

# **Chapter 3, P.L. 2010**

(Approved March 22, 2010)

## **SENATE, No. 4**

# **STATE OF NEW JERSEY**

## **214th LEGISLATURE**

INTRODUCED FEBRUARY 8, 2010

**Sponsored by:**

**Senator KEVIN J. O'TOOLE**

**District 40 (Bergen, Essex and Passaic)**

**Senator BARBARA BUONO**

**District 18 (Middlesex)**

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**District 26 (Morris and Passaic)**

**Assemblywoman SHEILA Y. OLIVER**

**District 34 (Essex and Passaic)**

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**(Sponsorship Updated As Of: 3/23/2010)**

**Assemblyman Rudder, Assemblywoman Addiego, Assemblyman Peterson,  
Assemblywoman Coyle, Assemblymen DiCicco and Chiusano**

**SYNOPSIS**

Makes various changes concerning payments to public employees for unused sick leave, sick leave injury in State service, and PERS and TPAF disability retirement.

**CURRENT VERSION OF TEXT**

As introduced.

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1 AN ACT concerning benefits for public employees and amending  
2 and supplementing various parts of the statutory law.

3

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

6

7 1. (New section) Notwithstanding any law, rule or regulation  
8 to the contrary, a political subdivision of the State, or an agency,  
9 authority or instrumentality thereof, that has adopted the provisions  
10 of Title 11A of the New Jersey Statutes, shall not pay supplemental  
11 compensation to any officer or employee for accumulated unused  
12 sick leave in an amount in excess of \$15,000. Supplemental  
13 compensation shall be payable only at the time of retirement from a  
14 State-administered or locally-administered retirement system based  
15 on the leave credited on the date of retirement. This provision shall  
16 apply only to officers and employees who commence service with  
17 the political subdivision of the State, or the agency, authority or  
18 instrumentality thereof, on or after the effective date of P.L. , c.  
19 (pending before the Legislature as this bill). This section shall not  
20 be construed to affect the terms in any collective negotiations  
21 agreement with a relevant provision in force on that effective date.

22

23 2. (New section) Notwithstanding any law, rule or regulation  
24 to the contrary, a political subdivision of the State, or an agency,  
25 authority or instrumentality thereof, that has not adopted the  
26 provisions of Title 11A of the New Jersey Statutes, shall not pay  
27 supplemental compensation to any officer or employee for  
28 accumulated unused sick leave in an amount in excess of \$15,000.  
29 Supplemental compensation shall be payable only at the time of  
30 retirement from a State-administered or locally-administered  
31 retirement system based on the leave credited on the date of  
32 retirement. This provision shall apply only to officers and

**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.

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1 employees who commence service with the political subdivision of  
2 the State, or the agency, authority or instrumentality thereof, on or  
3 after the effective date of P.L. , c. (pending before the  
4 Legislature as this bill). This section shall not be construed to  
5 affect the terms in any collective negotiations agreement with a  
6 relevant provision in force on that effective date.

7  
8 3. (New section) Notwithstanding any law, rule or regulation  
9 to the contrary, a board of education, or an agency or  
10 instrumentality thereof, shall not pay supplemental compensation to  
11 any officer or employee for accumulated unused sick leave in an  
12 amount in excess of \$15,000. Supplemental compensation shall be  
13 payable only at the time of retirement from a State-administered or  
14 locally-administered retirement system based on the leave credited  
15 on the date of retirement. This provision shall apply only to  
16 officers and employees who commence service with the board of  
17 education, or the agency or instrumentality thereof, on or after the  
18 effective date of P.L. , c. (pending before the Legislature as this  
19 bill). This section shall not be construed to affect the terms in any  
20 collective negotiations agreement with a relevant provision in force  
21 on that effective date.

22  
23 4. (New section) Notwithstanding any law, rule or regulation  
24 to the contrary, an officer or employee of a political subdivision of  
25 the State, or an agency, authority, or instrumentality thereof, that  
26 has not adopted the provisions of Title 11A of the New Jersey  
27 Statutes, who does not take vacation leave that accrues in a given  
28 year because of business demands shall be granted that accrued  
29 leave only during the next succeeding year. However, vacation  
30 leave not taken in a given year because of duties directly related to  
31 a state of emergency declared by the Governor may accumulate at  
32 the discretion of the appointing authority until, pursuant to a plan  
33 established by the officer or employee's appointing authority, the  
34 leave is used or the employee or officer is compensated for that  
35 leave, which shall not be subject to collective negotiation or

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1 collective bargaining. This provision shall apply only to officers  
2 and employees who commence service with the political  
3 subdivision of the State, or the agency, authority or instrumentality  
4 thereof, on or after the effective date of P.L. , c. (pending before  
5 the Legislature as this bill). This section shall not be construed to  
6 affect the terms in any collective negotiations agreement with a  
7 relevant provision in force on that effective date.

8

9 5. (New section) Notwithstanding any law, rule or regulation  
10 to the contrary, an officer or employee of a board of education, or  
11 an agency or instrumentality thereof, who does not take vacation  
12 leave that accrues in a given year because of business demands shall  
13 be granted that accrued leave only during the next succeeding year.  
14 However, vacation leave not taken in a given year because of duties  
15 directly related to a state of emergency declared by the Governor  
16 may accumulate at the discretion of the appointing authority until,  
17 pursuant to a plan established by the officer or employee's  
18 appointing authority, the leave is used or the employee or officer is  
19 compensated for that leave, which shall not be subject to collective  
20 negotiation or collective bargaining. This provision shall apply  
21 only to officers and employees who commence service with the  
22 board of education, or the agency or instrumentality thereof, on or  
23 after the effective date of P.L. , c. (pending before the  
24 Legislature as this bill). This section shall not be construed to  
25 affect the terms in any collective negotiations agreement with a  
26 relevant provision in force on that effective date.

27 6. N.J.S.11A:6-8 is amended to read as follows:

28 11A:6-8. a. Sick leave injury in State service. Leaves of  
29 absence for career, senior executive and unclassified employees in  
30 State service due to injury or illness directly caused by and arising  
31 from State employment shall be governed by rules of the Civil  
32 Service Commission. Leaves of absence for career and unclassified  
33 employees of a political subdivision directly caused by or arising  
34 from employment shall be governed by rules of the political  
35 subdivision. Any sick leave with pay shall be reduced by the

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1 amount of workers' compensation or disability benefits, if any,  
2 received for the same injury or illness.

3 b. The rules promulgated by the commission to govern leaves  
4 of absence under this section shall not apply, nor shall a leave of  
5 absence pursuant to this section be available, to any career, senior  
6 executive or unclassified employee in State service who sustains an  
7 injury or illness on or after the effective date of P.L. , c.  
8 (pending before the Legislature as this bill), or the expiration of a  
9 collective negotiations agreement with a relevant provision in effect  
10 on that effective date, directly caused by and arising from State  
11 employment. This subsection shall not be construed as impairing  
12 the obligations set forth in any collective negotiations agreement  
13 between the State and its employees in effect on the effective date  
14 of P.L. , c. (pending before the Legislature as this bill).  
15 (cf: P.L.2008, c.29, s.54)

16

17 7. N.J.S.18A:66-39 is amended to read as follows:

18 18A:66-39. a. Before June 9, 1971, a member, who shall have  
19 been a teacher and a member of the retirement system for each of  
20 the 10 years next preceding his retirement, shall, upon the  
21 application of his employer or upon his own application or the  
22 application of one acting in his behalf, be retired for ordinary  
23 disability by the board of trustees, on a regular disability allowance  
24 if he is under 60 years of age and on a service allowance if he has  
25 reached or passed that age. The physician or physicians designated  
26 by the board shall have first made a medical examination of him at  
27 his residence or at any other place mutually agreed upon and shall  
28 have certified to the board that the member is physically or  
29 mentally incapacitated for the performance of duty and should be  
30 retired.

31 b. On and after June 9, 1971, a member, under 60 years of age,  
32 who has 10 or more years of credit for New Jersey service, shall,  
33 upon the application of his employer or upon his own application or  
34 the application of one acting in his behalf, be retired for ordinary  
35 disability by the board of trustees. The physician or physicians

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1 designated by the board shall have first made a medical examination  
2 of him at his residence or at any other place mutually agreed upon  
3 and shall have certified to the board that the member is physically  
4 or mentally incapacitated for the performance of duty and should be  
5 retired. No person who becomes a member of the retirement system  
6 on or after the effective date of P.L. , c. (pending before the  
7 Legislature as this bill) shall be eligible for retirement pursuant to  
8 this subsection.

9 c. A member, under 65 years of age, shall, upon the application  
10 of his employer or upon his own application or the application of  
11 one acting in his behalf, be retired by the board of trustees, if said  
12 member is permanently and totally disabled as a direct result of a  
13 traumatic event occurring during and as a result of the performance  
14 of his regular or assigned duties, on an accidental disability  
15 allowance. A traumatic event occurring during voluntary  
16 performance of regular or assigned duties at a place of employment  
17 before or after required hours of employment which is not in  
18 violation of any valid work rule of the employer or otherwise  
19 prohibited by the employer shall be deemed as occurring during the  
20 performance of regular or assigned duties. No person who becomes  
21 a member of the retirement system on or after the effective date of  
22 P.L. , c. (pending before the Legislature as this bill) shall be  
23 eligible for retirement pursuant to this subsection.

24 The application to accomplish such retirement must be filed  
25 within five years of the original traumatic event, but the board of  
26 trustees may consider an application filed after the five-year period  
27 if it can be factually demonstrated to the satisfaction of the board of  
28 trustees that the disability is due to the accident and the filing was  
29 not accomplished within the five-year period due to a delayed  
30 manifestation of the disability or to circumstances beyond the  
31 control of the member.

32 Permanent and total disability resulting from a cardiovascular,  
33 pulmonary or musculo-skeletal condition which was not a direct  
34 result of a traumatic event occurring in the performance of duty  
35 shall be deemed an ordinary disability.

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1 Before consideration of an application for accidental disability  
2 allowance by the board of trustees, the physician or physicians  
3 designated by the board shall have first made a medical examination  
4 of the member at his residence or at any other place mutually  
5 agreed upon and shall have certified to the board that he is  
6 physically or mentally incapacitated for the performance of duty,  
7 and should be retired, and the employer shall have certified to the  
8 board that the member is permanently and totally disabled as a  
9 direct result of a traumatic event occurring during and as a result of  
10 the performance of his regular and assigned duties, the time and  
11 place where the duty causing the disability was performed, that the  
12 disability was not the result of his willful negligence and that the  
13 member should be retired.

14 (cf: P.L.1986, c.51, s.1)

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16 8. Section 42 of P.L.1954, c.84 (C.43:15A-42) is amended to  
17 read as follows:

18 42. A member, under 60 years of age, who has 10 or more years  
19 of credit for New Jersey service, shall, upon the application of the  
20 head of the department in which he shall have been employed or  
21 upon his own application or the application of one acting in his  
22 behalf, be retired for ordinary disability by the board of trustees.  
23 The physician or physicians designated by the board shall have first  
24 made a medical examination of him at his residence or at any other  
25 place mutually agreed upon and shall have certified to the board  
26 that the member is physically or mentally incapacitated for the  
27 performance of duty and should be retired.

28 The service requirement provisions of this amendatory and  
29 supplementary act shall not become effective for 5 years following  
30 the effective date of the act.

31 No person who becomes a member of the retirement system on  
32 or after the effective date of P.L. , c. (pending before the  
33 Legislature as this bill) shall be eligible for retirement pursuant to  
34 this section.

35 (cf: P.L.1966, c.67, s.3)

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9. Section 43 of P.L.1954, c.84 (C.43:15A-43) is amended to read as follows:

43. A member who has not attained age 65 shall, upon the application of the head of the department in which he is employed or upon his own application or the application of one acting in his behalf, be retired by the board of trustees, if said employee is permanently and totally disabled as a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties, on an accidental disability allowance. A traumatic event occurring during voluntary performance of regular or assigned duties at a place of employment before or after required hours of employment which is not in violation of any valid work rule of the employer or otherwise prohibited by the employer shall be deemed as occurring during the performance of regular or assigned duties.

The application to accomplish such retirement must be filed within five years of the original traumatic event, but the board of trustees may consider an application filed after the five-year period if it can be factually demonstrated to the satisfaction of the board of trustees that the disability is due to the accident and the filing was not accomplished within the five-year period due to a delayed manifestation of the disability or to circumstances beyond the control of the member.

Permanent and total disability resulting from a cardiovascular, pulmonary or musculo-skeletal condition which was not a direct result of a traumatic event occurring in the performance of duty shall be deemed an ordinary disability.

Before consideration of the application by the board of trustees, the physician or physicians designated by the board shall have first made a medical examination of the member at his residence or at any other place mutually agreed upon and shall have certified to the board that he is physically or mentally incapacitated for the performance of duty, and should be retired, and the appointing authority shall have certified to the board that the member is

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1 permanently and totally disabled as a direct result of a traumatic  
2 event occurring during and as a result of the performance of his  
3 regular or assigned duties, the time and place where the duty  
4 causing the disability was performed, that the disability was not the  
5 result of his willful negligence and that the member should be  
6 retired.

7 No person who becomes a member of the retirement system on  
8 or after the effective date of P.L. , c. (pending before the  
9 Legislature as this bill) shall be eligible for retirement pursuant to  
10 this section.

11 (cf: P.L.1986, c.51, s.2)

12

13 10. (New section) a. A person who becomes a member of the  
14 Teachers' Pension and Annuity Fund, N.J.S.18A:66-1 et seq., on or  
15 after the effective date of P.L. , c. (pending before the  
16 Legislature as this bill) shall not be eligible for an ordinary or  
17 accidental disability retirement allowance, but shall be eligible for  
18 disability insurance coverage pursuant to this section.

19 b. The State Treasurer is hereby authorized and permitted to  
20 purchase from one or more insurance companies, as determined by  
21 him, group disability benefit coverage to provide for the disability  
22 benefit in the amounts specified herein. The group disability  
23 benefit coverage may be provided under one or more policies issued  
24 to the State Treasurer specifically for this purpose or, in the  
25 discretion of the State Treasurer, under one or more policies issued  
26 to the State Treasurer which provide group life insurance coverage  
27 for members of the retirement system designated in subsection a. of  
28 this section. Any dividend or retrospective rate credit allowed by  
29 an insurance company attributable to this program shall be credited  
30 in an equitable manner to the funds available to meet the employers'  
31 obligations under such retirement system.

32 Premiums for such group insurance coverage shall be paid from  
33 a special fund, hereby created, called the "Teachers Group  
34 Disability Insurance Premium Fund." The State Treasurer shall  
35 estimate annually the amount which shall be required for premiums

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1 for such benefits for the ensuing fiscal year and shall certify such  
2 amounts which shall be applied against the total employer  
3 contributions due for the members of the retirement system whose  
4 members are covered, depositing such amounts in the premium  
5 fund.

6 During the period such group insurance policy or policies are in  
7 effect with respect to members of the retirement system, the State  
8 Treasurer shall in no way commingle moneys in this fund with any  
9 retirement system.

10 c. A person shall not be allowed the group disability benefit  
11 coverage if on the date the person enrolls in the retirement system,  
12 the person is 60 or more years of age, unless the person furnishes  
13 satisfactory evidence of insurability and, on the effective date of  
14 the person's enrollment, is actively at work and performing all the  
15 regular duties at the customary place of employment.

16 The effective date of coverage for such a benefit shall be the first  
17 day of the month which immediately follows the date when such  
18 evidence is determined to be satisfactory.

19 Such evidence of insurability shall not be required of any person  
20 enrolling in the retirement system upon transfer from another  
21 retirement system, if such retirement system provided a benefit of a  
22 similar nature and the transferring person was covered by such a  
23 benefit at the time of the transfer. If such transferring person was  
24 not covered by such a benefit at the time of the transfer, the person  
25 may be allowed the benefit under the group policy or policies;  
26 however, any such person shall furnish satisfactory evidence of  
27 insurability if he had been unable or failed to give such evidence as  
28 a member of the retirement system from which the person  
29 transferred.

30 Any person who must furnish satisfactory evidence of  
31 insurability, and who ceases to be enrolled in the retirement system  
32 without such evidence having been given, shall continue to be  
33 subject to the same requirement if the person subsequently becomes  
34 a member.

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1 d. The disability benefit coverage provided under such group  
2 policy or policies shall provide a monthly income if the member  
3 becomes totally disabled from occupational or nonoccupational  
4 causes for a period of at least six consecutive months following the  
5 effective date of the coverage. The monthly disability benefit may  
6 be paid by the insurance company so long as the member remains  
7 disabled up to the seventieth birthday, provided the disability  
8 commenced prior to the sixtieth birthday. The benefit shall  
9 terminate when the member is no longer considered totally disabled  
10 or begins to receive retirement benefits.

11 The member shall be considered totally disabled if the member is  
12 unable to perform each duty of the member's occupation and is  
13 under the regular care of a physician. After the 12 months  
14 following the commencement of such disability benefit payments,  
15 the member shall be unable to engage in any gainful occupation for  
16 which the member is reasonably fitted by education, training or  
17 experience. Total disability shall not be considered to exist if the  
18 member is gainfully employed. Following an agreement with the  
19 insurance company and the policyholder, the member may continue  
20 to receive disability benefits for a limited time while performing  
21 some type of work. During the period of rehabilitation, the monthly  
22 benefit shall be the regular payment less 80% of the member's  
23 earnings from such rehabilitative position.

24 e. A member shall be deemed to be in service and covered by  
25 the disability benefit insurance provisions for a period of no more  
26 than six months while on official leave of absence without pay if  
27 satisfactory evidence is presented to the Division of Pensions and  
28 Benefits that such leave of absence without pay is due to illness and  
29 that the member was not actively engaged in any gainful occupation  
30 during such period of leave of absence without pay.

31 Disability benefit insurance provisions of the group policy or  
32 policies shall not cover disability resulting from or contributed to  
33 by pregnancy, act of war, intentionally self-inflicted injury, or  
34 attempted suicide whether or not sane. For purposes of such  
35 disability benefit coverage, the member shall not be considered to

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1 be disabled while the member is imprisoned or while outside the  
2 United States, its territories or possessions, or Canada.

3 If the member has recovered from the disability for which the  
4 member had received benefits and again becomes totally disabled  
5 while insured, the later disability shall be regarded as a continuation  
6 of the prior one unless the member has returned to full-time covered  
7 employment for at least six months. If the later absence is due to an  
8 unrelated cause and the member had returned to full-time work, it  
9 shall be considered a new disability. The disability benefit  
10 insurance cannot be converted to an individual policy.

11 No person shall be covered by the disability benefit provision of  
12 the group policy or policies except upon the completion of one year  
13 of full-time continuous employment in a position eligible for  
14 participation in a retirement system designated in subsection a. of  
15 this section.

16 f. The disability benefit provided under such group policy or  
17 policies shall be in an amount equal to 60% of the member's base  
18 monthly salary, reduced by periodic benefits to which the member  
19 may be entitled during the period of total disability. The minimum  
20 monthly disability benefit shall be \$50.

21 The periodic benefit by which the monthly disability benefit may  
22 be reduced shall include salary or wages, retirement benefits or  
23 benefits from any source for which the State or other public  
24 employer has paid any part of the cost or made payroll deductions,  
25 Social Security disability or other benefits, including dependents'  
26 benefits, and benefits paid by Social Security at the option of the  
27 participant before the age of 65, but not including any increase in  
28 Social Security benefits enacted after the disability benefit under  
29 such group policy or policies have commenced, and any other  
30 periodic benefits provided by law except on account of military  
31 service.

32 When a member begins to receive a disability benefit under such  
33 group policy or policies, the insurance company shall pay an  
34 amount equal to the employee contribution which would have been  
35 required of the member and deducted from the member's base

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1 salary in order to meet the member's obligation for the purchase of  
2 the member's individual retirement annuity. Such amount shall be  
3 paid by the insurance company without reduction by any other  
4 periodic benefit which the member is eligible to receive. Such  
5 amount shall be paid by the insurance company to the insurer or  
6 insurers for the member's retirement annuity.

7 g. Notwithstanding any other provision of law, an insurance  
8 company or companies issuing such policy or policies may credit  
9 the policyholder either directly or in the form of reduced premiums,  
10 with savings by the company or companies in the event that no  
11 brokerage commission or commissions are paid by the company or  
12 companies on the issuance of such policy or policies.

13 No employer obligations shall be paid when the member is on a  
14 leave of absence without pay or when the member no longer is  
15 enrolled in the retirement system designated in subsection a. of this  
16 section.

17 h. The group disability insurance policy or policies shall  
18 provide a member with an opportunity to purchase additional  
19 coverage.

20 i. A member who is disabled and receiving a benefit under this  
21 section shall remain eligible for employer-provided health care  
22 benefits coverage in the same manner as such coverage is provided  
23 by the employer to retirees of the retirement system.

24 j. The State Treasurer shall establish an appeals process to be  
25 used when an employer or employee disagree with the insurer on  
26 the employee's ability to return to employment or on issues related  
27 to physical examinations.

28

29 11. (New section) a. A person who becomes a member of the  
30 Public Employees' Retirement System of New Jersey, P.L.1954,  
31 c.84 (C.43:15A-1 et seq.), on or after the effective date of P.L. ,

32 c. (pending before the Legislature as this bill) shall not be  
33 eligible for an ordinary or accidental disability retirement  
34 allowance, but shall be eligible for disability insurance coverage  
35 pursuant to this section.

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1       b. The State Treasurer is hereby authorized and permitted to  
2 purchase from one or more insurance companies, as determined by  
3 him, group disability benefit coverage to provide for the disability  
4 benefit in the amounts specified herein. The group disability  
5 benefit coverage may be provided under one or more policies issued  
6 to the State Treasurer specifically for this purpose or, in the  
7 discretion of the State Treasurer, under one or more policies issued  
8 to the State Treasurer which provide group life insurance coverage  
9 for members of the retirement system designated in subsection a. of  
10 this section. Any dividend or retrospective rate credit allowed by  
11 an insurance company attributable to this program shall be credited  
12 in an equitable manner to the funds available to meet the employers'  
13 obligations under such retirement system.

14       Premiums for such group insurance coverage shall be paid from  
15 a special fund, hereby created, called the "Public Employees Group  
16 Disability Insurance Premium Fund." The State Treasurer shall  
17 estimate annually the amount which shall be required for premiums  
18 for such benefits for the ensuing fiscal year and shall certify such  
19 amounts which shall be applied against the total employer  
20 contributions due for the members of the retirement system whose  
21 members are covered, depositing such amounts in the premium  
22 fund.

23       During the period such group insurance policy or policies are in  
24 effect with respect to members of the retirement system, the State  
25 Treasurer shall in no way commingle moneys in this fund with any  
26 retirement system.

27       c. A person shall not be allowed the group disability benefit  
28 coverage if on the date the person enrolls in the retirement system,  
29 the person is 60 or more years of age, unless the person furnishes  
30 satisfactory evidence of insurability and, on the effective date of  
31 the person's enrollment, is actively at work and performing all the  
32 regular duties at the customary place of employment.

33       The effective date of coverage for such a benefit shall be the first  
34 day of the month which immediately follows the date when such  
35 evidence is determined to be satisfactory.

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1       Such evidence of insurability shall not be required of any person  
2 enrolling in the retirement system upon transfer from another  
3 retirement system, if such retirement system provided a benefit of a  
4 similar nature and the transferring person was covered by such a  
5 benefit at the time of the transfer. If such transferring person was  
6 not covered by such a benefit at the time of the transfer, the person  
7 may be allowed the benefit under the group policy or policies;  
8 however, any such person shall furnish satisfactory evidence of  
9 insurability if he had been unable or failed to give such evidence as  
10 a member of the retirement system from which the person  
11 transferred.

12       Any person who must furnish satisfactory evidence of  
13 insurability, and who ceases to be enrolled in the retirement system  
14 without such evidence having been given, shall continue to be  
15 subject to the same requirement if the person subsequently becomes  
16 a member.

17       d. The disability benefit coverage provided under such group  
18 policy or policies shall provide a monthly income if the member  
19 becomes totally disabled from occupational or nonoccupational  
20 causes for a period of at least six consecutive months following the  
21 effective date of the coverage. The monthly disability benefit may  
22 be paid by the insurance company so long as the member remains  
23 disabled up to the seventieth birthday, provided the disability  
24 commenced prior to the sixtieth birthday. The benefit shall  
25 terminate when the member is no longer considered totally disabled  
26 or begins to receive retirement benefits.

27       The member shall be considered totally disabled if the member is  
28 unable to perform each duty of the member's occupation and is  
29 under the regular care of a physician. After the 12 months  
30 following the commencement of such disability benefit payments,  
31 the member shall be unable to engage in any gainful occupation for  
32 which the member is reasonably fitted by education, training or  
33 experience. Total disability shall not be considered to exist if the  
34 member is gainfully employed. Following an agreement with the  
35 insurance company and the policyholder, the member may continue

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1 to receive disability benefits for a limited time while performing  
2 some type of work. During the period of rehabilitation, the monthly  
3 benefit shall be the regular payment less 80% of the member's  
4 earnings from such rehabilitative position.

5 e. A member shall be deemed to be in service and covered by  
6 the disability benefit insurance provisions for a period of no more  
7 than six months while on official leave of absence without pay if  
8 satisfactory evidence is presented to the Division of Pensions and  
9 Benefits that such leave of absence without pay is due to illness and  
10 that the member was not actively engaged in any gainful occupation  
11 during such period of leave of absence without pay.

12 Disability benefit insurance provisions of the group policy or  
13 policies shall not cover disability resulting from or contributed to  
14 by pregnancy, act of war, intentionally self-inflicted injury, or  
15 attempted suicide whether or not sane. For purposes of such  
16 disability benefit coverage, the member shall not be considered to  
17 be disabled while the member is imprisoned or while outside the  
18 United States, its territories or possessions, or Canada.

19 If the member has recovered from the disability for which the  
20 member had received benefits and again becomes totally disabled  
21 while insured, the later disability shall be regarded as a continuation  
22 of the prior one unless the member has returned to full-time covered  
23 employment for at least six months. If the later absence is due to an  
24 unrelated cause and the member had returned to full-time work, it  
25 shall be considered a new disability. The disability benefit  
26 insurance cannot be converted to an individual policy.

27 No person shall be covered by the disability benefit provision of  
28 the group policy or policies except upon the completion of one year  
29 of full-time continuous employment in a position eligible for  
30 participation in a retirement system designated in subsection a. of  
31 this section.

32 f. The disability benefit provided under such group policy or  
33 policies shall be in an amount equal to 60% of the member's base  
34 monthly salary, reduced by periodic benefits to which the member

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18

1 may be entitled during the period of total disability. The minimum  
2 monthly disability benefit shall be \$50.

3 The periodic benefit by which the monthly disability benefit may  
4 be reduced shall include salary or wages, retirement benefits or  
5 benefits from any source for which the State or other public  
6 employer has paid any part of the cost or made payroll deductions,  
7 Social Security disability or other benefits, including dependents'  
8 benefits, and benefits paid by Social Security at the option of the  
9 participant before the age of 65, but not including any increase in  
10 Social Security benefits enacted after the disability benefit under  
11 such group policy or policies have commenced, and any other  
12 periodic benefits provided by law except on account of military  
13 service.

14 When a member begins to receive a disability benefit under such  
15 group policy or policies, the insurance company shall pay an  
16 amount equal to the employee contribution which would have been  
17 required of the member and deducted from the member's base  
18 salary in order to meet the member's obligation for the purchase of  
19 the member's individual retirement annuity. Such amount shall be  
20 paid by the insurance company without reduction by any other  
21 periodic benefit which the member is eligible to receive. Such  
22 amount shall be paid by the insurance company to the insurer or  
23 insurers for the member's retirement annuity.

24 g. Notwithstanding any other provision of law, an insurance  
25 company or companies issuing such policy or policies may credit  
26 the policyholder either directly or in the form of reduced premiums,  
27 with savings by the company or companies in the event that no  
28 brokerage commission or commissions are paid by the company or  
29 companies on the issuance of such policy or policies.

30 No employer obligations shall be paid when the member is on a  
31 leave of absence without pay or when the member no longer is  
32 enrolled in the retirement system designated in subsection a. of this  
33 section.

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1 h. The group disability insurance policy or policies shall  
2 provide a member with an opportunity to purchase additional  
3 coverage.

4 i. A member who is disabled and receiving a benefit under this  
5 section shall remain eligible for employer-provided health care  
6 benefits coverage in the same manner as such coverage is provided  
7 by the employer to retirees of the retirement system.

8 j. The State Treasurer shall establish an appeals process to be  
9 used when an employer or employee disagree with the insurer on  
10 the employee's ability to return to employment or on issues related  
11 to physical examinations.

12

13 12. (New section) The provisions of section 42 of P.L.1954,  
14 c.84 (C.43:15A-42) and section 43 of P.L.1954, c.84 (C.43:15A-43)  
15 as amended by P.L. , c. (pending before the Legislature as this  
16 bill), and section 11 of P.L. , c. (C. )(pending before the  
17 Legislature as this bill), concerning persons who become members  
18 of the retirement system on or after the effective date of P.L. , c.  
19 (pending before the Legislature as this bill) shall not apply to a  
20 person who at the time of enrollment in the retirement system on or  
21 after that effective date transfers service credit, as permitted, from  
22 another State-administered retirement system or fund of which the  
23 person was a member immediately prior to the effective date and  
24 continuously thereafter, but shall apply to a former member of the  
25 retirement system who has been granted a retirement allowance and  
26 is reenrolled in the retirement system on or after that effective date  
27 after becoming employed again in a position that makes the person  
28 eligible to be a member of the retirement system.

29

30 13. (New section) The provisions of N.J.S.18A:66-39 as  
31 amended by P.L. , c. (pending before the Legislature as this bill),  
32 and section 10 of P.L. , c. (C. )(pending before the Legislature  
33 as this bill), concerning persons who become members of the  
34 retirement system on or after the effective date of P.L. , c.  
35 (pending before the Legislature as this bill) shall not apply to a

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1 person who at the time of enrollment in the retirement system on or  
2 after that effective date transfers service credit, as permitted, from  
3 another State-administered retirement system or fund of which the  
4 person was a member immediately prior to the effective date and  
5 continuously thereafter, but shall apply to a former member of the  
6 retirement system who has been granted a retirement allowance and  
7 is reenrolled in the retirement system on or after that effective date  
8 after becoming employed again in a position that makes the person  
9 eligible to be a member of the retirement system.

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11 14. This act shall take effect on the 60th day following  
12 enactment.

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STATEMENT

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17 Sections 1, 2 and 3:

18 These sections implement Recommendation 36 of the Joint  
19 Legislative Committee on Public Employee Benefits Reform set  
20 forth in the final report dated December 1, 2006. The report  
21 concluded that “this recommendation will bring supplemental  
22 compensation for accumulated unused sick leave in line with the  
23 current law and practice for State employees, thus standardizing this  
24 benefit for public employees serving at different levels of government  
25 in the State.”

26 This bill provides that supplemental compensation for  
27 accumulated unused sick leave payable to any local government or  
28 school district officer or employee cannot exceed \$15,000 and can  
29 only be paid at the time the officer or employee retires. This  
30 provision would apply only to officers and employees who  
31 commence service with a local government or a school district on or  
32 after the bill’s effective date.

33 Current law limits to \$15,000 the maximum amount that may be  
34 paid to a State employee for accumulated unused sick leave when  
35 the employee retires. However, there is currently no such limit with

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1 regard to local government and to school district officers or  
2 employees, except with regard to certain high level local  
3 government and school district officers.

4

5 Sections 4 and 5:

6 These sections implement Recommendation 37 of the Joint  
7 Legislative Committee on Public Employee Benefits Reform set  
8 forth in the final report dated December 1, 2006. The report  
9 concludes that “this recommendation will bring the carry forward of  
10 unused vacation time in line with the current law and practice for State  
11 employees, thus standardizing these benefits for public employees  
12 serving at different levels of government in the State. In addition, this  
13 recommendation will enable local governments to control public  
14 employee benefit costs which, in turn, will reduce property tax revenue  
15 needs.”

16 Under this bill, local government and school district officers and  
17 employees would be allowed to carry forward vacation leave for  
18 only one successive year, except that vacation leave that could not  
19 be used because of an emergency declared by the Governor would  
20 accumulate subject to certain limits. This provision would apply  
21 only to officers and employees who commence service with a local  
22 government or a school district on or after the bill’s effective date  
23 and only after the expiration of a current contract applicable to such  
24 officer or employee

25 Current law limits vacation leave carry forward for State  
26 employees and employees of local governments that have adopted  
27 civil service. However, there is currently no such limit with regard  
28 to other local government and to school district officers or  
29 employees, except with regard to certain high level local  
30 government and school district officers.

31

32 Section 6:

33 This section implements Recommendation 38 of the Joint  
34 Legislative Committee on Public Employee Benefits Reform set  
35 forth in the final report dated December 1, 2006. The committee

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1 recommended “the enactment of legislation to eliminate the State’s  
2 sick leave injury program. The legislation should close the program  
3 to all current and future State employees. The legislation should  
4 take effect after the expiration of any collective bargaining  
5 agreement in effect at the time of enactment so that no obligation in  
6 a contract is impaired.” The committee stated that “the proposals to  
7 end the sick leave injury program are sound and that employees will  
8 generally not be disadvantaged by this change because workers’  
9 compensation benefits will continue to be available. In addition,  
10 the State will realize savings in the form of reduced employee  
11 benefit costs.”

12 This bill terminates the sick leave injury program for State  
13 employees who are injured or who become ill directly as a result of  
14 State employment after the bill’s effective date which is 60 days  
15 after enactment or after the expiration of current collective  
16 negotiations agreements.

17

### 18 Sections 7-11:

19 These sections implement Recommendation 17 of the Joint  
20 Legislative Committee on Public Employee Benefits Reform set  
21 forth in the final report dated December 1, 2006. The committee  
22 recommended “the enactment of legislation to replace accidental  
23 and ordinary disability benefits for new TPAF and PERS members  
24 with private disability insurance coverage.” The committee found  
25 that this recommendation would be beneficial to public employees  
26 who become disabled and would result in savings to both the State  
27 and local public employers.

28 This bill eliminates accidental and ordinary disability retirement  
29 for members of the Teachers’ Pension and Annuity Fund (TPAF)  
30 and Public Employees’ Retirement System (PERS) who are enrolled  
31 in the retirement system on or after this bill’s effective date.  
32 Instead, members of each system enrolled after that date will be  
33 eligible for disability insurance coverage similar to that provided by  
34 the State currently to individuals enrolled in the Defined  
35 Contribution Retirement Program.

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Section 12 and 13:

These sections provide that, with regard to any provision of this bill concerning disability retirement in the Public Employees' Retirement System and the Teachers' Pension and Annuity Fund made applicable to a person who becomes a member of a State-administered retirement system on or after the bill's effective date, that provision would not apply to a person who at the time of enrollment in the retirement system on or after that effective date transfers service credit, as permitted, from another State-administered retirement system or fund of which the person was a member immediately prior to the effective date and continuously thereafter, but would apply to a former member of the retirement system who has been granted a retirement allowance and is reenrolled in the retirement system on or after that effective date after becoming employed again in a position that makes the person eligible to be a member of the retirement system. These sections are in line with recent prior enactments in this regard.