

[First Reprint]

## **ASSEMBLY, No. 4644**

# **STATE OF NEW JERSEY**

## **220th LEGISLATURE**

INTRODUCED SEPTEMBER 22, 2022

**Sponsored by:**

**Assemblyman ROY FREIMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Co-Sponsored by:**

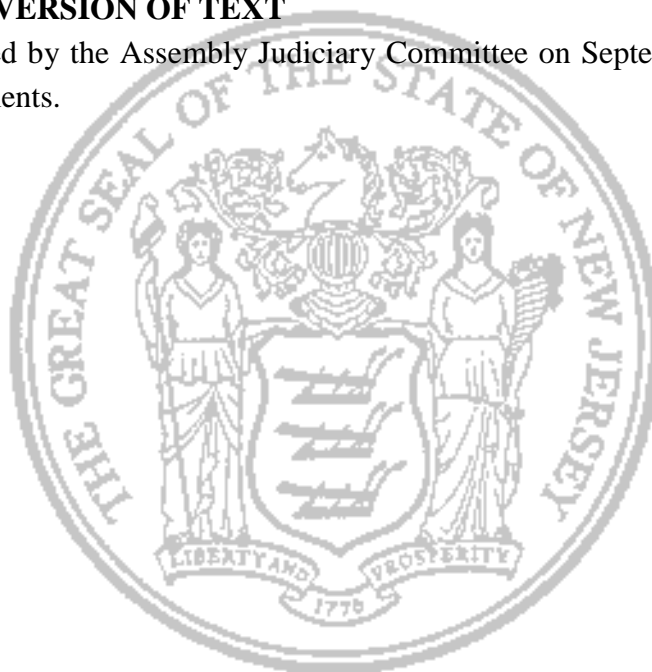
**Assemblyman Caputo**

### **SYNOPSIS**

Implements recommendations of State Comptroller report on municipal sick leave, vacation leave, and supplemental payment policies; establishes certain financial penalties.

### **CURRENT VERSION OF TEXT**

As reported by the Assembly Judiciary Committee on September 29, 2022, with amendments.



**(Sponsorship Updated As Of: 10/3/2022)**

1 AN ACT related to municipal sick leave and vacation leave policies  
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. The Division of Local Government Services in the  
8 Department of Community Affairs shall undertake a comprehensive  
9 review of the persons excluded from the definitions of “officer or  
10 employee” under sections 42, 43, and 45 of P.L.2007, c.92  
11 (C.11A:6-19.1, C.40A:9-10.2, and C.40A:9-10.3) and shall prepare  
12 and distribute a report to the Governor and, pursuant to section 2 of  
13 P.L.1991, c.164 (C.52:14-19.1), to the Legislature, setting forth  
14 recommendations for continuing or modifying the persons excluded  
15 under the above referenced provisions of law.

16  
17 2. Notwithstanding any provisions of the “New Jersey  
18 Employer-Employee Relations Act,” P.L.1941, c.100 (C.34:13A-1  
19 et seq.), or of any other law to the contrary:

20 a. contractual provisions regarding accumulation of unused sick  
21 leave and the accumulation of unused vacation leave, and  
22 supplemental compensation for accumulated unused sick leave and  
23 accumulated unused vacation leave, shall be consistent with the  
24 provisions of sections 42 through 46 of P.L.2007, c.92 (C.11A:6-  
25 19.1 et al.) and of P.L.2010, c.3 (C.11A:6-19.2 et al.); and

26 b. the terms and conditions of employment set forth by sections  
27 42, 43, and 45 of P.L.2007, c.92 (C.11A:6-19.1, C.40A:9-10.2, and  
28 C.40A:9-10.3) and by P.L.2010, c.3 (C.11A:6-19.2 et al.) shall not  
29 be diminished by entry into a collectively negotiated agreement or  
30 adoption of a policy manual.

31  
32 3. The Director of the Division of Local Government Services  
33 in the Department of Community Affairs shall, in accordance with  
34 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1  
35 et seq.), adopt rules and regulations as the director deems necessary  
36 to clarify and implement the provisions of sections 42, 43, and 45 of  
37 P.L.2007, c.92 (C.11A:6-19.1, C.40A:9-10.2, and C.40A:9-10.3)  
38 and of P.L.2010, c.3 (C.11A:6-19.2 et al.). The director shall, by  
39 adoption of rules and regulations, impose accountability measures  
40 to ensure compliance with sections 42, 43, and 45 of P.L.2007, c.92  
41 (C.11A:6-19.1, C.40A:9-10.2, and C.40A:9-10.3) and P.L.2010, c.3  
42 (C.11A:6-19.2 et al.), which may require an appropriate local  
43 official to certify that the requirements of sections 42, 43, and 45 of  
44 P.L.2007, c.92 (C.11A:6-19.1, C.40A:9-10.2, and C.40A:9-10.3)  
45 and P.L.2010, c.3 (C.11A:6-19.2 et al.) are enforced.

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AJU committee amendments adopted September 29, 2022.

1       4. a. (1) The governing body of a municipality that has  
2 established an employee supplemental payment policy or policies  
3 prior to the effective date of P.L. , c. (C. ) (pending before  
4 the Legislature as this bill) shall publish the policy or policies as  
5 provided for pursuant to paragraph (3) of this subsection.

6       (2) The governing body of a municipality that proposes to  
7 establish or modify an employee supplemental payment policy shall  
8 publish the policy or policies, or proposed modifications, as  
9 provided for pursuant paragraph (3) of this subsection.

10       (3) A municipality that maintains an Internet website shall  
11 publish for public inspection a supplemental payment policy, as  
12 described pursuant to paragraph (1) or (2) of this subsection, on the  
13 municipality's Internet website. A municipality that does not  
14 maintain an Internet website shall submit the supplemental payment  
15 policy or proposed supplemental payment policy to the Department  
16 of Community Affairs for publication on the department's Internet  
17 website. The department shall publish supplemental payment  
18 policies received pursuant to this paragraph on the department's  
19 Internet website.

20       b. A municipal governing body shall individually approve each  
21 supplemental payment for each municipal employee pursuant to a  
22 supplemental payment policy by resolution of the governing body at  
23 a public meeting where the proposed action and public comments  
24 on the proposed action shall be considered by the governing body.

25       c. (1) The governing body of a municipality that maintains  
26 an employee supplemental payment policy shall not approve a  
27 payment for an employee pursuant subsection b. of this section,  
28 unless the municipality publishes the proposed resolution and  
29 documentation supporting the supplemental payment, together with  
30 notice of the date, time, place, purpose of the meeting, in a  
31 newspaper of general circulation in the municipality once each  
32 week for two consecutive weeks. The final publication shall be not  
33 less than twenty days prior to the date set for the meeting. Each  
34 publication shall also include information related to the times and  
35 places where additional supporting documentation shall be available  
36 for public inspection at no charge, including any advisory  
37 documents providing rationale for the supplemental payment policy  
38 and the individual proposed payment, along with any additional  
39 documentation relevant to the proposed payment.

40       (2) A municipality that publishes a notice pursuant to this  
41 subsection and maintains an Internet website, shall publish the  
42 additional supporting documentation, as described in paragraph (1)  
43 of this subsection, for public inspection on the municipality's  
44 Internet website. A municipality that does not maintain an Internet  
45 website shall submit the additional supporting documentation to the  
46 Department of Community Affairs for publication on the  
47 department's Internet website. The department shall publish

1 additional supporting documentation received pursuant to this  
2 paragraph on the department's Internet website.

3 d. For the purposes of this section "supplemental payment"  
4 means a payment to an employee of a municipality in excess of the  
5 employee's regular compensation or reimbursement to the  
6 employee for actual costs incurred by the employee related to the  
7 person's employment with the municipality.

8  
9 5. a. If the Division of Local Government Services determines  
10 that a municipality has violated a provision of sections 42, 43, and  
11 45 of P.L.2007, c.92 (C.11A:6-19.1, C.40A:9-10.2, and C.40A:9-  
12 10.3), P.L.2010, c.3 (C.11A:6-19.2 et al), or P.L. , c. (C. )  
13 (pending before the Legislature as this bill), the division shall as a  
14 penalty for noncompliance annually withhold the amount of  
15 consolidated municipal property tax relief aid or energy tax receipts  
16 property tax relief aid, or both, otherwise available to the  
17 municipality, in the current or subsequent budget year, by the  
18 amount sufficient to cover the cost of payments that the  
19 municipality improperly paid to its officers or employees.  
20 Alternatively, if a municipality is not eligible for aid or if the  
21 consolidated municipal property tax relief aid or energy tax receipts  
22 property tax relief aid, or both, are not reduced, as described  
23 pursuant to this section, sufficient to cover the amount the  
24 municipality improperly paid to its officers or employees, the  
25 division may prohibit the municipality from raising revenue through  
26 the property tax levy, as described pursuant to section 10 of  
27 P.L.2007, c.62 (C.40A:4-45.45), above the rate set by the  
28 municipality in the most recent fiscal year until such time as the  
29 division determines that the municipality is in compliance with the  
30 provisions of sections 42, 43, and 45 of P.L.2007, c.92 (C.11A:6-  
31 19.1, C.40A:9-10.2, and C.40A:9-10.3), P.L.2010, c.3 (C.11A:6-  
32 19.2 et al), and P.L. , c. (C. ) (pending before the  
33 Legislature as this bill.

34 b. In making a determination pursuant to subsection a. of this  
35 section, the Division of Local Government Services shall <sup>1</sup>deem an  
36 action of a municipality to be consistent with the provisions <sup>1</sup>refrain  
37 from enforcing any penalty established pursuant to subsection a. of  
38 this section for a municipal violation of any provision<sup>1</sup> of sections  
39 42, 43, and 45 of P.L.2007, c.92 (C.11A:6-19.1, C.40A:9-10.2, and  
40 C.40A:9-10.3), P.L.2010, c.3 (C.11A:6-19.2 et al), or P.L. ,  
41 c. (C. ) (pending before the Legislature as this bill), <sup>1</sup>as  
42 applicable,<sup>1</sup> if:

43 (1) for an action by the municipality related to an employee who  
44 is not subject to an applicable collective bargaining agreement of  
45 the municipality, the action was taken within the six months  
46 immediately following the adoption of rules and regulations

1 pursuant to section 3 of P.L. , c. (C. ) (pending before the  
2 Legislature as this bill<sup>1</sup>)<sup>1</sup>; or  
3 (2) for an action by the municipality related to an employee who  
4 is subject to an applicable collective bargaining agreement of the  
5 municipality, the action taken was required pursuant to an  
6 applicable collective bargaining agreement that was entered into by  
7 the municipality before <sup>1</sup>["], or within the six months immediately  
8 following,]<sup>1</sup> the adoption of rules and regulations pursuant to  
9 section 3 of P.L. , c. (C. ) (pending before the Legislature  
10 as this bill<sup>1</sup>)<sup>1</sup>.

11

12 6. This act shall take effect on the first day of the sixth month  
13 next following enactment, except the Director of the Division of  
14 Local Government Services in the Department of Community  
15 Affairs may take any anticipatory administrative action in advance  
16 as shall be necessary for the implementation of this act.