

ASSEMBLY, No. 1852

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblyman JOHN DIMAIO

District 23 (Hunterdon, Somerset and Warren)

Co-Sponsored by:

Assemblyman McGuckin

SYNOPSIS

Limits certain unused sick leave pay and vacation leave carry-forward for school and local employees; limits sick leave use by new public employees before retirement.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the accumulation of sick leave and vacation
 2 leave by certain public employees, and amending P.L.2010,
 3 c.3 and N.J.S.11A:6-5, and supplementing Titles 18A and 40A of
 4 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
 25 P.L. , c. (pending before the Legislature as this bill), or upon
 26 the 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
32 P.L. , c. (pending before the Legislature as this bill), or upon
33 the 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
38 P.L. , c. (pending before the Legislature as this bill), or upon
39 the 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.11A:6-5 is amended to read as follows:

1 11A:6-5. Sick leave. a. Full-time State and political
2 subdivision employees shall receive a sick leave credit of no less
3 than one working day for each completed month of service during
4 the remainder of the first calendar year of service and 15 working
5 days in every year thereafter. Unused sick leave shall accumulate
6 without limit.

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

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

30
31 7. (New section) Notwithstanding any law, rule or regulation to
32 the contrary, for officers or employees of a political subdivision of
33 the State, or any agency, authority or instrumentality thereof, that
34 has not adopted the provisions of Title 11A, Civil Service, of the
35 New Jersey Statutes, the use of six or more consecutive days of
36 accumulated sick leave in the twelve months prior to retirement by
37 an officer or employee who commences employment with the
38 political subdivision of the State, or agency, authority or
39 instrumentality thereof, on or after the effective date of P.L. ,
40 c. (pending before the Legislature as this bill) in anticipation of
41 that retirement and without a medical necessity verified in writing
42 by a physician shall be prohibited. The governing body of a
43 political subdivision shall promulgate rules and procedures to
44 ensure that verification of medical necessity is provided. The rules
45 shall provide that the employer may require the officer or employee
46 to submit to an examination by a physician selected by the
47 employer to verify the medical necessity. The employer shall (1)
48 impose a fine and issue a reprimand against the officer or employee

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

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

35
36 9. The provisions of P.L. , c. (pending before the
37 Legislature as this bill) shall not be construed to impair the
38 obligation of a collective negotiations agreement or individual
39 contract of employment with relevant provisions in effect on the
40 effective date of P.L. , c. (pending before the Legislature as this
41 bill).

42
43 10. This act shall take effect immediately.

STATEMENT

The bill 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.