S.40A:4-53, and N.J.S.11A:6-5, and supplementing Titles  
4 18A and 40A of the New Jersey Statutes.

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

8  
9 1. Section 3 of P.L.2010, c.3 (C.18A:30-3.6) is amended to  
10 read as follows:

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

24 An officer or employee who on the effective date of P.L. \_\_\_\_\_,  
25 c. \_\_\_\_\_ (pending before the Legislature as this bill), or upon the  
26 expiration of a collective negotiations agreement or contract of  
27 employment applicable to that officer or employee in effect on that  
28 date, has accrued supplemental compensation based upon  
29 accumulated unused sick leave shall, upon retirement, be eligible to  
30 receive for any unused leave not more than the amount so  
31 accumulated or not more than \$15,000, whichever is greater.

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

33  
34 2. Section 5 of P.L.2010, c.3 (C.18A:30-9.1) is amended to  
35 read as follows:

36 5. Notwithstanding any law, rule or regulation to the contrary,  
37 an officer or employee of a board of education, or an agency or  
38 instrumentality thereof, who does not take vacation leave that  
39 accrues in a given year because of business demands shall be  
40 granted that accrued leave only during the next succeeding year.  
41 However, vacation leave not taken in a given year because of duties  
42 directly related to a state of emergency declared by the Governor  
43 may accumulate at the discretion of the appointing authority until,  
44 pursuant to a plan established by the officer or employee's  
45 appointing authority, the leave is used or the employee or officer is

**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 compensated for that leave, which shall not be subject to collective  
2 negotiation or collective bargaining. [This provision shall apply  
3 only to officers and employees who commence service with the  
4 board of education, or the agency or instrumentality thereof, on or  
5 after the effective date of P.L.2010, c.3. This section shall not be  
6 construed to affect the terms in any collective negotiations  
7 agreement with a relevant provision in force on that effective date.]

8 A person who is an officer or employee on the effective date of  
9 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (pending before the Legislature as this bill) and has  
10 previously accrued vacation leave shall be eligible and shall be  
11 permitted to retain and use that accrued vacation leave.

12 (cf: P.L.2010, c.3, s.5)

13

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

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

31 An officer or employee who on the effective date of P.L. \_\_\_\_\_,  
32 c. \_\_\_\_\_ (pending before the Legislature as this bill), or upon the  
33 expiration of a collective negotiations agreement or contract of  
34 employment applicable to that officer or employee in effect on that  
35 date, has accrued supplemental compensation based upon  
36 accumulated unused sick leave shall, upon retirement, be eligible to  
37 receive for any unused leave not more than the amount so  
38 accumulated or not more than \$15,000, whichever is greater.

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

40

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

43 4. Notwithstanding any law, rule or regulation to the contrary,  
44 an officer or employee of a political subdivision of the State, or an  
45 agency, authority, or instrumentality thereof, that has not adopted  
46 the provisions of Title 11A of the New Jersey Statutes, who does  
47 not take vacation leave that accrues in a given year because of  
48 business demands shall be granted that accrued leave only during

1 the next succeeding year. However, vacation leave not taken in a  
2 given year because of duties directly related to a state of emergency  
3 declared by the Governor may accumulate at the discretion of the  
4 appointing authority until, pursuant to a plan established by the  
5 officer or employee's appointing authority, the leave is used or the  
6 employee or officer is compensated for that leave, which shall not  
7 be subject to collective negotiation or collective bargaining. [This  
8 provision shall apply only to officers and employees who  
9 commence service with the political subdivision of the State, or the  
10 agency, authority or instrumentality thereof, on or after the effective  
11 date of P.L.2010, c.3. This section shall not be construed to affect  
12 the terms in any collective negotiations agreement with a relevant  
13 provision in force on that effective date.]

14 A person who is an officer or employee on the effective date of  
15 P.L. , c. (pending before the Legislature as this bill) and who  
16 has accrued vacation leave as of that effective date shall be eligible  
17 and shall be permitted to retain and use that accrued vacation leave.  
18 (cf: P.L.2010, c.3, s.4)

19

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

22 1. Notwithstanding any law, rule or regulation to the contrary,  
23 a political subdivision of the State, or an agency, authority or  
24 instrumentality thereof, that has adopted the provisions of Title 11A  
25 of the New Jersey Statutes, shall not pay supplemental  
26 compensation to any officer or employee for accumulated unused  
27 sick leave in an amount in excess of \$15,000. Supplemental  
28 compensation shall be payable only at the time of retirement from a  
29 State-administered or locally-administered retirement system based  
30 on the leave credited on the date of retirement. [This provision  
31 shall apply only to officers and employees who commence service  
32 with the political subdivision of the State, or the agency, authority  
33 or instrumentality thereof, on or after the effective date of P.L.2010,  
34 c.3. This section shall not be construed to affect the terms in any  
35 collective negotiations agreement with a relevant provision in force  
36 on that effective date.]

37 An officer or employee who on the effective date of P.L. ,  
38 c. (pending before the Legislature as this bill), or upon the  
39 expiration of a collective negotiations agreement or contract of  
40 employment applicable to that officer or employee in effect on that  
41 date, has accrued supplemental compensation based upon  
42 accumulated unused sick leave shall, upon retirement, be eligible to  
43 receive for any unused leave not more than the amount so  
44 accumulated or not more than \$15,000, whichever is greater.  
45 (cf: P.L.2010, c.3, s.1)

46

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

1 40A:4-53. A local unit may adopt an ordinance authorizing  
2 special emergency appropriations for the carrying out of any of the  
3 following purposes:

- 4 a. Preparation of an approved tax map.
- 5 b. Preparation and execution of a complete program of  
6 revaluation of real property for the use of the local assessor, or of  
7 any program to update and make current any previous revaluation  
8 program when such is ordered by the county board of taxation.
- 9 c. Preparation of a revision and codification of its ordinances.
- 10 d. Engagement of special consultants for the preparation, and  
11 the preparation of a master plan or plans, when required to conform  
12 to the planning laws of the State.
- 13 e. Preparation of drainage maps for flood control purposes.
- 14 f. Preliminary engineering studies and planning necessary for  
15 the installation and construction of a sanitary sewer system.
- 16 g. Authorized expenses of a consolidation commission  
17 established pursuant to the "Municipal Consolidation Act,"  
18 P.L.1977, c.435 (C.40:43-66.35 et seq.).
- 19 h. Contractually required severance liabilities resulting from  
20 the layoff or retirement of employees. Such liabilities shall be paid  
21 without interest and, at the sole discretion of the local unit, may be  
22 paid in equal annual installments over a period not to exceed **[five]**  
23 10 years.
- 24 i. Preparation of a sanitary or storm system map.

25 A copy of all ordinances or resolutions as adopted relating to  
26 special emergency appropriations shall be filed with the director.  
27 (cf: P.L.2010, c.46, s.1)

28  
29 7. N.J.S.11A:6-5 is amended to read as follows:

30 11A:6-5. Sick leave. a. Full-time State and political subdivision  
31 employees shall receive a sick leave credit of no less than one  
32 working day for each completed month of service during the  
33 remainder of the first calendar year of service and 15 working days  
34 in every year thereafter. Unused sick leave shall accumulate without  
35 limit.

36 b. Notwithstanding the provisions of any law, rule, or  
37 regulation to the contrary, the use of six or more consecutive days  
38 of accumulated sick leave in the twelve months prior to retirement  
39 by an employee who commences employment with the State or a  
40 political subdivision on or after the effective date of P.L. \_\_\_\_\_,

41 c. (pending before the Legislature as this bill) in anticipation  
42 of that retirement without a medical necessity verified in writing by  
43 a physician shall be prohibited. The commission shall promulgate  
44 rules and procedures to ensure that verification of medical necessity  
45 is provided. The rules shall provide that the employer may require  
46 the employee to submit to an examination by a physician selected  
47 by the employer to verify the medical necessity. The employer  
48 shall (1) impose a fine and issue a reprimand against the employee

1 found to be in violation of this prohibition, with the fine to be an  
2 amount equivalent to three times the daily rate of compensation for  
3 each day of violation, or (2) for a subsequent violation of the  
4 prohibition, deduct a number of sick leave days equivalent to the  
5 number found to have been used in violation of this prohibition  
6 from the number of unused accumulated sick leave credited on the  
7 effective date of retirement upon which supplemental  
8 compensation, if any, for the employee at the time of retirement is  
9 calculated, or (3) both.  
10 (cf: N.J.S.11:A:6-5)  
11

12 8. (New section) Notwithstanding any law, rule or regulation to  
13 the contrary, for officers or employees of a political subdivision of  
14 the State, or any agency, authority or instrumentality thereof, that  
15 has not adopted the provisions of Title 11A, Civil Service, of the  
16 New Jersey Statutes, the use of six or more consecutive days of  
17 accumulated sick leave in the twelve months prior to retirement by  
18 an officer or employee who commences employment with the  
19 political subdivision of the State, or agency, authority or  
20 instrumentality thereof, on or after the effective date of P.L. ,  
21 c. (pending before the Legislature as this bill) in anticipation of  
22 that retirement and without a medical necessity verified in writing  
23 by a physician shall be prohibited. The governing body of a  
24 political subdivision shall promulgate rules and procedures to  
25 ensure that verification of medical necessity is provided. The rules  
26 shall provide that the employer may require the officer or employee  
27 to submit to an examination by a physician selected by the  
28 employer to verify the medical necessity. The employer shall (1)  
29 impose a fine and issue a reprimand against the officer or employee  
30 found to be in violation of this prohibition, with the fine to be an  
31 amount equivalent to three times the daily rate of compensation for  
32 each day of violation, or (2) for a subsequent violation of the  
33 prohibition, deduct a number of sick leave days equivalent to the  
34 number found to have been used in violation of this prohibition  
35 from the number of unused accumulated sick leave credited on the  
36 effective date of retirement upon which supplemental  
37 compensation, if any, for the officer or employee at the time of  
38 retirement is calculated, or (3) both.

39  
40 9. (New section) Notwithstanding any law, rule or regulation  
41 to the contrary, for officers or employees of a school board, or any  
42 agency or instrumentality thereof, the use of six or more  
43 consecutive days of accumulated sick leave in the twelve months  
44 prior to retirement by an officer or employee who commences  
45 service with the school board, or agency or instrumentality thereof,  
46 on or after the effective date of P.L. , c. (pending before the  
47 Legislature as this bill) in anticipation of that retirement and  
48 without a medical necessity verified in writing by a physician shall

1 be prohibited. The board shall promulgate rules and procedures to  
2 ensure that verification of medical necessity is provided. The rules  
3 shall provide that the employer may require the officer or employee  
4 to submit to an examination by a physician selected by the  
5 employer to verify the medical necessity. The employer shall (1)  
6 impose a fine and issue a reprimand against the officer or employee  
7 found to be in violation of this prohibition, with the fine to be an  
8 amount equivalent to three times the daily rate of compensation for  
9 each day of violation, or (2) for a subsequent violation of the  
10 prohibition, deduct a number of sick leave days equivalent to the  
11 number found to have been used in violation of this prohibition  
12 from the number of unused accumulated sick leave credited on the  
13 effective date of retirement upon which supplemental  
14 compensation, if any, for the officer or employee at the time of  
15 retirement is calculated, or (3) both.

16

17 10. The provisions of P.L. , c. (pending before the  
18 Legislature as this bill) shall not be construed to impair the  
19 obligation of a collective negotiations agreement or individual  
20 contract of employment with relevant provisions in effect on the  
21 effective date of P.L. , c. (pending before the Legislature as this  
22 bill).

23

24 11. This act shall take effect immediately.

25

26

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#### STATEMENT

28

29 This bill amends current law to make applicable for all current  
30 and future officers and employees of boards of education and local  
31 governments the limit of \$15,000 for the payment of supplemental  
32 compensation at retirement for accumulated unused sick leave, and  
33 the limit on the carrying forward of vacation leave for one year  
34 only. Current officers and employees will be permitted to retain  
35 any supplemental compensation for unused sick leave, or to carry  
36 forward any vacation leave, already accrued as of the bill's  
37 effective date.

38 Current law imposes these limits on officers and employees  
39 commencing service with an individual employer on or after May  
40 21, 2010 and for certain high-level officers and employees who  
41 were in service on June 8, 2007.

42 In addition, the bill amends a section of law that permits local  
43 units to adopt an ordinance authorizing special emergency  
44 appropriations for contractually required severance liabilities  
45 resulting from the layoff or retirement of employees to provide that  
46 such liabilities are to be paid without interest and, at the sole  
47 discretion of the local unit, in equal annual installments over a

1 period not to exceed 10 years, instead of over five years as provided  
2 by current law.

3 Finally, the bill imposes limits on the use of sick leave by a  
4 State, local, or board of education employee in the twelve months  
5 before retirement. This provision applies to employees who  
6 commence employment with an individual employer on or after the  
7 bill's effective date. Specifically, the bill prohibits the use of six or  
8 more consecutive days of accumulated sick leave, without medical  
9 necessity verified in writing by a physician, by an officer or  
10 employee in the twelve months prior to retirement in anticipation of  
11 that retirement. The employer may require the officer or employee  
12 to submit to an examination by a physician selected by the  
13 employer to verify the medical necessity. The employer must (1)  
14 impose a fine and issue a reprimand against the officer or employee  
15 found to be in violation of this prohibition, with the fine to be an  
16 amount equivalent to three times the daily rate of compensation for  
17 each day of violation, or (2) for a subsequent violation of the  
18 prohibition, deduct a number of sick leave days equivalent to the  
19 number found to have been used in violation of this prohibition  
20 from the number of unused accumulated sick leave credited on the  
21 effective date of retirement upon which supplemental  
22 compensation, if any, for the officer or employee at the time of  
23 retirement is calculated, or (3) both.

24 The bill would not be construed to impair the obligation of a  
25 collective negotiations agreement or individual contract of  
26 employment with relevant provisions in effect on the bill's effective  
27 date.