SENATE, No. 3655

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED APRIL 19, 2021

Sponsored by:
Senator HOLLY T. SCHEPISI
District 39 (Bergen and Passaic)

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

As introduced.

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

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

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

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

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

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

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

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

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.

for that leave, which shall not be subject to collective negotiation or collective bargaining. [This provision shall apply only to officers and employees who commence service with the board of education, or the agency or instrumentality thereof, on or after the effective date of P.L.2010, c.3. This section shall not be construed to affect the terms in any collective negotiations agreement with a relevant provision in force on that effective date.] A person who is an officer or employee on the effective date of P.L. , c. (pending before the Legislature as this bill) and has previously accrued vacation leave shall be eligible and shall be permitted to retain and use that accrued vacation leave.

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

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

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

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

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

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

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

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

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

(cf: P.L.2010, c.3, s.4)

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

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

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

(cf: P.L.2010, c.3, s.1)

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

11A:6-5. Sick leave. a. Full-time State and political subdivision employees shall receive a sick leave credit of no less than one

working day for each completed month of service during the remainder of the first calendar year of service and 15 working days in every year thereafter. Unused sick leave shall accumulate without limit.

b. Notwithstanding the provisions of any law, rule, or regulation to the contrary, the use of six or more consecutive days of accumulated sick leave in the twelve months prior to retirement by an employee who commences employment with the State or a political subdivision on or after the effective date of P.L. , c. (pending before the Legislature as this bill) in anticipation of that retirement without a medical necessity verified in writing by a physician shall be prohibited. The commission shall promulgate rules and procedures to ensure that verification of medical necessity is provided. The rules shall provide that the employer may require the employee to submit to an examination by a physician selected by the employer to verify the medical necessity. The employer shall (1) impose a fine and issue a reprimand against the 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 employee at the time of retirement is calculated, or (3) both.

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

7. (New section) Notwithstanding any law, rule or regulation to the contrary, for officers or employees of a political subdivision of the State, or any agency, authority or instrumentality thereof, that has not adopted the provisions of Title 11A, Civil Service, of the New Jersey Statutes, the use of six or more consecutive days of accumulated sick leave in the twelve months prior to retirement by an officer or employee who commences employment with the political subdivision of the State, or agency, authority or instrumentality thereof, on or after the effective date of P.L. , c. (pending before the Legislature as this bill) in anticipation of that retirement and without a medical necessity verified in writing by a physician shall be prohibited. The governing body of a political subdivision shall promulgate rules and procedures to ensure that verification of medical necessity is provided. The rules shall provide that 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 shall (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.

8. (New section) Notwithstanding any law, rule or regulation to the contrary, for officers or employees of a school board, or any agency or instrumentality thereof, the use of six or more consecutive days of accumulated sick leave in the twelve months prior to retirement by an officer or employee who commences service with the school board, or agency or instrumentality thereof, on or after the effective date of P.L. , c. (pending before the Legislature as this bill) in anticipation of that retirement and without a medical necessity verified in writing by a physician shall be prohibited. The board shall promulgate rules and procedures to ensure that verification of medical necessity is provided. The rules shall provide that 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 shall (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.

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

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.