

ASSEMBLY, No. 2414

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblyman PARKER SPACE
District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Assemblymen Wirths, McGuckin and Assemblywoman B.DeCroce

SYNOPSIS

Makes various changes to civil service; permits institution of temporary layoffs; permits government entities to opt-out of civil service; requires civil service examinations be offered on continual basis.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/3/2020)

1 AN ACT concerning civil service and amending various sections of
2 the statutory law and supplementing Title 11A of the New Jersey
3 Statutes.

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

7
8 1. N.J.S.11A:4-1 is amended to read as follows:

9 11A:4-1. Examinations. The commission shall provide for:

10 a. The announcement and administration of examinations on a
11 continual basis, where practicable, which shall test fairly the
12 knowledge, skills and abilities required to satisfactorily perform the
13 duties of a title or group of titles. The examinations may include,
14 but are not limited to, written, oral, performance and evaluation of
15 education and experience;

16 b. The rating of examinations;

17 c. The security of the examination process and appropriate
18 sanctions for a breach of security;

19 d. The selection of special examiners to act as subject matter
20 specialists or to provide other assistance. Employees of the State or
21 political subdivisions may be so engaged as part of their official
22 duties during normal working hours with the approval of their
23 appointing authority. Extra compensation may be provided for such
24 service outside normal working hours; and

25 e. The right to appeal adverse actions relating to the
26 examination and appointment process, which shall include but not
27 be limited to rejection of an application, failure of an examination
28 and removal from an eligible list.

29 The commission shall provide for the completion and submission
30 of an application for an examination on the website of the
31 commission.

32 (cf: P.L.2008, c.29, s.28)

33

34 2. Section 1 of P.L.1992, c.197 (C.11A:4-1.1) is amended to
35 read as follows:

36 1. a. Except as provided in subsection b. of this section
37 concerning law enforcement officer and firefighter examinations,
38 the commission shall establish a \$25 fee for each application for an
39 open competitive or promotional examination and a \$15 fee for
40 each application for an open competitive or promotional
41 examination by a veteran. Persons receiving public assistance
42 benefits pursuant to P.L.1947, c.156 (C.44:8-107 et seq.), P.L.1973,
43 c.256 (C.44:7-85 et seq.), or P.L.1997, c.38 (C.44:10-55 et seq.)
44 shall not be required to pay this fee if they apply for an open
45 competitive examination. Receipts derived from application fees

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 established by this subsection shall be appropriated to the
2 commission. On or after July 1, 2015, and every five years
3 thereafter, the chairperson of the commission shall review the \$25
4 fee established by this subsection and may modify the fee,
5 provided, however, that the fee, along with the \$15 fee, shall not
6 exceed the cost of developing, procuring, and administering the
7 examination.

8 b. The commission shall establish a fee for each application for
9 an open competitive or promotional examination for a law
10 enforcement officer or firefighter title. The fee shall not exceed the
11 cost of developing, procuring and administering the examination.
12 Persons receiving public assistance benefits pursuant to P.L.1947,
13 c.156 (C.44:8-107 et seq.), P.L.1973, c.256 (C.44:7-85 et seq.), or
14 P.L.1997, c.38 (C.44:10-55 et seq.) shall not be required to pay this
15 fee if they apply for an open competitive examination. Receipts
16 derived from application fees established by this subsection shall be
17 appropriated to the commission for use in developing, procuring
18 and administering law enforcement officer and firefighter
19 examinations.

20 c. In addition to the fees established in subsections a. and b. of
21 this section, the commission shall establish a \$15 fee for each
22 application for an open competitive or promotional examination for
23 a position in State service. Persons receiving public assistance
24 benefits pursuant to P.L.1947, c.156 (C.44:8-107 et seq.), P.L.1973,
25 c.256 (C.44:7-85 et seq.), or P.L.1997, c.38 (C.44:10-55 et seq.)
26 shall not be required to pay this fee if they apply for an open
27 competitive examination. Receipts derived from the application fee
28 established pursuant to this subsection shall be appropriated
29 annually to the commission for the costs of the displaced workers
30 pool program. This fee shall not be assessed and collected unless
31 the commission implements a displaced workers pool program. If
32 the displaced workers pool program is terminated at any time by the
33 commission, the assessment and collection of this additional fee
34 shall also be terminated.

35 d. The commission shall establish a \$20 fee for each appeal
36 filed under the provisions of subsection a. or b. of N.J.S.11A:2-6,
37 subsection e. of N.J.S.11A:4-1, N.J.S.11A:8-4, and the rules
38 promulgated thereunder. Persons who are receiving public
39 assistance benefits pursuant to P.L.1947, c.156 (C.44:8-107 et seq.),
40 P.L.1973, c.256 (C.44:7-85 et seq.), or P.L.1997, c.38 (C.44:10-55
41 et seq.), or persons who are veterans, shall not be required to pay
42 this fee.

43 e. The commission shall provide for the payment of any fee for
44 an examination application submitted to the commission on the
45 commission's website.

46 (cf: P.L.2010, c.26, s.1)

47

48 3. N.J.S.11A:4-13 is amended to read as follows:

1 11A:4-13. Types of appointment. The commission shall provide
2 for the following types of appointment:

3 a. Regular appointments shall be to a title in the competitive
4 division of the career service upon examination and certification or
5 to a title in the noncompetitive division of the career service upon
6 appointment. The appointments shall be permanent after
7 satisfactory completion of a working test period;

8 b. Provisional appointments shall be made only in the
9 competitive division of the career service and only in the absence of
10 a complete certification, if the appointing authority certifies that in
11 each individual case the appointee meets the minimum
12 qualifications for the title at the time of appointment and that failure
13 to make a provisional appointment will seriously impair the work of
14 the appointing authority. In no case shall any provisional
15 appointment exceed a period of 12 months;

16 c. Temporary appointments may be made, without regard to the
17 provisions of this chapter, to temporary positions established for a
18 period aggregating not more than six months in a 12-month period
19 as approved by the commission. These positions include, but are
20 not limited to, seasonal positions. Seasonal positions may be
21 established for a maximum of nine months in a 12-month period
22 when the appointing authority has submitted the applicable list of
23 seasonal titles to the chair of the commission and the chair has
24 approved them. Positions established as a result of a short-term
25 grant may be established for a maximum of 12 months. Appointees
26 to temporary positions shall meet the minimum qualifications of a
27 title;

28 d. Emergency appointments shall not exceed 30 days and shall
29 only be permitted where nonappointment will result in harm to
30 persons or property;

31 e. Senior executive service appointments shall be made
32 pursuant to N.J.S.11A:3-3; and

33 f. Unclassified appointments shall be made pursuant to
34 N.J.S.11A:3-4 and N.J.S.11A:3-5.

35 (cf: P.L.2008, c.29, s.39)

36
37 4. N.J.S.11A:4-15 is amended to read as follows:

38 11A:4-15. Working test period. The purpose of the working test
39 period is to permit an appointing authority to determine whether an
40 employee satisfactorily performs the duties of a title. A working
41 test period is part of the examination process which shall be served
42 in the title to which the certification was issued and appointment
43 made. The commission shall provide for:

44 a. A working test period following regular appointment of four
45 months, which may be extended to six months at the discretion of
46 the commission, except that the working test period for political
47 subdivision employees shall be **[three]** six months and the working

1 test period for entry level law enforcement, correction officer, and
2 firefighter titles shall be 12 months;

3 b. Progress reports to be made by the appointing authority and
4 provided to the employee at such times during the working test
5 period as provided by rules of the commission and a final progress
6 report at the end of the entire working test period shall be provided
7 to the employee and the commission;

8 c. Termination of an employee at the end of the working test
9 period and termination of an employee for cause during the working
10 test period; and

11 d. The retention of permanent status in the lower title by a
12 promoted employee during the working test period in the higher
13 title and the right to return to such permanent title if the employee
14 does not satisfactorily complete the working test period, but
15 employees removed for cause during a working test period shall not
16 be so returned.

17 (cf: P.L.2008, c.29, s.41)

18

19 5. N.J.S.11A:8-1 is amended to read as follows:

20 11A:8-1. a. A permanent employee may be laid off for
21 economy, efficiency or other related reason. A permanent
22 employee shall receive 45 days' written notice, unless in State
23 government a greater time period is ordered by the commission,
24 which shall be served personally or by certified mail, of impending
25 layoff or demotion and the reasons therefor. The notice shall expire
26 120 days after service unless extended by the commission for good
27 cause. At the same time the notice is served, the appointing
28 authority shall provide the commission with a list of the names and
29 permanent titles of all employees receiving the notice. The Civil
30 Service Commission shall adopt rules to implement employee
31 layoff rights consistent with the provisions of this section. The
32 commission shall consult with the advisory board representing labor
33 organizations prior to such recommendations.

34 b. Permanent employees in the service of the State or a
35 political subdivision shall be laid off in inverse order of seniority.
36 As used in this subsection, "seniority" means the length of
37 continuous permanent service in the jurisdiction, regardless of title
38 held during the period of service, except that for police and
39 firefighting titles, "seniority" means the length of continuous
40 permanent service only in the current permanent title and any other
41 title that has lateral or demotional rights to the current permanent
42 title. Seniority for all titles shall be based on the total length of
43 calendar years, months and days in continuous permanent service
44 regardless of the length of the employee's work week, work year or
45 part-time status.

46 c. For purposes of State service, a "layoff unit" means a
47 department or autonomous agency and includes all programs
48 administered by that department or agency. For purposes of

1 political subdivision service, the "layoff unit" means a department
2 in a county or municipality, an entire autonomous agency, or an
3 entire school district, except that the commission may establish
4 broader layoff units.

5 d. For purposes of State service, "job location" means a county.
6 The commission shall assign a job location to every facility and
7 office within a State department or autonomous agency. For
8 purposes of local service, "job location" means the entire political
9 subdivision and includes any facility operated by the political
10 subdivision outside its geographic borders.

11 e. For purposes of determining lateral title rights in State and
12 political subdivision service, title comparability shall be determined
13 by the commission based upon whether the: (1) titles have
14 substantially similar duties and responsibilities; (2) education and
15 experience requirements for the titles are identical or similar; (3)
16 employees in an affected title, with minimal training and
17 orientation, could perform the duties of the designated title by
18 virtue of having qualified for the affected title; and (4) special
19 skills, licenses, certifications or registration requirements for the
20 designated title are similar and do not exceed those which are
21 mandatory for the affected title. Demotional title rights shall be
22 determined by the commission based upon the same criteria, except
23 that the demotional title shall have lower but substantially similar
24 duties and responsibilities as the affected title.

25 f. In State service, a permanent employee in a position affected
26 by a layoff action shall be provided with applicable lateral and
27 demotional title rights first, at the employee's option, within the
28 municipality in which the facility or office is located and then to the
29 job locations selected by the employee within the department or
30 autonomous agency. The employee shall select individual job
31 locations in preferential order from the list of all job locations and
32 shall indicate job locations at which the employee will accept lateral
33 and demotional title rights. In local service, a permanent employee
34 in a position affected by a layoff action shall be provided lateral and
35 demotional title rights within the layoff unit.

36 g. Following the employee's selection of job location
37 preferences, lateral and demotional title rights shall be provided in
38 the following order:

39 (1) a vacant position that the appointing authority has previously
40 indicated it is willing to fill;

41 (2) a position held by a provisional employee who does not have
42 permanent status in another title, and if there are multiple
43 employees at a job location, the specific position shall be
44 determined by the appointing authority;

45 (3) a position held by a provisional employee who has
46 permanent status in another title, and if there are multiple
47 provisional employees at a job location, the specific position shall

1 be determined based on level of the permanent title held and
2 seniority;

3 (4) the position held by the employee serving in a working test
4 period with the least seniority;

5 (5) in State service, and in local jurisdictions having a
6 performance evaluation program approved by the commission, the
7 position held by the permanent employee whose performance rating
8 within the most recent 12 months in the employee's permanent title
9 was significantly below standards or an equivalent rating;

10 (6) in State service, and in local jurisdictions having a
11 performance evaluation program approved by the commission, the
12 position held by the permanent employee whose performance rating
13 within the most recent 12 months in the employee's permanent title
14 was marginally below standards or an equivalent rating; and

15 (7) the position held by the permanent employee with the least
16 seniority.

17 h. A permanent employee shall be granted special
18 reemployment rights based on the employee's permanent title at the
19 time of the layoff action and the employee shall be certified for
20 reappointment after the layoff action to the same, lateral and lower
21 related titles. Special reemployment rights shall be determined by
22 the commission in the same manner as lateral and demotional
23 rights. An employee shall be removed from the special
24 reemployment list when the employee has turned down a
25 reemployment opportunity in a position that is one with the same or
26 substantially similar job duties as, the same title and series as, the
27 same or substantially similar hours of work as, and a location within
28 a 25 mile radius of, the position from which the employee was laid
29 off or demoted in lieu of layoff.

30 i. Notwithstanding the provisions above, at no time shall any
31 person on a military leave of absence for active service in the
32 Armed Forces of the United States in time of war or emergency be
33 laid off.

34 (cf: P.L.2008, c.29, s.69)

35
36 6. N.J.S.11A:2-13 is amended to read as follows:

37 11A:2-13. Opportunity for appointing authority hearing,
38 alternative procedures.

39 Except as otherwise provided herein, before any disciplinary
40 action in subsection a.(1), (2) and (3) of N.J.S.11A:2-6 is taken
41 against a permanent employee in the career service or a person
42 serving a working test period, the employee shall be notified in
43 writing and shall have the opportunity for a hearing before the
44 appointing authority or its designated representative. The hearing
45 shall be held within 30 days of the notice of disciplinary action
46 unless waived by the employee. Both parties may consent to an
47 adjournment to a later date.

48 When the State of New Jersey and the majority representative

1 have agreed pursuant to the New Jersey Employer-Employee
2 Relations Act, section 7 of P.L.1968, c.303 (C.34:13A-5.3), to a
3 procedure for appointing authority review before disciplinary action
4 in subsection a.(1), (2) and (3) of N.J.S.11A:2-6, which would be
5 otherwise appealable to the Civil Service Commission under
6 N.J.S.11A:2-14, is taken against a permanent employee in the
7 career service or a person serving a working test period, such
8 procedure shall be the exclusive procedure for review before the
9 appointing authority.

10 A political subdivision of the State that has adopted the
11 provisions of Title 11A of the New Jersey Statutes and the majority
12 representative of its employees may negotiate, pursuant to the New
13 Jersey Employer-Employee Relations Act, section 7 of P.L.1968,
14 c.303 (C.34:13A-5.3), the procedure for appointing authority review
15 before disciplinary action in subsection a.(1), (2) and (3) of
16 N.J.S.11A:2-6, which would be otherwise appealable to the Civil
17 Service Commission under N.J.S.11A:2-14, is taken against a
18 permanent employee in the career service or a person serving a
19 working test period. Negotiations may result in a determination
20 that the provisions of Title 11A and the regulations promulgated
21 thereto shall be the review procedure. A provision in a collective
22 negotiations agreement for such a review shall be the exclusive
23 procedure for appointing authority review before disciplinary action
24 is taken.

25 This section shall not prohibit the immediate suspension of an
26 employee without a hearing if the appointing authority determines
27 that the employee is unfit for duty or is a hazard to any person if
28 allowed to remain on the job or that an immediate suspension is
29 necessary to maintain safety, health, order or effective direction of
30 public services. In addition, where a suspension is based on a
31 formal charge of a crime of the first, second or third degree, or a
32 crime of the fourth degree if committed on the job or directly
33 related to the job, the suspension may be immediate and continue
34 until a disposition of the charge. The Civil Service Commission
35 shall establish, by rule, procedures for hearings and suspensions
36 with or without pay.
37 (cf: P.L.2008, c.29, s.10)

38

39 7. N.J.S.11A:2-14 is amended to read as follows:

40 11A:2-14. Notice to employee of right to appeal, alternative
41 procedures.

42 Except as otherwise provided herein, within 20 days of the
43 hearing provided in N.J.S.11A:2-13, the appointing authority shall
44 make a final disposition of the charges against the employee and
45 shall furnish the employee with written notice. If the appointing
46 authority determines that the employee is to be removed, demoted
47 or receive a suspension or a fine greater than five days, the
48 employee shall have a right to appeal to the Civil Service

1 Commission. The suspension or fine of an employee for five days
2 or less shall be appealable if an employee's aggregate number of
3 days suspended or fined in any one calendar year is 15 days or
4 more. Where an employee receives more than three suspensions or
5 fines of five or less days in a calendar year, the last suspension or
6 fine is appealable.

7 When the State of New Jersey and the majority representative
8 have agreed pursuant to the New Jersey Employer-Employee
9 Relations Act, section 7 of P.L.1968, c.303 (C.34:13A-5.3), to a
10 disciplinary review procedure that provides for binding arbitration
11 of disputes involving disciplinary action in subsection a.(1), (2) and
12 (3) of N.J.S.11A:2-6, which would be otherwise appealable to the
13 Civil Service Commission under N.J.S.11A:2-14, being taken
14 against a permanent employee in the career service or a person
15 serving a working test period, such procedure shall be the exclusive
16 procedure for any appeal of such disciplinary action.

17 A political subdivision of the State that has adopted the
18 provisions of Title 11A of the New Jersey Statutes and the majority
19 representative of its employees may negotiate, pursuant to the New
20 Jersey Employer-Employee Relations Act, section 7 of P.L.1968,
21 c.303 (C.34:13A-5.3), the disciplinary review procedure, including
22 binding arbitration, for disputes involving disciplinary action in
23 subsection a.(1), (2) and (3) of N.J.S.11A:2-6, which would be
24 otherwise appealable to the Civil Service Commission under
25 N.J.S.11A:2-14, being taken against a permanent employee in the
26 career service or a person serving a working test period.
27 Negotiations may result in a determination that the provisions of
28 Title 11A and the regulations promulgated thereto shall be the
29 disciplinary review procedure. A provision in a collective
30 negotiations agreement for the disciplinary review procedure shall
31 be the exclusive procedure for any appeal of such disciplinary
32 action.

33 (cf: P.L.2008, c.29, s.11)

34

35 8. Section 11 of P.L.2007, c.63 (C.40A:65-11) is amended to
36 read as follows:

37 11. a. When a local unit contracts, through a shared service or
38 joint meeting, to have another local unit or a joint meeting provide a
39 service it is currently providing using public employees and one or
40 more of the local units have adopted Title 11A, Civil Service, then
41 the agreement shall include an employment reconciliation plan in
42 accordance with this section that and, if one or more of the local
43 units have adopted Title 11A, Civil Service, shall specifically set
44 forth the intended jurisdiction of the Civil Service Commission. An
45 employment reconciliation plan shall be subject to the following
46 provisions:

47 (1) a determination of those employees, if any, that shall be
48 transferred to the providing local unit, retained by the recipient

1 local unit, or terminated from employment for reasons of economy
2 or efficiency, subject to the provisions of any existing collective
3 bargaining agreements within the local units.

4 (2) any employee terminated for reasons of economy or
5 efficiency by the local unit providing the service under the shared
6 service agreement **[shall]**, at the option of the local unit or pursuant
7 to a collective negotiations agreement between the local unit and a
8 majority representative, may be given a terminal leave payment of
9 not less than a period of one month for each five-year period of past
10 service as an employee with the local unit, or other enhanced
11 benefits that may be provided or negotiated. For the purposes of
12 this paragraph, "terminal leave payment" means a single, lump sum
13 payment, paid at termination, calculated using the regular base
14 salary at the time of termination. Unless otherwise negotiated or
15 provided by the employer, a terminal leave benefit shall not include
16 extended payment, or payment for retroactive salary increases,
17 bonuses, overtime, longevity, sick leave, accrued vacation or other
18 time benefit, or any other benefit.

19 (3) the Civil Service Commission shall place any employee that
20 has permanent status pursuant to Title 11A, Civil Service, of the
21 New Jersey Statutes that is terminated for reasons of economy or
22 efficiency at any time by either local unit on a special
23 reemployment list for any civil service employer within the county
24 of the agreement or any political subdivision therein.

25 (4) when a proposed shared service agreement affects
26 employees in local units subject to Title 11A, Civil Service, of the
27 New Jersey Statutes, an employment reconciliation plan shall be
28 filed with the Civil Service Commission prior to the approval of the
29 shared service agreement. The commission shall review it for
30 consistency with this section within 45 days of receipt and it shall
31 be deemed approved, subject to approval of the shared service
32 agreement by the end of that time, unless the commission has
33 responded with a denial or conditions that must be met in order for
34 it to be approved.

35 (5) when an action is required of the Civil Service Commission
36 by this section, parties to a planned shared service agreement may
37 consult with that commission in advance of the action and the
38 commission shall provide such technical support as may be
39 necessary to assist in the preparation of an employment
40 reconciliation plan or any other action required of the commission
41 by this section.

42 b. If all the local units that are parties to the agreement are
43 subject to the provisions of Title 11A, Civil Service, of the New
44 Jersey Statutes, the Civil Service Commission shall create an
45 implementation plan for the agreement that will: (1) transfer
46 employees with current status in current title unless reclassified, or
47 (2) reclassify employees into job titles that best reflect the work to
48 be performed. The Civil Service Commission shall review whether

1 any existing hiring or promotional lists should be merged,
2 inactivated, or re-announced. Non-transferred employees shall be
3 removed or suspended only for good cause and after the opportunity
4 for a hearing before the Civil Service Commission; provided,
5 however, that they may be laid-off in accordance with the
6 provisions of N.J.S.11A:8-1 et seq., and the regulations
7 promulgated thereunder. The final decision of which employees
8 shall transfer to the new employer is vested solely with the local
9 unit that will provide the service and subject to the provisions of
10 any existing collective bargaining agreements within the local units.

11 c. If the local unit that will provide the service pursuant to a
12 shared service agreement is subject to Title 11A, Civil Service, of
13 the New Jersey Statutes, but the local unit to receive the service is
14 not subject to that Title, and the contracting local units desire that
15 some or all employees of the recipient local unit are to be
16 transferred to the providing local unit, the Civil Service
17 Commission shall vest only those employees who have been
18 employed for one year or more in permanent status pursuant to
19 N.J.S.11A:9-9 in appropriate titles, seniority, and tenure with the
20 providing local unit based on the duties of the position. The final
21 decision of which employees shall transfer to the new employer is
22 vested solely with the local unit that will provide the service and
23 subject to the provisions of any existing collective bargaining
24 agreements within the local units.

25 d. If the local unit that will provide the service is not subject to
26 the provisions of Title 11A, Civil Service, of the New Jersey
27 Statutes, but the local unit that will receive the service is subject to
28 that Title and the parties desire that some or all employees of the
29 recipient local unit are to be transferred to the providing local unit,
30 the transferred employees shall be granted tenure in office and shall
31 only be removed or suspended for good cause and after a hearing;
32 provided, however, that they may be laid-off in accordance with the
33 provisions of N.J.S.11A:8-1 et seq., and the regulations
34 promulgated thereunder. The transferred employees shall be subject
35 to layoff procedures prior to the transfer to the new entity. Once
36 transferred, they will be subject to any employment contracts and
37 provisions that exist for the new entity. The final decision of which
38 employees shall transfer to the new employer is vested solely with
39 the local unit that will provide the service and subject to the
40 provisions of any existing collective bargaining agreements within
41 the local units.

42 (cf: P.L.2008, c.29, s.101)

43

44 9. (New section) a. An appointing authority in State or local
45 service may institute a temporary layoff for economy, efficiency, or
46 other related reasons. A temporary layoff shall be defined as: (1)
47 the closure of an entire layoff unit for one or more work days over a
48 defined period; or (2) a staggered layoff of each employee in a

1 layoff unit for one or more work days over a defined period. A
2 temporary layoff shall be considered a single layoff action even
3 though the layoff of individual employees takes place on different
4 days during the defined period. The defined period shall be set
5 forth by the appointing authority in its temporary layoff plan;
6 however, in a staggered layoff, the maximum period to stagger one
7 day off shall not exceed 45 days.

8 b. A temporary layoff may, with the approval of the
9 chairperson, be subject to limited exceptions when necessary to
10 ensure continued public health and safety, including but not limited
11 to child welfare, law enforcement, and care for prisoners, patients,
12 and other residents in the care or custody of the State or local
13 government.

14 c. In a temporary layoff, no employee in the layoff unit,
15 whether career, senior executive, or unclassified, shall be paid for
16 any work day that is designated as a temporary layoff day. Any
17 employee who is designated as exempt from a temporary layoff day
18 pursuant to subsection b. of this section shall be paid the
19 employee's regular wages for working on that day.

20 d. A temporary layoff plan shall be submitted to the
21 chairperson at least 15 days prior to the issuance of temporary
22 layoff notices, or such other period as permitted by the chairperson.
23 The temporary layoff plan shall describe the implementation of the
24 temporary layoff, including the specific day or days on which the
25 layoff unit will be closed, any exceptions pursuant to subsection b.
26 of this section, and, if staggered, the reasons for not closing the
27 entire layoff unit on a specific day, and the staffing plan for
28 implementing a staggered temporary layoff. Part-time employees
29 shall be designated for a proportional amount of temporary layoff
30 time, consistent with the ratio of hours worked to full-time
31 employment. In a staggered temporary layoff, the appointing
32 authority shall be permitted in its sole discretion, to designate as
33 unpaid temporary layoff time any planned or unplanned leave time
34 taken by an employee during the defined layoff period, up to the
35 maximum temporary layoff time for that defined layoff period.
36 Employees shall not be permitted to substitute any paid leave for an
37 unpaid temporary layoff day.

38 e. For purposes of accrual of leave time, anniversary dates,
39 paid holidays, and seniority, temporary layoff time shall be treated
40 as if the employee is in pay status. An employee serving a working
41 test period shall have the working test period extended for the time
42 equal to the temporary layoff time. A leave under the federal
43 Family and Medical Leave Act or other leave for medical or family
44 reasons shall not be affected by a temporary layoff. An alternate
45 work week program may be suspended for pay periods in which a
46 temporary layoff is implemented.

47 f. Because a temporary layoff is intended to apply equally to
48 all employees in the layoff unit subject only to the exception and

1 staggered schedules set forth in this section, subsections b.
2 (seniority), d. (job location), e. (lateral and demotional title rights),
3 f. (application of lateral and demotional title rights within job
4 locations), g. (exercise of lateral and demotional title rights), and h.
5 (special reemployment rights) of N.J.S.11A:8-1 shall not be
6 applicable to a temporary layoff.

7
8 10. Section 7 of P.L.1968, c.303 (C.34:13A-5.3) is amended to
9 read as follows:

10 7. Except as hereinafter provided, public employees shall have,
11 and shall be protected in the exercise of, the right, freely and
12 without fear of penalty or reprisal, to form, join and assist any
13 employee organization or to refrain from any such activity;
14 provided, however, that this right shall not extend to elected
15 officials, members of boards and commissions, managerial
16 executives, or confidential employees, except in a school district the
17 term managerial executive shall mean the superintendent of schools
18 or his equivalent, nor, except where established practice, prior
19 agreement or special circumstances dictate the contrary, shall any
20 supervisor having the power to hire, discharge, discipline, or to
21 effectively recommend the same, have the right to be represented in
22 collective negotiations by an employee organization that admits
23 nonsupervisory personnel to membership, and the fact that any
24 organization has such supervisory employees as members shall not
25 deny the right of that organization to represent the appropriate unit
26 in collective negotiations; and provided further, that, except where
27 established practice, prior agreement, or special circumstances
28 dictate the contrary, no policeman shall have the right to join an
29 employee organization that admits employees other than policemen
30 to membership. The negotiating unit shall be defined with due
31 regard for the community of interest among the employees
32 concerned, but the commission shall not intervene in matters of
33 recognition and unit definition except in the event of a dispute.

34 Representatives designated or selected by public employees for
35 the purposes of collective negotiation by the majority of the
36 employees in a unit appropriate for such purposes, by the majority
37 of the employees voting in an election conducted by the
38 commission as authorized by this act or, at the option of the
39 representative in a case in which the commission finds that only one
40 representative is seeking to be the majority representative, by a
41 majority of the employees in the unit signing authorization cards
42 indicating their preference for that representative, shall be the
43 exclusive representatives for collective negotiation concerning the
44 terms and conditions of employment of the employees in such unit.
45 An authorization card indicating preference shall not be valid unless
46 it is printed in a language understood by the employees who signs
47 it.

1 Nothing herein shall be construed to prevent any official from
2 meeting with an employee organization for the purpose of hearing
3 the views and requests of its members in such unit so long as (a) the
4 majority representative is informed of the meeting; (b) any changes
5 or modifications in terms and conditions of employment are made
6 only through negotiation with the majority representative; and (c) a
7 minority organization shall not present or process grievances.
8 Nothing herein shall be construed to deny to any individual
9 employee his rights under Civil Service laws or regulations. When
10 no majority representative has been selected as the bargaining agent
11 for the unit of which an individual employee is a part, he may
12 present his own grievance either personally or through an
13 appropriate representative or an organization of which he is a
14 member and have such grievance adjusted.

15 A majority representative of public employees in an appropriate
16 unit shall be entitled to act for and to negotiate agreements covering
17 all employees in the unit and shall be responsible for representing
18 the interest of all such employees without discrimination and
19 without regard to employee organization membership. Proposed
20 new rules or modifications of existing rules governing working
21 conditions shall be negotiated with the majority representative
22 before they are established. In addition, the majority representative
23 and designated representatives of the public employer shall meet at
24 reasonable times and negotiate in good faith with respect to
25 grievances, disciplinary disputes, and other terms and conditions of
26 employment. In the case of temporary layoffs, designated
27 representatives of the public employer shall consult with the
28 majority representative of public employees over such temporary
29 layoffs. Failure to reach an agreement shall not prohibit the public
30 employer, regardless of whether the public employer is subject to
31 the provisions of Title 11A of the New Jersey Statutes, from
32 instituting temporary layoffs as set forth in section 9 of
33 P.L. _____, c. _____ (C. _____)(pending before the Legislature as this bill)
34 and the imposition of temporary layoffs shall not constitute a
35 violation of this act. Nothing herein shall be construed as
36 permitting negotiation of the standards or criteria for employee
37 performance.

38 When an agreement is reached on the terms and conditions of
39 employment, it shall be embodied in writing and signed by the
40 authorized representatives of the public employer and the majority
41 representative.

42 Public employers shall negotiate written policies setting forth
43 grievance and disciplinary review procedures by means of which
44 their employees or representatives of employees may appeal the
45 interpretation, application or violation of policies, agreements, and
46 administrative decisions, including disciplinary determinations,
47 affecting them, provided that such grievance and disciplinary
48 review procedures shall be included in any agreement entered into

1 between the public employer and the representative organization.
2 Such grievance and disciplinary review procedures may provide for
3 binding arbitration as a means for resolving disputes. Except as
4 otherwise provided herein, the procedures agreed to by the parties
5 may not replace or be inconsistent with any alternate statutory
6 appeal procedure nor may they provide for binding arbitration of
7 disputes involving the discipline of employees with statutory
8 protection under tenure or civil service laws, except that such
9 procedures may provide for binding arbitration of disputes
10 involving the minor discipline of any public employees protected
11 under the provisions of section 7 of P.L.1968, c.303 (C.34:13A-
12 5.3), other than public employees subject to discipline pursuant to
13 R.S.53:1-10. Grievance and disciplinary review procedures
14 established by agreement between the public employer and the
15 representative organization shall be utilized for any dispute covered
16 by the terms of such agreement. For the purposes of this section,
17 minor discipline shall mean a suspension or fine of less than five
18 days unless the employee has been suspended or fined an aggregate
19 of 15 or more days or received more than three suspensions or fines
20 of five days or less in one calendar year.

21 Where the State of New Jersey and the majority representative
22 have agreed to a disciplinary review procedure that provides for
23 binding arbitration of disputes involving the major discipline of any
24 public employee protected under the provisions of this section,
25 other than public employees subject to discipline pursuant to
26 R.S.53:1-10, the grievance and disciplinary review procedures
27 established by agreement between the State of New Jersey and the
28 majority representative shall be utilized for any dispute covered by
29 the terms of such agreement. For the purposes of this section, major
30 discipline shall mean a removal, disciplinary demotion, suspension
31 or fine of more than five days, or less where the aggregate number
32 of days suspended or fined in any one calendar year is 15 or more
33 days or unless the employee received more than three suspensions
34 or fines of five days or less in one calendar year.

35 In interpreting the meaning and extent of a provision of a
36 collective negotiation agreement providing for grievance
37 arbitration, a court or agency shall be bound by a presumption in
38 favor of arbitration. Doubts as to the scope of an arbitration clause
39 shall be resolved in favor of requiring arbitration.

40 (cf: P.L.2005, c.380, s.1)

41

42 11. (New section) a. A county or municipality operating under
43 the provisions of Title 11A of the New Jersey Statutes may rescind
44 the adoption of the provisions of Title 11A of the New Jersey
45 Statutes upon the clerk of the county or municipality submitting the
46 question of rescinding the provisions of Title 11A of the New
47 Jersey Statutes to the voters of the county or municipality upon the
48 filing of a petition with the clerk requesting the rescission. The

1 petition shall be signed by the registered voters of the county or
2 municipality equal in number to at least 15% of the valid votes cast
3 in the county or municipality at the last preceding general election.
4 Each name shall be printed and signed and the place of residence
5 indicated by street and number or other description sufficient to
6 identify the place. At the bottom of each separate page of the
7 petition, there shall be printed an affidavit, which shall be signed by
8 the circulator of that page that the circulatory, and only the
9 circulator, personally circulated the page, that all signatures to the
10 petition appearing on that page were made in the circulator's
11 presence, and that the circulatory believes them to be genuine
12 signatures of the persons whose names they purport to be. If a
13 rescission petition is presented to a prospective petition signer by a
14 part print advertisement, paid mailing, or paid solicitor, the petition
15 and any appeal for the signature of such a prospective signer shall
16 disclose prominently (1) the identity of the person paying for the
17 printed or personal solicitation, and (2) that the solicitor is paid.

18 b. Within 10 days from the date of filing the petition, the clerk
19 shall, in conjunction with and with the cooperation of the
20 commissioner of registration of the appropriate county, complete an
21 examination and ascertain whether or not the petition is signed by
22 the requisite number of qualified voters, shall attach to the petition
23 a certificate showing the result of the examination, and in the case
24 of a municipal clerk shall transmit to the county clerk a notice that
25 the question of rescission has been qualified for submission to the
26 voters, including with that notice a copy of the certificate. The
27 question shall be submitted at the next general election, or
28 alternatively in the case of a municipality in which municipal
29 elections are held the next municipal election, occurring on or after
30 the 60th day following the date on which the clerk shall have issued
31 the certificate. The municipal or county clerk, as appropriate, shall
32 cause the question to be printed upon the ballots to be used at the
33 election.

34 c. The clerk shall, prior to an election at which the question of
35 rescinding the adoption of the provisions of Title 11A of the New
36 Jersey Statutes is to be submitted to the voters, give public notice of
37 that submission. Public notice shall include, but need not be limited
38 to, publication in the county's or municipality's official newspaper
39 once a week for at least four weeks and posting of the notice in five
40 of the most public places in the county or municipality for at least
41 four weeks before the election.

42 d. If the clerk refuses or neglects to comply with this section, a
43 registered voter of the county or municipality may apply to a judge
44 of the Superior Court in the county in which the political
45 subdivision is located for an order directing and compelling the
46 submission of the question involved in the petition. The judge shall
47 hear the matter summarily. If the judge finds and determines that
48 the petition is in accordance with law, an appropriate order shall be

1 issued. Any clerk failing to comply with the order of the court, or
2 any public official, officer, agent or employee, interfering with, or
3 preventing, a clerk from satisfying an order, shall be guilty of a
4 crime of the fourth degree.

5 e. If the result of the election is favorable to rescinding the
6 adoption of Title 11A of the New Jersey Statutes, the result shall be
7 certified by the governing body of the county or municipality to the
8 chairperson of the Civil Service Commission. The rescission shall
9 take effect on a date established by the chairperson no less than six
10 months and no greater than one year following the election at which
11 the rescission was approved. If a majority of the votes cast at the
12 election are against rescission, no new election may be held on the
13 same question before the second general election or municipal
14 election, as appropriate, following the election at which that
15 rejection of rescission was voted.

16 f. A fire district or districts within a municipality that has
17 rescinded Title 11A of the New Jersey Statutes shall be deemed to
18 have rescinded Title 11A of the New Jersey Statutes with respect to
19 its employees.

20 g. All the provisions of this section shall apply to school
21 districts in which the board of education is elected by the voters.
22 School districts shall, in the submission of the question to the
23 voters, conform to the provisions of this section as nearly as
24 possible.

25
26 12. (New section) a. The Civil Service Commission shall
27 promulgate regulations providing for the orderly transition, in any
28 county, municipality, fire district, or school district which has
29 adopted the rescission in the personnel system of the county,
30 municipality, fire district, or school district. Such regulations shall
31 provide that any county, municipality, fire district, or school district
32 that has adopted the rescission shall submit to the chairperson of the
33 Civil Service Commission for approval its ordinance, resolution or
34 manual setting forth personnel policies and procedures to be
35 followed and adhered to after the rescission of the provisions of
36 Title 11A of the New Jersey Statutes. Such policies and procedures
37 shall, at a minimum, provide for the terms and conditions of
38 employment not otherwise covered by a collective negotiations
39 agreement such as appointment, promotion, leave, employee
40 performance, discipline and other related areas. Such policies and
41 procedures shall also prohibit all forms of unlawful discrimination,
42 shall include an anti-discrimination policy and a policy concerning
43 local government ethics.

44 b. A county, municipality, or school district which rescinds the
45 adoption of Title 11A of the New Jersey Statutes shall not be
46 permitted to readopt the provisions of that title for a period of at
47 least 10 years from the effective date of the rescission and shall be

1 permitted to readopt the provisions of Title 11A of the New Jersey
2 Statutes only once.

3 c. An employee with permanent status in a title on the date the
4 rescission of Title 11A of the New Jersey Statutes takes effect shall
5 retain only those rights to a Civil Service Commission hearing
6 available to career service employees upon disciplinary removal
7 from government services pursuant to N.J.S.11A:2-13 et seq., or to
8 challenge the good faith of a layoff pursuant to N.J.S.11A:8-4.

9 d. Following the rescission of Title 11A of the New Jersey
10 Statutes, the county, municipality, fire district, or school district
11 may enter into a contract with the Civil Service Commission, in an
12 amount which shall not exceed that permitted by law, for testing,
13 classification, compensation, or other technical personnel services.
14

15 13. N.J.S.11A:9-6 is amended to read as follows:

16 11A:9-6. Adoption of title; elections. The **method of**
17 **submitting the question of** procedure for the adoption, rejection or
18 rescission of this title **to** by the voters of a county or municipality
19 shall conform as nearly as possible to the provisions of Title 19 of
20 the Revised Statutes, if appropriate, relating to the submission of
21 public questions and **when submitted** at a school district election
22 shall conform as nearly as possible to the provisions of Title 18A of
23 the New Jersey Statutes, if appropriate, relating to the submission of
24 public questions in school districts.

25 (cf: N.J.S.11A:9-6)

26
27 14. This act shall take effect immediately, except that sections 1
28 and 2 shall take effect 180 days following enactment, and except
29 that the Civil Service Commission may take such anticipatory
30 actions as may be deemed necessary and appropriate for the
31 implementation of sections 1 and 2 of this act.
32
33

34 STATEMENT

35
36 This bill makes various changes to the laws concerning civil
37 service in this State.

38 The bill provides that:

- 39 • civil service examinations be announced and administered
40 on a continual basis, where practicable.
41 • applications for such examinations be available using the
42 Internet for completion and for submission, and payments of
43 applicable fees for such examinations also be accepted
44 online.
45 • an employee will be removed from a special reemployment
46 list when the employee has turned down a reemployment
47 opportunity in a position that is one with the same or

1 substantially similar job duties as, the same title and series
2 as, the same or substantially similar hours of work as, and a
3 location within a 25 mile radius of, the position from which
4 the employee was laid off or demoted in lieu of layoff.

- 5 • seasonal positions may be established for a period
6 aggregating not more than nine months in a 12 month
7 period.
- 8 • working test period for local public employees be extended
9 to 6 months from 3 months.

10

11 The bill also provides that local units of government in the civil
12 service may negotiate with the majority representative of its
13 employees for the procedure for the appointing authority's review
14 before a disciplinary action is taken against a permanent employee
15 in the career service or a person serving in a working test period,
16 and for the procedure for the appeal of a disciplinary action.
17 Current civil service law permits the State to negotiate such matters
18 with employee representatives. In addition, a provision in a
19 collective negotiations agreement will be the exclusive procedure
20 for review or appeal.

21 Concerning shared service agreements, the bill provides that any
22 employee terminated for reasons of economy or efficiency by the
23 local unit providing the service under the agreement, at the option
24 of the local unit or pursuant to a collective negotiations agreement
25 between the local unit and a majority representative, may give a
26 terminal leave payment of not less than one month for each 5 year
27 period of past service as an employee of the local unit, or other
28 enhanced benefit that may be provided or negotiated. Current law
29 requires that such payment or benefit must be provided.

30 The bill permits an appointing authority in State or local civil
31 service to institute a temporary layoff for economy, efficiency or
32 other related reasons by closure of an entire layoff unit for one or
33 more work days over a defined period, or a staggered layoff of each
34 employee in a layoff unit for one or more work days over a defined
35 period. A temporary layoff plan must be submitted to the
36 chairperson of the Civil Service Commission at least 15 days prior
37 to the issuance of temporary layoff notices or as permitted by the
38 chairperson. The temporary layoff is considered a single layoff
39 action even though it takes place on different days during the
40 defined period. The maximum period to stagger one day off may
41 not exceed 45 days. Limited exemptions to temporary layoffs are
42 permitted, with the approval of the chairperson, when necessary to
43 ensure continued public health and safety. The temporary layoff
44 days will be unpaid and will not affect accrual of leave time,
45 anniversary dates, paid holidays, and seniority or a leave under the
46 federal family and Medical Leave Act or other medical or family
47 leave. An alternate work week program may be suspended for pay
48 periods during a temporary layoff. Seniority, job location, lateral

1 and demotional title rights, and special reemployment rights will
2 not be applicable to a temporary layoff.

3 The bill amends the New Jersey Employer-Employee Relations
4 Act, specifically N.J.S.34:13A-5.3, to provide that in the case of
5 temporary layoffs, the public employer must consult with the
6 majority representative of public employees, but that failure to
7 reach an agreement will not prohibit the public employer, whether
8 in or not in civil service, from instituting temporary layoffs. The
9 imposition of such layoffs will not be a violation of the law.

10 Finally, the bill provides that a county, municipality or school
11 district may opt out of civil service. The local governmental unit
12 may rescind the adoption of Title 11A of the New Jersey Statutes
13 (civil service) by the county or municipal clerk submitting the
14 question to the voters of the county or municipality upon the filing
15 of a petition with the clerk requesting the rescission. The petition
16 must be signed by at least 15% of the registered voters who voted in
17 the county or municipality at the last preceding general election.
18 Within 10 days from the date of the filing of the petition, the clerk
19 must certify the petition in conjunction with the county
20 commissioner of registration. Thereafter, the question will be
21 submitted at the next general election or next municipal election, as
22 appropriate, on or after 60 days following the issuance of the
23 certificate, and thereafter printed on the ballots. The clerk must
24 give appropriate public notice, including publication in the county
25 or municipality's official newspaper. If the clerk fails to comply, a
26 registered voter of the county or municipality may apply to a
27 Superior Court judge for an order compelling submission of the
28 question, and a hearing will be held summarily. A noncompliant
29 clerk or public official or other employee will be guilty of a fourth
30 degree crime.

31 When the result of the election is for rescission, the result must
32 be certified by the governing body of the county, municipality or
33 school district to the chairperson of the Civil Service Commission,
34 and the rescission will take effect on a date set by the chairperson
35 no less than six months and no greater than one year following the
36 election. If a majority of the votes cast are against rescission, no
37 new election on the same question may be held before the second
38 general election or municipal election, as appropriate, following the
39 rescission election. A fire district or districts within a municipality
40 that has rescinded civil service is deemed to have rescinded civil
41 service.

42 The commission is directed to adopt regulations providing for an
43 orderly transition in any local governmental unit that has rescinded
44 civil service, that will require the unit to submit to the commission
45 for approval its ordinance, resolution or manual setting forth
46 personnel policies and procedures to be followed after rescission of
47 civil service. At a minimum, the unit must provide for the terms
48 and conditions of employment not otherwise covered by a collective

1 negotiations agreement. The policies and procedures must include
2 an anti-discrimination policy and a local government ethics policy.
3 The unit may enter into a contract with the commission for testing,
4 classification, compensation, or other technical personnel services.

5 Upon rescission of civil service, a local governmental unit will
6 not be permitted to readopt civil service for at least 10 years from
7 the effective date of the rescission and may readopt only once. An
8 employee with permanent status in a title on the effective date of
9 the rescission retains only those rights to a commission hearing
10 available to career service employees upon disciplinary removal or
11 to challenge the good faith of a layoff.

12 The provisions of the bill requiring the offering of civil service
13 examinations, and the availability of the examination application
14 and payment of fees online, will take effect 180 days after
15 enactment.