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.

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

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.
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
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.40A:4-53 is amended to read as follows:
40A:4-53. A local unit may adopt an ordinance authorizing special emergency appropriations for the carrying out of any of the following purposes:

a. Preparation of an approved tax map.
b. Preparation and execution of a complete program of revaluation of real property for the use of the local assessor, or of any program to update and make current any previous revaluation program when such is ordered by the county board of taxation.
c. Preparation of a revision and codification of its ordinances.
d. Engagement of special consultants for the preparation, and the preparation of a master plan or plans, when required to conform to the planning laws of the State.
e. Preparation of drainage maps for flood control purposes.
f. Preliminary engineering studies and planning necessary for the installation and construction of a sanitary sewer system.
h. Contractually required severance liabilities resulting from the layoff or retirement of employees. Such liabilities shall be paid without interest and, at the sole discretion of the local unit, may be paid in equal annual installments over a period not to exceed [five] years.
i. Preparation of a sanitary or storm system map.

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

7. 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. (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 three 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)

8. (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 three 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. (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 three 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.

10. 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).

11. This act shall take effect immediately.

STATEMENT

This 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.

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