

SENATE, No. 2220

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED AUGUST 23, 2010

Sponsored by:

Senator PAUL A. SARLO

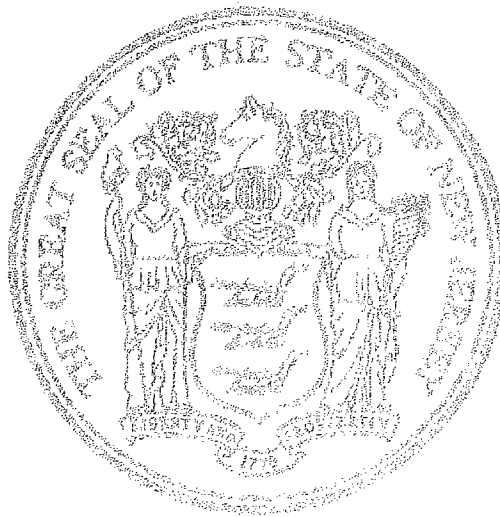
District 36 (Bergen, Essex and Passaic)

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.



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
27 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.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2220

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 13, 2010

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2220, with committee amendments.

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

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

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

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

COMMITTEE AMENDMENTS:

The committee amendments delete the section that would have extended from 5 to 10 years the amount of time that local units may pay out contractually required severance liabilities.

The committee amendments also change the penalty set by the bill for a violation of the prohibition against the use of six or more consecutive days of accumulated sick leave, without medical necessity verified in writing by a physician, by an officer or employee in the twelve months prior to retirement in anticipation of that retirement. The penalty in the bill is a fine equal to three times the daily rate of compensation for each day of violation; the amendments change this amount to one and one-half times the daily rate.

FISCAL IMPACT:

The Office of Legislative Services (OLS) cannot estimate the fiscal impact of this bill. The impact will depend on the requirements in collective bargaining agreements or individual contracts of employment for particular employees or groups of employees. This bill will result in savings to local governments and boards of education. However, at the present time, it is not possible to calculate what the actual savings will be Statewide or with regard to an individual local entity. Currently, a central database does not exist for sick or vacation leave information with regard to local governments and school boards, and, consequently, there is no source for current data or amounts.