



State of New Jersey

OFFICE OF THE GOVERNOR

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CHRIS CHRISTIE
Governor

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Chief Counsel

May 10, 2010

MEMORANDUM

TO: HONORABLE STEPHEN M. SWEENEY
Senate President

HONORABLE SHEILA Y. OLIVER
Speaker of the General Assembly

FROM: JEFFREY S. CHIESA 
Chief Counsel to the Governor

RE: Administration Bills – Municipal, Educational and Higher Educational Tool Kits

Attached please find thirty-three legislative proposals to reduce costs at the municipal, school and higher educational levels. The centerpiece of this legislative package is "Cap 2.5," a constitutional amendment creating a 2.5% cap on the increase in the property tax levy by municipal, school and county taxing entities and a 2.5% cap on spending for State government operations. The package of bills provides key reform in a number of other critical areas for local government entities to directly address cost drivers and make living within "Cap 2.5" realistic and realizable. The Governor has recommended reform in the areas of civil service, collective bargaining, employee pensions and benefits, red tape and unfunded mandates, election reform, executive superintendent authority, and shared services.

In addition to the bills primarily affecting municipalities, school districts and county government, the Governor has also recommended a number of key reforms to assist higher education institutions in New Jersey lower costs, economize, and manage their budgets more effectively.

We look forward to working together to achieve final passage of these important initiatives.

Thank you in advance for your cooperation and courtesies.

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att.

c: Honorable Thomas H. Kean, Jr., Senate Minority Leader
Honorable Alex DeCroce, Assembly Minority Leader

SUMMARY OF 33 BILLS RE: "TOOL KITS"

MUNICIPAL AND COUNTY TOOL KIT

- 1) Constitutional amendment to impose a 2.5% cap on increases in the property tax levy increases for municipal, school and county taxes, cap banking is allowed.
- 2) Constitutional amendment to place a 2.5% cap on spending for State government operations (excluding state aid to municipalities and school districts, support for higher education and direct property tax relief); cap banking is allowed.
- 3) PERC selects three arbitrators for union contracts from list of 25, parties then pick one of the three selected arbitrators, instead of parties agreeing to choose a specific name directly from the list of 25 as is currently the case.
- 4) Arbitrators are mandated to consider impact of union contracts on property taxes, no such requirement in current law.
- 5) Arbitrators are barred from making contract awards that exceed 2.5% cap, inclusive of all salary, benefit and other economic contract provisions
- 6) Pension benefit reform - eliminate eligibility for State retirement systems for outside groups and associations.
- 7) Pension benefit reform - cap sick leave and carry forward of vacation for current employees.
- 8) First Bill - Shared services reform - when local units decide to share services current law requires buyout of union contracts, bumping and other civil service protections that destroy the efficiencies of the merger; this proposal eliminates certain civil services protections when services are shared (2 bills to amend different statutes)
- 9) Second bill - Shared services reform - when local units decide to share services current law requires buyout of union contracts, bumping and other civil service protections that destroy the efficiencies of the merger; this proposal eliminates certain civil services protections when services are shared (2 bills to amend different statutes)
- 10) Allow furloughs by local government to save costs.
- 11) Allow counties and municipalities to opt out of civil service municipalities by ordinance or referendum signed by 15% of the voters.
- 12) Public employee discipline reform – reclassify many offenses as minor to avoid lengthy and costly hearings for relatively trivial infractions.

- 13) Police employee discipline reform – reclassify many offenses as minor to avoid lengthy and costly hearings for relatively trivial infractions.
- 14) Firefighters discipline reform – reclassify many offenses as minor to avoid lengthy and costly hearings for relatively trivial infractions.
- 15) Employee discipline reform – revise appeal process of employee disciplinary hearings to reclassify many offenses as minor
- 16) Revise layoff rules to allow less senior, but more essential employees to avoid bumping
- 17) Give Civil Service Commissioner more day-to-day control as when the Department of Personnel was a freestanding department
- 18) Increase testing and appeal fees for civil service promotional exams
- 19) Allow Civil Service Commissioner to make seasonal appointment for 9 months
- 20) Move school and fire elections to November
- 21) Allow municipalities to offset property tax refunds against State income tax refunds
- 22) Expand parties that may bring challenges to Council on Local Mandates to includes groups, like the League of Municipalities. Currently, only individual municipalities can do this and is too costly for one town to “go it alone.”

EDUCATIONAL TOOL KIT

- 23) No school contract award, including benefit costs, in excess of the statutory or constitutional levy cap.
- 24) School districts could once again impose a “last best offer” contract under certain circumstances.
- 25) Executive county superintendents approval of all union and superintendent contracts. No approval if:
 - Salary/benefit increases exceed the levy cap;
 - Pupil contact time per day as set by reg;
 - Minimum number of work as set by reg;
 - Auxiliary/ancillary services contracted out.
- 26) Executive county superintendents would be required to implement sharing of school business functions across districts and municipalities.

- 27) Pension reforms similar to those affecting municipalities.

HIGHER EDUCATION TOOL KIT

- 28) Revise fact finder decision standards (when awarding a new employee contract) to account for decrease in state aid level, effect on tuition, and benefits already provided to employees
- 29) Designate State colleges and universities as employer of record for collective bargaining. Allows colleges and universities more control of a process when they have day-to-day contact with employees
- 30) Allow state colleges and universities to hire faculty members for a probationary period.
- 31) Remove classified employers from Civil Service status and include them within each institution's personnel system.
- 32) Allow separate workers compensation program management for college and universities.

MISCELLANEOUS

- 33) Require only single ballot to each household instead of multiple ballots to all voters residing in household.

A CONCURRENT RESOLUTION proposing to amend Article VIII, Section II by adding a new paragraph 8.

BE IT RESOLVED *by the General Assembly of the State of New Jersey (the Senate concurring):*

1. The following proposed amendment to the Constitution of the State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

Amend Article VIII, Section II by adding a new paragraph 8, to read as follows:

8. a. A county or other local taxing district with a local purposes tax rate of more than \$0.10 per \$100 of assessed value for the previous tax year shall not increase the amount of its local purposes tax levy by more than 2.5 percent over its previous year's local purposes tax levy amount, plus the product of the taxable value of any new construction, improvements, and other property added to the tax rolls during the tax year, times the previous year's tax rate.

b. This 2.5 percent increase limit shall not apply to amounts required to be raised by taxation for debt service and capital expenditures.

c. This 2.5 percent increase limit may be exceeded in any local budget year by approval, at a public referendum to be held at such time and manner as determined by the Legislature, of a question specifying a higher percent increase by at least 60 percent of the number of registered voters of the county or other local taxing district, as applicable, participating in the referendum election.

d. The Legislature may provide for a process where unused capacity under the tax levy in any local budget year may be carried forward and used within future local budget years.

2. When this proposed amendment to the Constitution is finally agreed to pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted to the people at the next general election occurring more than three months after the final agreement and shall be published at least once in at least one newspaper of each county designated by the President of the Senate, the Speaker of the General Assembly and the Secretary of State, not less than three months prior to the general election.

3. This proposed amendment to the Constitution shall be submitted to the people at that election in the following manner and form:

There shall be printed on each official ballot to be used at the general election, the following:

a. In every municipality in which voting machines are not used, a legend which shall immediately precede the question as follows:

If you favor the proposition printed below make a cross (X), plus (+), or check (✓) in the square opposite the word "Yes." If you are opposed thereto make a cross (X), plus (+) or check (✓) in the square opposite the word "No."

b. In every municipality the following question:

2.5 % CONSTITUTIONAL LIMIT ON PROPERTY TAX LEVY INCREASES BY LOCAL UNITS

Do you approve the proposed amendment to the State Constitution prohibiting most counties and other local taxing districts from increasing their property tax levy on property, that is not new construction or improvements added to the tax rolls since the previous year, by more than 2.5 percent over the previous year's tax levy, except when authorized by public referendum approved by at least 60 percent of the participating voters?

YES

INTERPRETIVE STATEMENT

NO

This amendment to the State Constitution will establish a cap of 2.5 percent on the permitted increases of county, municipal, school district, fire district, and other local taxing district property tax levies over each entity's previous year's levy. It would apply to those local taxing districts with a local purposes tax rate in the preceding year of more than \$0.10 per \$100 of assessed value. The value of new construction, improvements, and other property added to the tax rolls during the tax year, would be subject to the previous year's tax rate. The only automatic exclusions from the cap would be for debt service payments and capital expenditures. Local units may use the amount of any budget year's unused tax levy increase in any of the subsequent three local budget years. Otherwise, a public referendum, approved by at least 60 percent of the participating voters, would be required to exceed the 2.5 percent cap for a particular local budget year.

STATEMENT

This proposed amendment to the Constitution would impose a cap of 2.5 percent on permitted increases to the property tax levy of counties, municipalities, school districts, fire districts, and other local taxing districts, over their levies for the previous tax year. This constitutionally required cap, similar to the statutory 2.5 percent cap in Massachusetts, was recommended by the Governor as part of his FY2011 budget address, in a document entitled, "FY 2011 Budget Solutions: Foundation for Long Term Reform *Protecting Taxpayers and Enforcing Fiscal Discipline*." Currently, statutory law imposes a 4 percent cap on levy increases by those entities, with about a half dozen exclusions and the opportunities for waivers granted by the Local Finance Board. Under the proposed constitutional amendment, the 2.5 percent levy cap would be a more "honest" cap than the levy cap imposed by current law because the only permitted automatic exclusions from the cap would be for taxes needed to be raised for debt service

payments and for capital expenditures. The assessed value of new construction, improvements, and other property that was added to the tax rolls during the tax year would be multiplied by the previous year's tax rate and then added to the amount subject to the 2.5 percent cap (the previous year's levy) to determine each local unit's total permissible tax levy increase. The unused portion of a local unit's allowable tax levy increase could be carried forward and added to the permitted increase in any of the subsequent three local budget years. Otherwise, a local unit could exceed the 2.5 percent cap in a tax year only through approval, by at least 60 percent of the participating voters, of a public question specifying the higher increase.

Proposes constitutional amendment to impose a 2.5 percent cap on annual tax levy increases by local units of government.

A CONCURRENT RESOLUTION proposing to amend Article VIII,
Section II of the Constitution of the State of New Jersey.

BE IT RESOLVED *by the Senate of the State of New Jersey (the
General Assembly concurring):*

1. The following proposed amendments to the Constitution of
the State of New Jersey are agreed to:

PROPOSED AMENDMENTS

Amend Article VIII, Section II, paragraph 2 to read as follows:

2. a. No money shall be drawn from the State treasury but for
appropriations made by law. All moneys for the support of the State
government and for all other State purposes as far as can be
ascertained or reasonably foreseen, shall be provided for in one
general appropriation law covering one and the same fiscal year;
except that when a change in the fiscal year is made, necessary
provision may be made to effect the transition. No annual general
appropriation law or other law appropriating money for any State
purpose shall be enacted if the [appropriation] appropriations
contained therein, together with all prior appropriations made for
the same fiscal period, shall exceed the total amount of revenue on
hand and anticipated which will be available to meet such
appropriations during such fiscal period, as certified by the
Governor.

b. (1) For each fiscal year commencing after approval of this
amendment by the voters, no annual appropriation law or
supplemental appropriation law or other law appropriating money
from any source, for any State purpose for the same fiscal year shall
be enacted if the appropriation or appropriations contained therein,
together with all prior appropriations made for the same fiscal year,
shall exceed the amount of total appropriations enacted for the prior
fiscal year by more than 2.5 percent.

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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(2) The fiscal year appropriation limit established by this subparagraph b. shall not be construed as requiring the enactment of appropriations for a fiscal year of an amount equal to the limit.

(3) The amount of appropriation permitted by a fiscal year appropriation limit imposed during any of the preceding fiscal years and not appropriated during any of those years may be appropriated in a current fiscal year without regard to the current fiscal year appropriation limit. That appropriation of previously unused permitted appropriations shall not be used to determine the appropriation limit for the next fiscal year.

(4) The unexpended balance of an appropriation, once enacted under the fiscal year appropriation limit established by this subparagraph b., may be reappropriated in the next fiscal year without being subject to the annual fiscal year appropriation limit for that next fiscal year, and any unexpended balance amount shall not be included in determining the base amount of enacted appropriations applicable for any subsequent fiscal year in which it is reappropriated.

c. The following appropriations shall not be subject to the fiscal year appropriation limit established in subparagraph b.:

(1) of State aid for school districts, municipalities and counties;

(2) money received or reasonably anticipated to be received by the State from the federal government;

(3) for State government payments that may be required to be made by another provision of this Constitution to pension systems that provide for retirement benefits;

(4) for payment of State capital construction projects, including but not limited to appropriations of State revenue directed to be credited to a special account in the General Fund for purposes of the State transportation system pursuant to Article VIII, Section II, paragraph 4 of this Constitution and for the line-item appropriations for the planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of the transportation system in this State pursuant to that paragraph;

(5) to pay the interest and principal due on debt authorized by a majority of the legally qualified voters of this State pursuant to the

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provisions of Article VIII, Section II, paragraph 3 of this Constitution or due on refinancing bonds issued pursuant thereto, and to pay the interest and principal due on debt of an autonomous public corporate entity, established either as an instrumentality of the State or otherwise exercising public and essential governmental functions, which debt or liability has a pledge of an annual State appropriation as the ways and means to pay the interest of such debt or the refinancing thereof, if such an appropriation was enacted before the fiscal year appropriation limit established in subparagraph b. applied;

(6) required for purposes of war, or to repel invasion, or to suppress insurrection, or to meet an extraordinary emergency caused by disaster or act of God, but not including money for routine personnel costs and operations historically funded as part of the annual appropriations act for the support of the State government; and

(7) money required to be deposited in, and expended from, the "Property Tax Relief Fund" established by N.J.S.54A:9-25.

The appropriation limit for the first fiscal year commencing after approval of the amendment adding subparagraphs b. through f. of this paragraph, shall be determined using as the base amount for that determination the amount of all appropriations enacted in the prior fiscal year, exclusive of appropriations listed as exceptions in (1) through (7) of this subparagraph c.

d. Notwithstanding subparagraph b. of this paragraph and the provisions of Article IV, Section IV, paragraph 6 of this Constitution, the Legislature may, from time to time, provide by law for an appropriation or appropriations in excess of the appropriation limit provided in subparagraph b. of this paragraph if the bill that proposes to enact such excess appropriation or appropriations is passed by the Legislature as a fiscal emergency measure by the affirmative vote of two-thirds of the authorized membership of each house of the Legislature. Appropriations enacted as fiscal emergency measures pursuant to this subparagraph d. shall not be used in determining the base amount of enacted

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appropriations for the purpose of determining an annual appropriation limit for the subsequent fiscal year.

e. No transfer of an item of appropriation or other budgetary mechanism shall allow for an appropriation in excess of the appropriation limit provided by subparagraph b. of this paragraph except under the procedure provided by subparagraph d. of this paragraph.

f. If any function or service performed by the State is transferred to, or its costs of operation or performance are assumed by, any agency or instrumentality of the State or of any county or municipality, with the power to issue bonds to finance the undertaking of any function or the performance of any service, the decrease in State appropriations in the fiscal year in which the transfer or assumption occurred shall be deemed to have occurred in the prior fiscal year so as to decrease the prior year appropriations as the base upon which the appropriation limit shall be calculated. "Bonds" as used in this subsection means bonds which do not constitute a debt or liability of the State or of any of its counties or municipalities or a pledge of the faith and credit of the State or of any of its counties or municipalities.

(cf: Art.VIII, Section II, par.2, January 1, 1948)

2. When this proposed amendment to the Constitution is finally agreed to pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted to the people at the next general election occurring more than three months after the final agreement and shall be published at least once in at least one newspaper of each county designated by the President of the Senate, the Speaker of the General Assembly and the Secretary of State, not less than three months prior to the general election.

3. This proposed amendment to the Constitution shall be submitted to the people at that election in the following manner and form:

There shall be printed on each official ballot to be used at the general election, the following:

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a. In every municipality in which voting machines are not used, a legend which shall immediately precede the question as follows:

If you favor the proposition printed below make a cross (X), plus (+), or check (✓) in the square opposite the word "Yes." If you are opposed thereto make a cross (X), plus (+) or check (✓) in the square opposite the word "No."

b. In every municipality the following question:

		ESTABLISHES 2.5 PERCENT CAP ON ANNUAL APPROPRIATIONS INCREASES FOR CERTAIN STATE GOVERNMENT SPENDING Do you approve the proposed amendment to the State Constitution which provides that for each State fiscal year beginning after the adoption of this amendment, no annual appropriation law or supplemental appropriation law shall be enacted if the total appropriations enacted for that fiscal year exceed the appropriations enacted for the prior fiscal year by more than 2.5 percent, except for the following appropriations: (1) of State aid for school districts, municipalities and counties, (2) of State funds received from the federal government, (3) for State government payments that may be required to be made by another provision of this Constitution to pension systems that provide for retirement benefits, (4) for State capital construction projects including those from State revenue constitutionally dedicated for the State transportation system and appropriations to finance and pay for that purpose, (5) for
	YES	

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		debt service due on Statewide voter-approved bonds or on their refinancing bonds, and due on other State entity debt for which State appropriations are pledged and have heretofore been appropriated, (6) required for purposes of war, or to repel invasion, or to suppress insurrection, or to meet an extraordinary emergency caused by disaster or act of God, but not including money for routine personnel costs and operations historically funded as part of the annual appropriations act for the support of the State government, and (7) money appropriated from the Property Tax Relief Fund; provided however this limitation on appropriations shall not apply to unused limitation amounts for three prior fiscal years and unexpended appropriations from the immediately preceding fiscal year, and may be exceeded only if passed by the Legislature as a fiscal emergency measure by the affirmative vote of two-thirds of the authorized membership of each house of the Legislature?
	NO	INTERPRETIVE STATEMENT This constitutional amendment limits the amount that the State can appropriate for certain State government spending in a fiscal year to not more than 2.5 percent above the amount of those appropriations in the prior fiscal year. The exceptions to this limit include appropriations: (1) for State aid to school districts, municipalities and counties, (2) of federal funds, (3) for State government payments that may be required

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	to be made by another provision of this Constitution to pension systems that provide for retirement benefits, (4) for State capital construction projects, (5)) to pay debt service on voter-approved State bonds and certain appropriation contract bonds (6) required for purposes of war, to repel invasion, or to suppress insurrection, or to meet extraordinary emergencies caused by disasters or acts of God, and (7) from the Property Tax Relief Fund. This limit will not apply to unused limit amounts from the three previous fiscal years, which may be banked to be appropriated in the next fiscal year. This limit will also not apply to unspent appropriations from the immediately preceding fiscal year, originally appropriated under an annual limit and then reappropriated by law. The annual State appropriations limit may only be exceeded by passage of a fiscal emergency measure by the affirmative vote of two-thirds of the authorized membership of each house of the Legislature.
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SCHEDULE

This constitutional amendment shall apply to the fiscal years beginning on or after July 1 next following its approval by the people pursuant to Article IX of the Constitution.

STATEMENT

This constitutional amendment limits the amount that the State can appropriate for certain State government spending in a fiscal

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year to not more than 2.5 percent above the amount of those appropriations in the prior fiscal year. The exceptions are appropriations: (1) for State aid to school districts, municipalities and counties, (2) of federal funds, (3) for State government payments that may be required to be made by another provision of this Constitution to pension systems that provide for retirement benefits, (4) for State capital construction projects, (5) to pay debt service on voter-approved State bonds and certain appropriation contract bonds, (6) required for purposes of war, to repel invasion, or to suppress insurrection, or to meet extraordinary emergencies caused by disasters or acts of God, and (7) from the Property Tax Relief Fund. This limit will not apply to unused limit amounts from the three previous fiscal years, which may be banked to be appropriated in the next fiscal year. This limit will also not apply to unspent appropriations from the immediately preceding fiscal year, originally appropriated under an annual limit and then reappropriated by law.

The annual State appropriations limit may only be exceeded by passage of a fiscal emergency measure by the affirmative vote of two-thirds of the authorized membership of each house of the Legislature.

Proposes constitutional amendment to establish a 2.5 percent cap on annual appropriations increases for certain State government spending.

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

New Jersey Statutes Annotated Currentness

Title 34. Labor and Workmen's Compensation

Chapter 13A. New Jersey Employer-Employee Relations Act (Refs & Annos)

→ 34:13A-5.3. Employee organizations; right to form or join; collective negotiations; arbitration presumption

(a) Except as hereinafter provided, public employees shall have, and shall be protected in the exercise of, the right, freely and without fear of penalty or reprisal, to form, join and assist any employee organization or to refrain from any such activity; provided, however, that this right shall not extend to elected officials, members of boards and commissions, managerial executives, or confidential employees, except in a school district the term managerial executive shall mean the superintendent of schools or his equivalent, nor, except where established practice, prior agreement or special circumstances dictate the contrary, shall any supervisor having the power to hire, discharge, discipline, or to effectively recommend the same, have the right to be represented in collective negotiations by an employee organization that admits nonsupervisory personnel to membership, and the fact that any organization has such supervisory employees as members shall not deny the right of that organization to represent the appropriate unit in collective negotiations; and provided further, that, except where established practice, prior agreement, or special circumstances dictate the contrary, no policeman shall have the right to join an employee organization that admits employees other than policemen to membership. The negotiating unit shall be defined with due regard for the community of interest among the employees concerned, but the commission shall not intervene in matters of recognition and unit definition except in the event of a dispute.

Representatives designated or selected by public employees for the purposes of collective negotiation by the majority of the employees in a unit appropriate for such purposes, by the majority of the employees voting in an election conducted by the commission as authorized by this act or, at the option of the representative in a case in which the commission finds that only one representative is seeking to be the majority representative, by a majority of the employees in the unit signing authorization cards indicating their preference for that representative, shall be the exclusive representatives for collective negotiation concerning the terms and conditions of employment of the employees in such unit. An authorization card indicating preference shall not be valid unless it is printed in a language understood by the employees who signs it.

Nothing herein shall be construed to prevent any official from meeting with an employee organization for the purpose of hearing the views and requests of its members in such unit so long as (a) the majority representative is informed of the meeting; (b) any changes or modifications in terms and conditions of employment are made only through negotiation with the majority representative; and (c) a minority organization shall not present or process grievances. Nothing herein shall be construed to deny to any individual employee his rights under Civil Service laws or regulations. When no majority representative has been selected as the bargaining agent for the unit of which an individual employee is a part, he may present his own grievance either personally or through an appropriate representative or an organization of which he is a member and have such grievance adjusted.

(b) A majority representative of public employees in an appropriate unit shall be entitled to act for and to negotiate agreements covering all employees in the unit and shall be responsible for representing the interest of all such employees without discrimination and without regard to employee organization membership. Proposed new rules or modifications of existing rules governing working conditions shall be negotiated with the majority representative before they

are established. In addition, the majority representative and designated representatives of the public employer shall meet at reasonable times and negotiate in good faith with respect to grievances, disciplinary disputes, and other terms and conditions of employment. Nothing herein shall be construed as permitting negotiation of the standards or criteria for employee performance.

When an agreement is reached on the terms and conditions of employment, it shall be embodied in writing and signed by the authorized representatives of the public employer and the majority representative.

Where the parties cannot reach an agreement through direct negotiation, the commission shall take measures to assure the impartial selection of a mediator, fact-finder and super-conciliator from its panels. The assignment of any mediator, fact-finder or super-conciliator shall be the responsibility of the commission, independent of and without any participation by either of the parties.

1. The parties are prohibited from entering into a collective negotiation agreement which, on an annual basis, exceeds a total of 2.5% on economic issues including wages, salaries, hours in relation to earnings, and other forms of compensation such as paid vacation, paid holidays, health and medical insurance, and other economic benefits to employees.
2. Any mediator, fact-finder or super-conciliator appointed by the commission may not recommend or award any settlement or agreement which exceeds the amount set forth in (b)1 above.

(c) Public employers shall negotiate written policies setting forth grievance and disciplinary review procedures by means of which their employees or representatives of employees may appeal the interpretation, application or violation of policies, agreements, and administrative decisions, including disciplinary determinations, affecting them, provided that such grievance and disciplinary review procedures shall be included in any agreement entered into between the public employer and the representative organization. Such grievance and disciplinary review procedures may provide for binding arbitration as a means for resolving disputes. Except as otherwise provided herein, the procedures agreed to by the parties may not replace or be inconsistent with any alternate statutory appeal procedure nor may they provide for binding arbitration of disputes involving the discipline of employees with statutory protection under tenure or civil service laws, except that such procedures may provide for binding arbitration of disputes involving the minor discipline of any public employees protected under the provisions of section 7 of P.L.1968, c. 303 (C.34:13A-5.3), other than public employees subject to discipline pursuant to R.S.53:1-10. Grievance and disciplinary review procedures established by agreement between the public employer and the representative organization shall be utilized for any dispute covered by the terms of such agreement. For the purposes of this section, minor discipline shall mean a suspension or fine of less than five days unless the employee has been suspended or fined an aggregate of 15 or more days or received more than three suspensions or fines of five days or less in one calendar year.

Where the State of New Jersey and the majority representative have agreed to a disciplinary review procedure that provides for binding arbitration of disputes involving the major discipline of any public employee protected under the provisions of this section, other than public employees subject to discipline pursuant to R.S.53:1-10, the grievance and disciplinary review procedures established by agreement between the State of New Jersey and the majority representative shall be utilized for any dispute covered by the terms of such agreement. For the purposes of this section, major discipline shall mean a removal, disciplinary demotion,

suspension or fine of more than five days, or less where the aggregate number of days suspended or fined in any one calendar year is 15 or more days or unless the employee received more than three suspensions or fines of five days or less in one calendar year.

1. In interpreting the meaning and extent of a provision of a collective negotiation agreement providing for grievance arbitration, a court or agency shall be bound by a presumption in favor of arbitration. Doubts as to the scope of an arbitration clause shall be resolved in favor of requiring arbitration. The commission shall take measures to assure the impartial selection of an arbitrator for grievance arbitration and Special Disciplinary Arbitration from its special panel of arbitrators. The assignment of any arbitrator shall be the responsibility of the commission, which shall randomly select three names from the list of qualified arbitrators, independent of and without any participation by either of the parties. The parties shall then choose the arbitrator from the randomly generated list of three individuals.
2. Applicants for initial appointment to the commission's special panel of arbitrators shall possess the experience and professional qualifications required under the commission's rules.
3. The parties shall bear the costs of arbitration subject to a fee schedule approved by the commission. The fee schedule shall provide that the costs of services provided by an arbitrator shall not exceed \$1,000 per day for grievance arbitration. The commission may increase such fee by no more than 2.5% every 2 years. The fee for an arbitration cancelled with at least fifteen, and up to thirty, days notice shall not exceed \$500. There shall be no fee for an arbitration cancelled with more than 30 days notice.
4. The arbitrator shall be guided by the objectives and principles set forth in the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputes" of the National Academy of Arbitrators, the American Arbitration Association, and the Federal Mediation and Conciliation Service. The commission shall promulgate rules within 90 days on ethical disclosures consistent with the pay-to-play law.

CREDIT(S)

L.1968, c. 303, § 7, eff. July 1, 1968. Amended by L.1974, c. 123, § 4; L. 1982, c. 103, § 1, eff. July 30, 1982; L.1996, c. 115, § 4, eff. Jan. 9, 1997; L.2003, c. 119, § 2, eff. July 1, 2003; L.2005, c. 161, § 2, eff. July 19, 2005; L.2005, c. 380, § 1, eff. Jan. 12, 2006.

New Jersey Statutes Annotated Currentness

Title 34. Labor and Workmen's Compensation

Chapter 13A. New Jersey Employer-Employee Relations Act (Refs & Annos)

→ 34:13A-16. Public fire and police departments; impasse in labor disputes; mediation, factfindings, terminal procedures and compulsory arbitration

a. (1) Negotiations between a public fire or police department and an exclusive representative concerning the terms and conditions of employment shall begin at least 120 days prior to the day on which their collective negotiation agreement is to expire. The parties shall meet at least three times during that 120-day period. The first of those three meetings shall take place no later than the 90th day prior to the day on which their collective negotiation agreement is to expire. By mutual consent, the parties may agree to extend the period during which the second and third meetings are required to take place beyond the day on which their collective negotiation agreement is to expire. A violation of this paragraph shall constitute an unfair practice and the violator shall be subject to the penalties prescribed by the commission pursuant to rule and regulation.

(2) Whenever those negotiations concerning the terms and conditions of employment shall reach an impasse, the commission, through the Division of Public Employment Relations shall, upon the request of either party, or upon its own motion take such steps, including the assignment of a mediator, as it may deem expedient to effect a voluntary resolution of the impasse.

b. (1) In the event of a failure to resolve the impasse by mediation, the Division of Public Employment Relations, at the request of either party, shall invoke factfinding with recommendation for settlement of all issues in dispute unless the parties reach a voluntary settlement prior to the issuance of the factfinder's report and recommended terms of settlement. Factfindings shall be limited to those issues that are within the required scope of negotiations unless the parties to the factfinding agree to factfinding on permissive subjects of negotiation. In the event of a continuing failure to resolve an impasse by means of the procedure set forth in this

paragraph, and notwithstanding the fact that such procedures have not been exhausted, the parties shall notify the commission, at a time and in a manner prescribed by the commission, as to whether or not they have agreed upon a terminal procedure for resolving the issues in dispute. Any terminal procedure mutually agreed upon by the parties shall be reduced to writing, provide for finality in resolving the issues in dispute, and shall be submitted to the commission for approval.

(2) Notwithstanding the provisions of paragraph (2) of subsection a. of this section or paragraph (1) of this subsection, either party may petition the commission for arbitration on or after the date on which their collective negotiation agreement expires. The petition shall be filed in a manner and form prescribed by the commission. The party filing the petition shall notify the other party of its action. The notice shall be given in a manner and form prescribed by the commission.

Within 10 days of the receipt of the notice by the non-petitioning party, the parties shall notify the commission as to whether or not they have agreed upon a terminal procedure for resolving the issues in dispute. Any terminal procedure mutually agreed upon by the parties shall be reduced to writing, provide for finality in resolving the issues in dispute, and shall be submitted to the commission for approval. If the parties fail to agree on a terminal procedure, they shall be subject to the provisions of subsection d. of this section.

c. Terminal procedures that are approvable include, but shall not be limited to the following:

(1) Conventional arbitration of all unsettled items.

(2) Arbitration under which the award by an arbitrator or panel of arbitrators is confined to a choice between (a) the last offer of the employer and (b) the last offer of the employees' representative, as a single package.

(3) Arbitration under which the award is confined to a choice between (a) the last offer of the employer and (b) the last offer of the employees' representative, on each issue in dispute, with the decision on an issue-by-issue basis.

(4) If there is a factfinder's report with recommendations on the issues in dispute, the parties may agree to arbitration under which the award would be confined to a choice among three positions: (a) the last offer of the employer as a single package, (b) the last offer of the employees' representative as a single package, or (c) the factfinder's recommendations as a single package.

(5) If there is a factfinder's report with a recommendation on each of the issues in dispute, the parties may agree to arbitration under which the award would be confined to a choice on each issue from among three positions: (a) the last offer of the employer on the issue, (b) the employee representative's last offer on the issue, or (c) the factfinder's recommendation on the issue.

(6) Arbitration under which the award on the economic issues in dispute is confined to a choice between (a) the last offer of the employer on the economic issues as a single package and (b) the employee representative's last offer on the economic issues as a single package; and, on any noneconomic issues in dispute, the award is confined to a choice between (a) the last offer of the employer on each issue in dispute and (b) the employee representative's last offer on that issue.

d. The following procedure shall be utilized if parties fail to agree on a terminal procedure for the settlement of an impasse dispute:

(1) In the event of a failure of the parties to agree upon an acceptable terminal procedure the parties shall separately so notify the commission in writing, indicating all issues in dispute and the reasons for their inability to agree on the procedure. The substance of a written notification shall not provide the basis for any delay in effectuating the provisions of this subsection.

(2) Upon receipt of such notification from either party or on the commission's own motion, the procedure to provide finality for the resolution of issues in dispute shall be binding arbitration under which the award on the unsettled issues is determined by conventional arbitration. The arbitrator shall separately determine whether the total net annual economic changes for each year of the agreement are reasonable under the nine statutory criteria set forth in subsection g. of this section.

e. (1) The commission shall take measures to assure the impartial selection of an arbitrator or arbitrators from its special panel of arbitrators. The assignment of any arbitrator shall be the responsibility of the commission, which shall randomly select three names from the list of qualified arbitrators, independent of and without any participation by either of the parties. The parties shall then chose the arbitrator from the randomly generated list of three individuals.

In any proceeding where an assigned arbitrator is unable to serve, the commission shall assign a replacement arbitrator. The assignment of any arbitrator shall be the responsibility of the commission, which shall randomly select three names from the list of qualified arbitrators, independent of and without any participation by either of the parties. The parties shall then choose the arbitrator from the randomly generated list of three individuals.

(2) Applicants for initial appointment to the commission's special panel of arbitrators shall possess the experience and professional qualifications required under the commission's rules. Appointment to the commission's special panel of arbitrators shall be for a three-year term, with reappointment contingent upon a screening process similar to that used for determining initial appointments.

(3) The arbitrator shall be guided by the objectives and principles set forth in the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputes" of the National Academy of Arbitrators, the American Arbitration Association, and the Federal Mediation and Conciliation Service. The commission shall promulgate rules within 90 days on ethical disclosures consistent with the pay-to-play law.

The commission may suspend, remove, or otherwise discipline an arbitrator for a violation of P.L.1977, c. 85 (C.34:13A-14 et seq.), section 4 of P.L.1995, c. 425 (C.34:13A-16.1) or for good cause.

f. (1) At a time prescribed by the commission, the parties shall submit to the arbitrator or tripartite panel of arbitrators their final offers on each economic and non-economic issue in dispute. The offers submitted pursuant to this section shall be used by the arbitrator for the purposes of determining an award pursuant to paragraph (2) of subsection d. of this section. The commission shall promulgate rules and procedures governing the submission of the offers required under this paragraph, including when those offers shall be deemed final, binding and irreversible.

(2) In the event of a dispute, the commission shall have the power to decide which issues are economic issues. Economic issues include those items which have a direct relation to employee income including wages, salaries, hours in relation to earnings, and other forms of compensation such as paid vacation, paid holidays, health and medical insurance, and other economic benefits to employees.

(3) Throughout formal arbitration proceedings the chosen arbitrator or panel of arbitrators may mediate or assist the parties in reaching a mutually agreeable settlement.

(4) Arbitration shall be limited to those subjects that are within the required scope of collective negotiations, except that the parties may agree to submit to arbitration one or more permissive subjects of negotiation.

(5) The decision of an arbitrator or panel of arbitrators shall include an opinion and an award, and shall be rendered within 120 days of the commission's assignment of that arbitrator or panel of arbitrators, as the case may be, pursuant to paragraph (1) of subsection e. of this section; provided, however, the arbitrator or panel of arbitrators, for good cause, may petition the commission for an extension of not more than 60 days. The two parties, by mutual consent, may agree to an extension. The parties shall notify the arbitrator and the commission of any such agreement in writing. The notice shall set forth the specific date on which the extension shall expire. Any arbitrator or panel of arbitrators violating the provisions of this paragraph may be subject to the commission's powers under paragraph (2) of subsection e. of this section. The decision shall be final and binding upon the parties and shall be irreversible, except:

(a) Within 14 days of receiving an award, an aggrieved party may file notice of an appeal of an award to the commission on the grounds that the arbitrator failed to apply the criteria specified in subsection g. of this section or violated the standards set forth in N.J.S.2A:24-8 or N.J.S.2A:24-9. The appeal shall be filed in a form and manner prescribed by the commission. In deciding an appeal, the commission, pursuant to rule and regulation and upon petition, may afford the parties the opportunity to present oral arguments. The commission may affirm, modify, correct or vacate the award or may, at its discretion, remand the award to the same arbitrator or to another arbitrator, selected by lot, for reconsideration. An aggrieved party may appeal a decision of the commission to the Appellate Division of the Superior Court.

(b) An award that is not appealed to the commission shall be implemented immediately. An award that is appealed and not set aside by the commission shall be implemented within 14 days of the receipt of the commission's decision absent a stay.

(6) The parties shall bear the costs of arbitration subject to a fee schedule approved by the commission. The fee schedule shall provide that the costs of services provided by an arbitrator shall not exceed \$1,000 per day for an interest or grievance arbitration. The commission may increase such fee by no more than 2.5% every 2 years. The fee for an arbitration cancelled with at least fifteen, and up to thirty, days notice shall not exceed \$500. There shall be no fee for an arbitration cancelled with more than 30 days notice.

g. The arbitrator or panel of arbitrators shall decide the dispute based on a reasonable determination of the issues, giving due weight to those factors listed below that are judged relevant for the resolution of the specific dispute. In the award, the arbitrator or panel of arbitrators shall indicate which of the factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor. The arbitrator or panel of arbitrators shall be prohibited from issuing any award which, on an annual basis, exceeds a total of 2.5% on economic issues including wages, salaries, hours in relation to earnings, and other forms of compensation such as paid vacation, paid holidays, health and

medical insurance, and other economic benefits to employees.

(1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L.1976, c. 68 (C.40A:4-45. 1 et seq.).

(2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:

(a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L.1995, c. 425 (C.34:13A-16.2); provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

(3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L.1976, c. 68 (C.40A:4-45.1 et seq.).

(6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account, to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element or, in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in a proposed local budget.

(7) The cost of living.

(8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours, and conditions of employment through collective negotiations

and collective bargaining between the parties in the public service and in private employment.

(9) Statutory restrictions imposed on the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by section 10 of P.L.2007, c. 62 (C.40A:4-45.45).

h. A mediator, factfinder, or arbitrator while functioning in a mediatory capacity shall not be required to disclose any files, records, reports, documents, or other papers classified as confidential received or prepared by him or to testify with regard to mediation, conducted by him under this act on behalf of any party to any cause pending in any type of proceeding under this act. Nothing contained herein shall exempt such an individual from disclosing information relating to the commission of a crime.

CREDIT(S)

L.1977, c. 85, § 3, eff. May 10, 1977. Amended by L.1995, c. 425, § 3, eff. Jan. 10, 1996; L.1997, c. 183, § 1, eff. Aug. 1, 1997; L.2007, c. 62, § 14, eff. April 3, 2007.

New Jersey Statutes Annotated Currentness

Title 40A. Municipalities and Counties (Refs & Annos)

☞ Chapter 14. Fire and Police

☞ Subchapter J. Suspension and Termination

→ **40A:14-210. Appeal to arbitration in lieu of appeal to Superior Court; procedural requirements; appointment and authority of arbitrator**

a. In lieu of serving a written notice to the Superior Court under the provisions of N.J.S.40A:14-150 or N.J.S.40A:14-22, as appropriate, seeking review of the termination of his employment for a complaint or charges, other than a complaint or charges relating to a criminal offense, as prescribed in subsection a. of section 10 of P.L.2009, c. 16 (C.40A:14-209), an officer or firefighter may submit his appeal to arbitration as hereinafter provided.

b. Within 20 days of receiving notice of termination, the officer or firefighter shall submit his appeal for arbitration to the Public Employment Relations Commission. The appeal shall be filed in a manner and form prescribed by the commission.

Upon receipt of such an appeal, the commission shall forthwith notify the employing agency or department of the appeal.

c. The commission shall establish a special panel of arbitrators to hear appeals filed pursuant to this section. The arbitrators selected to serve on this special panel shall be qualified by experience and expertise in disciplinary matters and cases subject to the provisions of P.L.2009, c. 16 (C.40A:14-200 et al.).

d. Within 10 days of notifying the appealing officer's former employing agency or the firefighter's former department, the commission shall assign an arbitrator. The assignment of any arbitrator shall be the responsibility of the commission, which shall randomly select three names from the list of qualified arbitrators, independent of and without any participation by either of the parties. The parties shall then choose the arbitrator from the randomly generated list of three individuals.

In any proceeding where an assigned arbitrator is unable to serve, the commission shall assign a replacement arbitrator. The assignment shall be the responsibility of the commission, which shall randomly select three names from the list of qualified arbitrators, independent of and without any participation by either of the parties. The parties shall then choose the arbitrator from the randomly generated list of three individuals.

e. The arbitrator may administer oaths, require the attendance of witnesses, and the production of such documents as he may deem material to a just determination of the appeal, and for such purpose may issue subpoenas. If any person refuses to obey a subpoena, or refuses to be sworn or to testify, or if any witness, party or attorney is guilty of contempt while in attendance of any hearing, the arbitrator may, or the Attorney General if requested, shall invoke the aid of the Superior Court within the county in which the hearing is being held, and that court shall issue an appropriate order. A failure to obey the order may be punished by the court as contempt.

f. The arbitrator shall render an opinion and final determination within 90 days of his appointment by assignment of the commission.

The arbitrator's final determination shall be binding on all parties and shall be implemented immediately.

g. (1) If the final determination sustains the officer's or the firefighter's appeal, the officer or firefighter shall be reinstated immediately with full pay, be restored all rights and benefits, including those accruable during the period of appeal, and shall, within a timely period prescribed by rule and regulation, be paid any salary moneys withheld by the officer's employing agency or the firefighter's department.

(2) If the final determination denies the officer's or the firefighter's appeal, the officer or

firefighter shall reimburse his employing agency or department for all pay received during the period of the appeal pursuant to this section. If an officer or firefighter fails to reimburse his employing agency or department for the amounts he received pursuant to this section, the agency or department may have a lien, pursuant to the provisions of section 13 of P.L.2009, c. 16 (C.40A:14-212), for those amounts on any and all property and income to which the officer or firefighter shall have or may acquire an interest in, including moneys contributed by the officer or firefighter to the Police and Firemen's Retirement System of New Jersey, established pursuant to P.L.1944, c. 255 (C.43:16A-1 et seq.) or any other State retirement system established by law, and all terminal pay, such as compensation for earned sick and vacation leave, to which the officer or firefighter is entitled.

h. (1) During the period of an appeal of an arbitrator's final determination filed by an officer's employing agency or a firefighter's department, that officer or firefighter shall be entitled to receive the salary he was being paid at the time of his termination and shall continue to do so until a final determination has been made on the appeal.

(2) During the period of an appeal of an arbitrator's final determination filed by an officer or firefighter, that officer or firefighter shall not be entitled to receive any salary.

CREDIT(S)

L.2009, c. 16, § 11, eff. June 1, 2009.

HISTORICAL AND STATUTORY NOTES

2009 Legislation

2010 Electronic Pocket Part Update.

For effective date provisions of L.2009, c. 16, approved March 5, 2009, see Historical and Statutory Notes under N.J.S.A. § 40A:14-200.

N. J. S. A. 40A:14-210, NJ ST 40A:14-210

Current with laws effective through L.2010, c. 3.

Proposed Amendments

(Proposed additions in text indicated by underline; proposed deletions are indicated by ~~strikeouts~~)

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

34:13A-5.3. Employee organizations; right to form or join; collective negotiations; arbitration presumption

(a) Except as hereinafter provided, public employees shall have, and shall be protected in the exercise of, the right, freely and without fear of penalty or reprisal, to form, join and assist any employee organization or to refrain from any such activity; provided, however, that this right shall not extend to elected officials, members of boards and commissions, managerial executives, or confidential employees, except in a school district the term managerial executive shall mean the superintendent of schools or his equivalent, nor, except where established practice, prior agreement or special circumstances dictate the contrary, shall any supervisor having the power to hire, discharge, discipline, or to effectively recommend the same, have the right to be represented in collective negotiations by an employee organization that admits nonsupervisory personnel to membership, and the fact that any organization has such supervisory employees as members shall not deny the right of that organization to represent the appropriate unit in collective negotiations; and provided further, that, except where established practice, prior agreement, or special circumstances dictate the contrary, no policeman shall have the right to join an employee organization that admits employees other than policemen to membership. The negotiating unit shall be defined with due regard for the community of interest among the employees concerned, but the commission shall not intervene in matters of recognition and unit definition except in the event of a dispute.

Representatives designated or selected by public employees for the purposes of collective negotiation by the majority of the employees in a unit appropriate for such purposes, by the majority of the employees voting in an election conducted by the commission as authorized by this act or, at the option of the representative in a case in which the commission finds that only one representative is seeking to be the majority representative, by a majority of the employees in the unit signing authorization cards indicating their preference for that representative, shall be the exclusive representatives for collective negotiation concerning the terms and conditions of employment of the employees in such unit. An authorization card indicating preference shall not be valid unless it is printed in a language understood by the employees who signs it.

Nothing herein shall be construed to prevent any official from meeting with an employee organization for the purpose of hearing the views and requests of its members in such unit so long as (a) the majority representative is informed of the meeting; (b) any changes or modifications in terms and conditions of employment are made only through negotiation with the majority representative; and (c) a minority organization shall not

present or process grievances. Nothing herein shall be construed to deny to any individual employee his rights under Civil Service laws or regulations. When no majority representative has been selected as the bargaining agent for the unit of which an individual employee is a part, he may present his own grievance either personally or through an appropriate representative or an organization of which he is a member and have such grievance adjusted.

(b) A majority representative of public employees in an appropriate unit shall be entitled to act for and to negotiate agreements covering all employees in the unit and shall be responsible for representing the interest of all such employees without discrimination and without regard to employee organization membership. Proposed new rules or modifications of existing rules governing working conditions shall be negotiated with the majority representative before they are established. In addition, the majority representative and designated representatives of the public employer shall meet at reasonable times and negotiate in good faith with respect to grievances, disciplinary disputes, and other terms and conditions of employment. Nothing herein shall be construed as permitting negotiation of the standards or criteria for employee performance or the imposition of temporary layoffs as provided under N.J.S. 11A:8-1.1, regardless of whether the public employer is subject to the provisions of Title 11A, Civil Service.

When an agreement is reached on the terms and conditions of employment, it shall be embodied in writing and signed by the authorized representatives of the public employer and the majority representative.

Where the parties cannot reach an agreement through direct negotiation, the commission shall take measures to assure the impartial selection of a mediator, fact-finder and super-conciliator from its panels. The assignment of any mediator, fact-finder or super-conciliator shall be determined by the selection of three names by the Commission for review by the parties from which list the parties shall agree on one mediator.

1. The parties are prohibited from entering into a collective negotiation agreement which, on an annual basis, exceeds a total of 2.5% on economic issues including wages, salaries, hours in relation to earnings, and other forms of compensation such as paid vacation, paid holidays, health and medical insurance, and other economic benefits to employees.
2. Any mediator, fact-finder or super-conciliator appointed by the commission may not recommend or award any settlement or agreement which exceeds the amount set forth in (b)1 above.

(c) Public employers shall negotiate written policies setting forth grievance and disciplinary review procedures by means of which their employees or representatives of employees may appeal the interpretation, application or violation of policies, agreements, and administrative decisions, including disciplinary determinations, affecting them, provided that such grievance and disciplinary review procedures shall be included in any agreement entered into between the public employer and the representative organization.

costs of services provided by an arbitrator shall not exceed \$1,000 per day for grievance arbitration. The commission may increase such fee by no more than 2.5% every 2 years. The fee for an arbitration cancelled with at least fifteen, and up to thirty, days notice shall not exceed \$500. There shall be no fee for an arbitration cancelled with more than 30 days notice.

4. The arbitrator shall be guided by the objectives and principles set forth in the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputes" of the National Academy of Arbitrators, the American Arbitration Association, and the Federal Mediation and Conciliation Service. The commission shall promulgate rules within 90 days on ethical disclosures consistent with the pay-to-play law.

Such grievance and disciplinary review procedures may provide for binding arbitration as a means for resolving disputes. Except as otherwise provided herein, the procedures agreed to by the parties may not replace or be inconsistent with any alternate statutory appeal procedure nor may they provide for binding arbitration of disputes involving the discipline of employees with statutory protection under tenure or civil service laws, except that such procedures may provide for binding arbitration of disputes involving the minor discipline of any public employees protected under the provisions of section 7 of P.L.1968, c. 303 (C.34:13A-5.3), other than public employees subject to discipline pursuant to R.S.53:1-10. Grievance and disciplinary review procedures established by agreement between the public employer and the representative organization shall be utilized for any dispute covered by the terms of such agreement. For the purposes of this section, minor discipline shall mean a suspension or fine of less than five days unless the employee has been suspended or fined an aggregate of 15 or more days or received more than three suspensions or fines of five days or less in one calendar year.

Where the State of New Jersey and the majority representative have agreed to a disciplinary review procedure that provides for binding arbitration of disputes involving the major discipline of any public employee protected under the provisions of this section, other than public employees subject to discipline pursuant to R.S.53:1-10, the grievance and disciplinary review procedures established by agreement between the State of New Jersey and the majority representative shall be utilized for any dispute covered by the terms of such agreement. For the purposes of this section, major discipline shall mean a removal, disciplinary demotion, suspension or fine of more than five days, or less where the aggregate number of days suspended or fined in any one calendar year is 15 or more days or unless the employee received more than three suspensions or fines of five days or less in one calendar year.

1. In interpreting the meaning and extent of a provision of a collective negotiation agreement providing for grievance arbitration, a court or agency shall be bound by a presumption in favor of arbitration. Doubts as to the scope of an arbitration clause shall be resolved in favor of requiring arbitration. The commission shall take measures to assure the impartial selection of an arbitrator for grievance arbitration and Special Disciplinary Arbitration from its special panel of arbitrators. The assignment of any arbitrator shall be the responsibility of the commission, independent of and without any participation by either of the parties. The commission shall select the arbitrator for assignment by lot.
2. Applicants for initial appointment to the commission's special panel of arbitrators shall possess the experience and professional qualifications required under the commission's rules.
3. The parties shall bear the costs of arbitration subject to a fee schedule approved by the commission. The fee schedule shall provide that the

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

New Jersey Statutes Annotated Currentness

Title 34. Labor and Workmen's Compensation

Chapter 13A. New Jersey Employer-Employee Relations Act (Refs & Annos)

→ **34:13A-34. Mandatory fact finding; report; appointment of super conciliator**

a. Where the parties cannot reach an agreement through direct negotiation, the commission shall take measures to assure the impartial selection of a mediator, fact-finder and super-conciliator from its panels. The assignment of any mediator, fact-finder or super-conciliator shall be the responsibility of the commission, independent of and without any participation by either of the parties.

1. The parties are prohibited from entering into a collective negotiation agreement which, on an annual basis, exceeds a total of 2.5% on economic issues including wages, salaries, hours in relation to earnings, and other forms of compensation such as paid vacation, paid holidays, health and medical insurance, and other economic benefits to employees.
2. Any mediator, fact-finder or super-conciliator appointed by the commission may not recommend or award any settlement or agreement which exceeds the amount set forth in (a)1 above.

b. In any case in which collective negotiations between an employer and a majority representative have failed to result in the parties reaching agreement on the terms of a negotiated agreement and the commission's mediation procedures have been exhausted with no final agreement having been reached, the parties shall be required to participate in mandatory fact finding, which shall be conducted by a fact finder under the jurisdiction of the commission, subject to procedures established by the commission pursuant to regulation. The fact finder shall be appointed no later than 30 days after the last meeting between the parties and the mediator in connection with the mediation pursuant to this act.

c. Following completion of such fact finding, the fact finder's report shall be made available to the parties immediately after its issuance, and to the public 10 days thereafter.

d. If the employer and the majority representative do not reach a voluntary negotiated agreement within 20 days after the issuance of the fact finder's report, the commission shall appoint a super conciliator to assist the parties, based upon procedures and subject to qualifications established by the commission pursuant to regulation.

CREDIT(S)

L.2003, c. 126, § 4, eff. July 10, 2003.

ADMINISTRATIVE CODE REFERENCES

Appointment of super conciliator, see N.J.A.C. 19:12-4.4.

N. J. S. A. 34:13A-34, NJ ST 34:13A-34

Current with laws effective through L.2010, c. 3.

AN ACT concerning eligibility for service credit in a State-administered retirement system.

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

1. N.J.S.18A:6-48 is amended to read as follows:

18A:6-48. a. The association may select such officers as may be necessary for the transaction of its business.

b. A person commencing service on or after the effective date of P.L. , c. (pending before the Legislature as this bill) as an officer or employee of the association shall not be eligible on the basis of that service to enroll in a State-administered retirement system. The enrollment of an officer or employee with less than ten years of service credit in the retirement system as of that effective date shall be terminated as of that effective date. An officer or employee with ten or more years of service credit in the retirement system as of that effective date shall be eligible to continue in the retirement system under the terms and conditions of the person's enrollment if the person continues the service without a break.

(cf: P.L.1970, c.104, s.4)

2. Section 3 of P.L.1983, c.108 (C.18A:18B-3) is amended to read as follows:

3. a. Any two or more boards of education may form and become members of a school board insurance group. A board of education may take this action by resolution of the board. Through membership in a school board insurance group, a board of education may participate in any joint self-insurance fund or funds, risk management programs or related services offered or provided by the group. The group shall have the power to establish a fund or funds for coverages authorized in section 2 of this act and to jointly purchase insurance or coverages under a master policy or contract of insurance for participating members. The group shall have the power to take other actions necessary to developing, administering, and providing risk management programs, joint self-insurance funds, joint insurance purchases, and related services.

b. The bylaws of the school board insurance group shall provide that any board of education may join the group, provided it agrees to comply with the standards for membership, including risk management programs, which shall be established by the group, and may be a member as long as it complies with the standards for membership.

c. A school board insurance group may sue or be sued and shall appoint a natural person residing in this State or a corporation authorized to do business in this State as its agent for service of process. The group shall notify the commissioner of the appointment.

d. A school board insurance group is not an insurance company or an insurer under the laws of this State and the development, administration or provision by a group of joint self-insurance fund or funds, risk management programs and related services does not constitute the transaction of insurance nor doing an insurance business. A group shall not be subject to the provisions of Title 17, Subtitle 3, Insurance, of the Revised Statutes.

e. A person commencing service on or after the effective date of P.L. , c. (pending before the Legislature as this bill) as an officer or employee of a school board insurance group shall not be eligible on the basis of that service to enroll in a State-administered retirement system. The enrollment of an officer or employee with less than ten years of service credit in the retirement system as of that effective date shall be terminated as of that effective date. An officer or employee with ten or more years of service credit in the retirement system as of that effective date shall be eligible to continue in the retirement system under the terms and conditions of the person's enrollment if the person continues the service without a break.

(cf: P.L.1983, c.108, s.3)

3. Section 3 of P.L.1985, c.204 (C.18A:64A-25.35) is amended to read as follows:

3. a. Any two or more county colleges may form and become members of a county college insurance group. A county college may take this action by resolution of the board of trustees of the county college. Through membership in a county college insurance group, a county college may participate in any joint self-insurance fund or funds, risk management programs or related services offered or provided by the group. The group shall have the power to establish a fund or funds for coverages authorized in section 2 of this act and to jointly purchase insurance or coverages under a master policy or contract of insurance for participating members. The group shall have the power to take other actions necessary to developing, administering, and providing risk management programs, joint self-insurance funds, joint insurance purchases, and related services.

b. The bylaws of the county college insurance group shall provide that any county college may join the group; provided it agrees to comply with the standards for membership, including risk management programs, which shall be established by the group, and may be a member as long as it complies with the standards for membership.

c. A county college insurance group may sue or be sued and shall appoint a natural person residing in this State or a corporation authorized to do business in this State as its agent for service of process. The group shall notify the commissioner of the appointment.

d. A county college insurance group is not an insurance company or an insurer under the laws of this State and the development, administration or provision by a group of joint self-insurance fund or

funds, risk management programs and related services does not constitute the transaction of insurance or doing an insurance business. A group shall not be subject to the provisions of Title 17, Subtitle 3 of the Revised Statutes.

e. A person commencing service on or after the effective date of P.L. , c. (pending before the Legislature as this bill) as an officer or employee of a county college insurance group shall not be eligible on the basis of that service to enroll in a State-administered retirement system. The enrollment of an officer or employee with less than ten years of service credit in the retirement system as of that effective date shall be terminated as of that effective date. An officer or employee with ten or more years of service credit in the retirement system as of that effective date shall be eligible to continue in the retirement system under the terms and conditions of the person's enrollment if the person continues the service without a break.

(cf: P.L.1985, c.204, s.3)

4. Section 3 of P.L.1983, c.372 (C.40A:10-38) is amended to read as follows:

3. a. The commissioners of a joint insurance fund shall have the powers and authority granted to commissioners of individual local insurance funds under the provisions of subsections a., b., c., and e. of N.J.S.40A:10-10.

b. The commissioners may invest and reinvest the funds, including workers' compensation funds, as authorized under the provisions of subsection b. of N.J.S.40A:10-10. The commissioners may, subject to the cash management plan of the joint insurance fund adopted pursuant to N.J.S.40A:5-14, delegate any of the functions, powers and duties relating to the investment and reinvestment of these funds, including the purchase, sale or exchange of any investments, securities or funds to an investment or asset manager. Any transfer of investment power and duties made pursuant to this subsection shall be detailed in a written contract for services between the joint insurance fund and an investment or asset manager. The contract shall be filed with the Commissioner of Banking and Insurance and the Commissioner of Community Affairs. Compensation under such an arrangement shall not be based upon commissions related to the purchase, sale or exchange of any investments, securities or funds.

c. The commissioners may transfer moneys held in the fund to the Director of the Division of Investment in the Department of the Treasury for investment on behalf of the fund, pursuant to the written directions of the commissioners, signed by an authorized officer of the joint insurance fund, or any investment or asset manager designated by them. The commissioners shall provide a written notice to the director detailing the extent of the authority delegated to the investment or asset manager so designated to act on behalf of the joint insurance fund. Moneys transferred to the

director for investment shall be invested subject to section 8 of P.L.1977, c.396 (C.40A:5-15.1), and in accordance with the standards governing the investment of other funds which are managed under the rules and regulations of the State Investment Council. In addition to the types of securities in which the joint insurance fund may invest pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1), a joint insurance fund may invest in debt obligations of federal agencies or government corporations with maturities not to exceed 10 years from the date of purchase, excluding mortgage backed or derivative obligations, provided that the investments are purchased through the Division of Investment and are invested consistent with the rules and regulations of the State Investment Council.

d. Moneys transferred to the director for investment may not thereafter be withdrawn except: (1) pursuant to the written directions of the commissioners signed by an authorized officer of the joint insurance fund, or any investment or asset manager designated by them; (2) upon withdrawal or expulsion of a member local unit from the fund; (3) termination of the fund; or (4) in specific amounts in payment of specific claims, administrative expenses or member dividends upon affidavit of the director or other chief executive officer of the joint insurance fund.

e. The commissioners or the executive board, as the case may be, of any joint insurance fund established pursuant to the provisions of this act shall be subject to and operate in compliance with the provisions of the "Local Fiscal Affairs Law" (N.J.S.40A:5-1 et seq.), the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) and such other rules and regulations as govern the custody, investment and expenditure of public funds by local units.

f. A person commencing service on or after the effective date of P.L. , c. (pending before the Legislature as this bill) as an officer or employee of a joint insurance fund shall not be eligible on the basis of that service to enroll in a State-administered retirement system. The enrollment of an officer or employee with less than ten years of service credit in the retirement system as of that effective date shall be terminated as of that effective date. An officer or employee with ten or more years of service credit in the retirement system as of that effective date shall be eligible to continue in the retirement system under the terms and conditions of the person's enrollment if the person continues the service without a break.

(cf: P.L.1995, c.374, s.1)

5. R.S.40:48-22 is amended to read as follows:

40:48-22. a. Any municipality, by resolution of its governing body, may join with any other municipality or municipalities in the formation of an organization of municipalities, for the purpose of securing concerted action in behalf of such measures as the organization shall determine to be in the common interest of the organizing municipalities. The organization may meet at such times and

places as it may determine for the discussion of measures deemed to affect the welfare of the several municipalities members thereof; maintain an office, in charge of a secretary or other officer or agent appointed by the organization; circulate literature and information among the municipal officers of this state, and may generally take such action as the organization in meeting shall determine to be wise in support of such measures as it deems to be in the interest of the several municipalities members thereof.

b. A person commencing service on or after the effective date of P.L. , c. (pending before the Legislature as this bill) as an officer or employee of an organization of municipalities shall not be eligible on the basis of that service to enroll in a State-administered retirement system. The enrollment of an officer or employee with less than ten years of service credit in the retirement system as of that effective date shall be terminated as of that effective date. An officer or employee with ten or more years of service credit in the retirement system as of that effective date shall be eligible to continue in the retirement system under the terms and conditions of the person's enrollment if the person continues the service without a break.

(cf: R.S.40:48-22)

6. Section 4 of P.L.1972, c. 134 (C.40:56-68) is amended to read as follows:

4. a. A pedestrian mall ordinance may be adopted if the governing body of any municipality finds: (1) a street or part thereof is not a part of any State highway, is located primarily in a business district, is improved to its maximum feasible width with regard to adjoining buildings and improvements, (2) reasonably convenient alternate routes to other parts of the municipality and State exist for private vehicles, (3) continued unlimited use of the street or part thereof by private vehicles may constitute a hazard to the health and safety of pedestrians, (4) abutting properties can reasonably and adequately be provided with emergency vehicular services and receive and deliver merchandise and materials from other streets and alleys or by provisions for limited use of the streets by emergency vehicles and carriers of such merchandise and materials, and (5) it is in the best interests of the municipality and the public and of benefit to adjacent properties to use such street primarily for pedestrian purposes, and that pedestrian use is determined to be the highest and best use of such street or part thereof.

b. A special improvement district ordinance may be adopted if the governing body of a municipality finds: (1) that an area within the municipality, as described by lot and block numbers and by street addresses in the enabling ordinance, would benefit from being designated as a special improvement district; (2) that a district management corporation would provide administrative and other services to benefit the businesses, employees, residents and consumers in the special

improvement district; (3) that a special assessment shall be imposed and collected by the municipality with the regular property tax payment or payment in lieu of taxes or otherwise, and that all or a portion of these payments shall be transferred to the district management corporation to effectuate the purposes of this amendatory and supplementary act and to exercise the powers given to it by municipal ordinance; and (4) that it is in the best interests of the municipality and the public to create a special improvement district and to designate a district management corporation; except that no district management corporation shall be designated to receive any funds or to exercise any powers pursuant to the provisions of this amendatory and supplementary act, unless the board of directors of that corporation shall include at least one member of the governing body of the municipality.

A person commencing service on or after the effective date of P.L. , c. (pending before the Legislature as this bill) as an officer or employee of a district management corporation shall not be eligible on the basis of that service to enroll in a State-administered retirement system. The enrollment of an officer or employee with less than ten years of service credit in the retirement system as of that effective date shall be terminated as of that effective date. An officer or employee with ten or more years of service credit in the retirement system as of that effective date shall be eligible to continue in the retirement system under the terms and conditions of the person's enrollment if the person continues the service without a break.

(cf: P.L.1984, c.151, s.5)

7. Section 7 of P.L.1954, c.84 (C.43:15A-7) is amended to read as follows;

7. There is hereby established the Public Employees' Retirement System of New Jersey in the Division of Pensions and Benefits of the Department of the Treasury. The membership of the retirement system shall include:

a. The members of the former "State Employees' Retirement System of New Jersey" enrolled as such as of December 30, 1954, who shall not have claimed for refund their accumulated deductions in said system as provided in this section;

b. Any person becoming an employee of the State or other employer after January 2, 1955 and every veteran, other than a retired member who returns to service pursuant to subsection b. of section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those whose appointments are seasonal, becoming an employee of the State or other employer after such date, including a temporary employee with at least one year's continuous service. The membership of the retirement system shall not include those persons appointed to serve as described in paragraphs (2) and (3) of subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2), except a person who was a member of the retirement

system prior to the effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) and continuously thereafter; and

c. Every employee veteran in the employ of the State or other employer on January 2, 1955, who is not a member of any retirement system supported wholly or partly by the State.

d. Membership in the retirement system shall be optional for elected officials other than veterans, and for school crossing guards, who having become eligible for benefits under other pension systems are so employed on a part-time basis. Elected officials commencing service on or after the effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) shall not be eligible for membership in the retirement system based on service in the elective public office, except that an elected official enrolled in the retirement system as of that effective date who continues to hold that elective public office without a break in service shall be eligible to continue membership in the retirement system under the terms and conditions of enrollment. Service in the Legislature shall be considered a single elective public office. Any part-time school crossing guard who is eligible for benefits under any other pension system and who was hired as a part-time school crossing guard prior to March 4, 1976, may at any time terminate his membership in the retirement system by making an application in writing to the board of trustees of the retirement system. Upon receiving such application, the board of trustees shall terminate his enrollment in the system and direct the employer to cease accepting contributions from the member or deducting from the compensation paid to the member. State employees who become members of any other retirement system supported wholly or partly by the State as a condition of employment shall not be eligible for membership in this retirement system. Notwithstanding any other law to the contrary, all other persons accepting employment in the service of the State shall be required to enroll in the retirement system as a condition of their employment, regardless of age. Before or on the effective date of P.L.2008, c.89, no person in employment, office or position, for which the annual salary or remuneration is fixed at less than \$1,500.00, shall be eligible to become a member of the retirement system. After the effective date of P.L.2008, c.89, a person who was a member of the retirement system on that effective date and continuously thereafter shall be eligible to be a member of the retirement system in employment, office or position, for which the annual salary or remuneration is fixed at \$1,500 or more. After the effective date of P.L.2008, c.89, a person who was not a member of the retirement system on that effective date, or who was a member of the retirement system on that effective date but not continuously thereafter, and who is in employment, office or position, for which the annual salary or remuneration is certified by the applicable public entity at \$7,500 or more, shall be eligible to become a member of the

retirement system. The \$7,500 minimum annual salary or remuneration amount shall be adjusted annually by the Director of the Division of Pensions and Benefits, by regulation, in accordance with changes in the Consumer Price Index but by no more than 4 percent. "Consumer Price Index" means the average of the annual increase, expressed as a percentage, in the consumer price index for all urban consumers in the New York City and Philadelphia metropolitan statistical areas during the preceding calendar year as reported by the United States Department of Labor.

e. Membership of any person in the retirement system shall cease if he shall discontinue his service for more than two consecutive years.

f. The accumulated deductions of the members of the former "State Employees' Retirement System" which have been set aside in a trust fund designated as Fund A as provided in section 5 of this act and which have not been claimed for refund prior to February 1, 1955 shall be transferred from said Fund A to the Annuity Savings Fund of the Retirement System, provided for in section 25 of this act. Each member whose accumulated deductions are so transferred shall receive the same prior service credit, pension credit, and membership credit in the retirement system as he previously had in the former "State Employees' Retirement System" and shall have such accumulated deductions credited to his individual account in the Annuity Savings Fund. Any outstanding obligations of such member shall be continued.

g. Any school crossing guard electing to terminate his membership in the retirement system pursuant to subsection d. of this section shall, upon his request, receive a refund of his accumulated deductions as of the date of his appointment to the position of school crossing guard. Such refund of contributions shall serve as a waiver of all benefits payable to the employee, to his dependent or dependents, or to any of his beneficiaries under the retirement system.

h. A temporary employee who is employed under the federal Workforce Investment Act shall not be eligible for membership in the system. Membership for temporary employees employed under the federal Job Training Partnership Act, Pub.L.97-300 (29 U.S.C.s.1501) who are in the system on September 19, 1986 shall be terminated, and affected employees shall receive a refund of their accumulated deductions as of the date of commencement of employment in a federal Job Training Partnership Act program. Such refund of contributions shall serve as a waiver of all benefits payable to the employee, to his dependent or dependents, or to any of his beneficiaries under the retirement system.

i. Membership in the retirement system shall be optional for a special service employee who is employed under the federal Older American Community Service Employment Act, Pub.L.94-135 (42 U.S.C.s.3056). Any special service employee employed under the federal Older American Community Service Employment Act, Pub.L.94-135 (42 U.S.C.s.3056), who is in the retirement

system on the effective date of P.L.1996, c.139 may terminate membership in the retirement system by making an application in writing to the board of trustees of the retirement system. Upon receiving the application, the board shall terminate enrollment in the system and the member shall receive a refund of accumulated deductions as of the date of commencement of employment in a federal Older American Community Service Employment Act program. This refund of contributions shall serve as a waiver of all benefits payable to the employee, to any dependent or dependents, or to any beneficiary under the retirement system.

j. An employee of the South Jersey Port Corporation who was employed by the South Jersey Port Corporation as of the effective date of P.L.1997, c.150 (C.34:1B-144 et al.) and who shall be re-employed within 365 days of such effective date by a subsidiary corporation or other corporation, which has been established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the Delaware River Port Authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), shall be eligible to continue membership while an employee of such subsidiary or other corporation.

k. An officer or employee of a nonprofit organization that is an educational foundation, or substantially similar entity, created by or on behalf of an institution of higher education in this State for the purpose of receiving donations shall not be eligible for membership in the system on the basis of that employment.

(cf: P.L.2008, c.89, s.7)

8. Section 65 of P.L.1954, c.84 (C.43:15A-65) is amended to read as follows:

65. (a) All employees of any public agency or organization of this State, which employs persons engaged in service to the public, shall be eligible to participate in the Public Employees' Retirement System; provided the employer consents thereto by resolution and files a certified copy of such resolution with the board of trustees of the Public Employees' Retirement System and the board of trustees approves thereof by resolution. Such organization shall be referred to in this act as the employer. If the participation of such employees is so approved then the employer shall contribute to the contingent reserve fund on account of its members at the same rate per centum as would be paid by employers other than the State.

(b) Notwithstanding the provisions of subsection (a) of this section, every person becoming an employee of a public agency or organization of this State, which employs persons engaged in service to the public, after June 30, 1966, who is not eligible to become a member of any other retirement system, shall be required to participate in the Public Employees' Retirement System. Notwithstanding the provisions of subsection (a) of this section, membership in the Public Employees' Retirement System shall be optional with any person in the employ of any such public agency or organization on

June 30, 1966, provided such person is not required to be a member pursuant to another provision of this act, and provided further that such person is not eligible to be a member of any other retirement system. The provisions of this subsection shall not apply to any person whose position is temporary or seasonal, nor to any person in office, position or employment for which the annual salary or remuneration is fixed at less than that which is required for membership pursuant to section 7 of P.L.1954, c.84 (C.43:15A-7) as applicable to the member, nor to any person whose position is not covered by the old-age and survivors' insurance provisions of the federal Social Security Act. The public agency or organization employing any such person who becomes a member of the retirement system pursuant to this subsection shall contribute to the contingent reserve fund on account of such employees at the same rate per centum as would be paid by employers other than the State.

(c) A person commencing service on or after the effective date of P.L. , c. (pending before the Legislature as this bill) as an officer or employee of an organization or association of counties or municipalities, such as the New Jersey State League of Municipalities and the New Jersey Association of Counties, or a substantially similar successor organization or association, or a joint insurance group or fund for political subdivisions of this State, shall not be eligible for membership in the retirement system based on that service. The enrollment of an officer or employee with less than ten years of service credit in the retirement system as of that effective date shall be terminated as of that effective date. An officer or employee with ten or more years of service credit in the retirement system as of that effective date shall be eligible to continue in the retirement system under the terms and conditions of the person's enrollment if the person continues the service without a break.

(cf: P.L.2008, c.89, s.9)

9. Section 71 of P.L.1954, c.84 (C.43:15A-71) is amended to read as follows:

71. The words "public agency or organization" as used in this act shall be construed to mean and include any agency or organization which operates public works or is engaged in service to the public for 1 or more municipalities, local boards of health, or counties, and whose revenue is derived from other than State funds, but shall not be construed to include any subdivision of any county, municipality, school district, privately owned public utility or service or any religious, educational or charitable organization.

An organization or association of counties or municipalities, such as the New Jersey State League of Municipalities and the New Jersey Association of Counties, and a substantially similar successor organization or association, and a joint insurance group or fund for political subdivisions of this State shall not be considered a public agency or organization with regard to its officers and employees

commencing service on or after the effective date of P.L. , c. (pending before the Legislature as this bill) or with regard to its officers or employees with less than ten years of service credit in the retirement system as of that effective date.

(cf: P.L.1954, c.84, s.71)

10. Section 3 of P.L. 2005, c. 368 (C.43:15A-39.1) is hereby repealed.

~~a. Any member who serves, while on an approved leave of absence from regular duties, as an officer or representative of a local, county or State labor organization which represents, or is affiliated with an organization which represents, public employees shall have the option to receive credit in the retirement system for the service. Any member who chooses to receive the credit shall be liable, with respect to the service to be credited, for payment to the retirement system of both the contributions that would have been required under section 25 of P.L.1954, c.84 (C.43:15A-25) and section 30 of P.L.1954, c.84 (C.43:15A-30) and the contributions that would have been required under section 24 of P.L.1954, c.84 (C.43:15A-24) if that service had been rendered as regular service to the employer granting the leave of absence. The contributions shall be based upon the compensation that would have been received by the member under the negotiated salary guide of the employer granting the leave had that member remained in service with that employer, including applicable normal increments and negotiated wage increases occurring during the period of the leave.~~

~~b. Any member who, prior to the effective date of P.L.2005, c.368, had been granted and had taken an approved unpaid leave of absence and who has not received credit in the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), for that service may elect, within one year after that effective date, to purchase credit for the service. The cost of the purchase shall be computed by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase and necessary to provide for the full cost, as considered in developing the purchase factors for military service, attributable to the purchased credit, to the member's salary at that time for a member in regular service with the employer. All other terms of the purchase and the credit granted shall be as stipulated for the purchase of previous membership service by section 8 of P.L.1954, c.84 (C.43:15A-8).~~

11. Section 2 of P.L. 1989, c. 198 (C. 18A:66-14.2) is hereby repealed.

~~a. Any person who serves, while on an approved leave of absence from regular duties as a teacher, as an officer of a local, county or State labor organization which represents, or is affiliated with an organization which represents, teachers as defined in N.J.S. 18A:66-2, shall receive credit in the retirement system for the service. The person receiving the credit shall be liable, with respect to the service to be credited, for payment to the retirement system of both the contributions that would have been required under N.J.S. 18A:66-29 and N.J.S. 18A:66-31 and the contributions that would have been required under N.J.S. 18A:66-33 if that service had been rendered as regular teaching service to the employer granting the leave of absence. The contributions shall be based upon the compensation that would have been received by the person under the locally negotiated salary guide had that person remained in regular teaching service.~~

~~b. Any person who, prior to the effective date of this 1989 amendatory and supplementary act, has rendered service as defined in subsection a. and who has not received credit in the retirement system for that service may elect, within one year after that effective date, to purchase credit for the service. The cost of the purchase shall be computed by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase and necessary to provide for the full cost, as considered in developing the purchase factors for military service, attributable to the purchased credit, to the member's salary at that time for a member in regular teaching service or the salary the member would be receiving at that time on the locally negotiated salary guide for a member serving as an officer of a local, county or State labor organization. All other terms of the purchase and the credit granted shall be as stipulated for the purchase of previous membership service by N.J.S. 18A:66-9.~~

12. This act shall take effect immediately.

AN ACT concerning limiting sick leave and vacation leave payouts for public employees and the use of accumulated sick leave prior to retirement and amending and supplementing various parts of statutory law.

1. (New section) 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.

2. (New section) 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.

3. (New section) 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 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.

4. 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.
- g. Authorized expenses of a consolidation commission established pursuant to the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et seq.).
- h. Contractually required severance liabilities resulting from the layoff or retirement of employees(, when the total liability is in excess of 10 per cent of the amount to be raised by taxes for municipal purposes in the fiscal year in which the layoffs or retirements take place). 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 10 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.1999, c.200, s.1)

5. 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 by an employee in the twelve

months prior to retirement in anticipation of that retirement 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 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 second violation of the prohibition, deduct all sick leave 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.11A:6-5)

6. (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 by an officer or employee in the twelve months prior to retirement in anticipation of that retirement without a medical necessity verified in writing by a physician shall be prohibited. The governing body of the 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 second violation of the prohibition, deduct all sick leave 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.

7. The provisions of P.L. , c. (pending before the Legislature as this bill) shall not be deemed to impair the obligation of a collective bargaining agreement or individual contract of employment in effect on the effective date of P.L. , c. (pending before the Legislature as this bill) that provides for relevant discipline procedures or supplemental compensation at retirement for unused accumulated sick leave.

8. This act shall take effect July 1, 2010.

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

(Proposed additions in text indicated by underline; proposed deletions are indicated by ~~strikeouts~~)

40A:65-11. Services that use public employees; provisions for an employment reconciliation plan; contents; transfer of employees

a. When a local unit contracts, through a shared service or joint meeting, to have another local unit or a joint meeting provide a service it is currently providing using public employees and one or more of the local units have adopted Title 11A, Civil Service, then each of the agreement units shall include submit an employment reconciliation plan to the Civil Service Commission in accordance with this section that and, if one or more of the local units have adopted Title 11A, Civil Service, which shall specifically set forth the intended jurisdiction of the Civil Service Commission if one or more of the local units have adopted Title 11A, Civil Service, and identify the local unit providing the service and the local unit receiving the service.

A layoff plan of a local unit having adopted Title 11A, Civil Service, may be substituted for an employment reconciliation plan if it includes, at a minimum, the following requirement of an ~~An~~ employment reconciliation plan shall be subject to the following provisions:

(1) a determination of those employees, if any, that shall be transferred to the providing local unit, retained by the recipient local unit, or terminated from employment for reasons of economy or efficiency, ~~subject to the provisions of any existing collective bargaining agreements within the local units.~~

(2) ~~any employee terminated for reasons of economy or efficiency by the local unit providing the service under the shared service agreement shall be given a terminal leave payment of not less than a period of one month for each five year period of past service as an employee with the local unit, or other enhanced benefits that may be provided or negotiated. For the purposes of this paragraph, "terminal leave payment" means a single, lump sum payment, paid at termination, calculated using the regular base salary at the time of termination. Unless otherwise negotiated or provided by the employer, a terminal leave benefit shall not include extended payment, or payment for retroactive salary increases, bonuses, overtime, longevity, sick leave, accrued vacation or other time benefit, or any other benefit.~~

(3) ~~b. the~~ The Civil Service Commission shall place any employee that has permanent status pursuant to Title 11A, Civil Service, of the New Jersey Statutes, and that is terminated for reasons of economy or efficiency at any time by either local unit, on a special reemployment list for the local unit from which the employee is terminated. ~~any civil service employer within the county of the agreement or any political subdivision therein.~~

(4) ~~when a proposed shared service agreement affects employees in local units subject to Title 11A, Civil Service, of the New Jersey Statutes, an employment reconciliation plan list shall be filed with the Civil Service Commission prior to the approval of the shared~~

~~service agreement. The department shall review it for consistency with this section within 45 days of receipt and it shall be deemed approved, subject to approval of the shared service agreement by the end of that time, unless the department has responded with a denial or conditions that must be met in order for it to be approved.~~

(5) ~~c.~~ When an action is required of the Civil Service Commission by this section, parties to a planned shared service agreement may consult with that commission in advance of the action and the commission shall provide such technical support as may be necessary to assist in the preparation of an employment reconciliation plan or any other action required of the commission by this section.

~~b. d.~~ If all the local units that are parties to the agreement are subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, the Civil Service Commission shall create an implementation plan for the agreement that will: (1) transfer employees with current status in current title unless reclassified, or (2) reclassify employees into job titles that best reflect the work to be performed. The Civil Service Commission shall review whether any existing hiring or promotional lists should be merged, inactivated, or re-announced. ~~Non-transferred employees shall be removed or suspended only for good cause and after the opportunity for a hearing before the Civil Service Commission; provided, however, that they may be laid off in accordance with the provisions of N.J.S.11A:8-1 et seq., and the regulations promulgated thereunder. The final decision of which employees shall transfer to the new employer is vested solely with the local unit that will provide the service, and subject to the provisions of any existing collective bargaining agreements within the local units.~~

~~e. e.~~ If the local unit that will provide the service pursuant to a shared service agreement is subject to Title 11A, Civil Service, of the New Jersey Statutes, but the local unit to receive the service is not subject to that Title, and the contracting local units desire that some or all employees of the recipient local unit are to be transferred to the providing local unit, the Civil Service Commission shall vest only those employees who have been employed for one year or more in permanent status pursuant to N.J.S.11A:9-9 in appropriate titles, seniority, and tenure with the providing local unit based on the duties of the position. The final decision of which employees shall transfer to the new employer is vested solely with the local unit that will provide the service, ~~and subject to the provisions of any existing collective bargaining agreements within the local units. Once transferred, the transferred employees will be subject to any applicable collective bargaining agreements, employment contracts and personnel policies that exist for the new entity.~~

~~d. f.~~ If the local unit that will provide the service is not subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, but the local unit that will receive the service is subject to that Title and the parties desire that some or all employees of the recipient local unit are to be transferred to the providing local unit, the transferred employees shall be granted tenure in office and shall only be removed or suspended for good cause and after a hearing; provided, however, that they may be laid-off with 45 days' written notice and shall have a right to appeal the good faith of such layoff to the Civil Service Commission within 20 days of notice of such layoff. ~~in accordance with the provisions of N.J.S.11A:8-1 et seq., and the regulations promulgated thereunder. The transferred employees shall be subject to layoff procedures prior to the transfer to the new~~

entity. Once transferred, they will be subject to any applicable collective bargaining agreements, employment contracts and provisions personnel policies that exist for the new entity. The final decision of which employees shall transfer to the new employer is vested solely with the local unit that will provide the service, ~~and subject to the provisions of any existing collective bargaining agreements within the local units.~~

Proposed Amendments

(Proposed additions in text indicated by underline; proposed deletions are indicated by ~~strikeouts~~)

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

40A:65-19. Services provided by public employees; provision for employment reconciliation plan; plan considerations; implementation plan; transfer of employees

a. When a local unit agrees to participate in a joint meeting that will provide a service that the local unit is currently providing itself through public employees, ~~the agreement~~ each shall include-submit an employment reconciliation plan to the Civil Service Commission in accordance with this section, which shall specifically identify the contracting local unit and the joint meeting.

A layoff plan of a local unit having adopted Title 11A, Civil Service, may be substituted for an employment reconciliation plan if it includes, at a minimum, the following requirements of an ~~An employment reconciliation plan shall be subject to the following provisions:~~

(1) a determination of those employees, if any, that shall be transferred to the joint meeting, retained by the contracting local unit, or terminated from employment for reasons of economy or efficiency, ~~subject to the provisions of any collective bargaining agreements within the local units.~~

(2) the intended jurisdiction of the Civil Service Commission under section f(2) below, if applicable.

~~(2) any employee terminated for reasons of economy or efficiency by the contracting local unit providing the service or by the joint meeting shall be given a terminal leave payment of not less than a period of one month for each five year period of past service as an employee with the local unit, or other enhanced benefits that may be provided or negotiated. Unless otherwise negotiated or provided by the employer, a terminal leave benefit shall not include extended payment, or payment for retroactive salary increases, bonuses, overtime, longevity, sick leave, accrued vacation or other time benefit, or any other benefit.~~

~~(3) b. the~~ The Civil Service Commission shall place any employee that has permanent status pursuant to Title 11A, Civil Service, of the New Jersey Statutes, and that is terminated for reasons of economy or efficiency at any time by either local unit on a special reemployment list for the local unit from which the employee is terminated. ~~any civil service employer within the county of the agreement or any political subdivision therein.~~

~~(4) when a proposed joint contract affects employees in local units that operate under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, an employment reconciliation plan shall be filed with the Civil Service Commission prior to the approval of the joint meeting agreement. That department shall review the plan for consistency with this section within 45 days of receipt and it shall be deemed approved, subject to approval of the joint meeting agreement by the end of that time, unless that department has responded with a denial or conditions that must be met in order for it to be approved.~~

(5) ~~c.~~ When an action is required of the Civil Service Commission by this section, parties to a proposed joint contract may consult with the commission in advance of the action and the commission shall provide such technical support as may be necessary to assist in the preparation of an employment reconciliation plan or any other action required of the commission by this section.

~~b. d.~~ If both the local unit and joint meeting operate under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, the Civil Service Commission shall create an implementation plan for employees to be hired by the joint meeting that will: (1) transfer employees with current status in current title unless reclassified or (2) reclassify employees, if necessary, into job titles that best reflect the work to be performed. The Civil Service Commission shall review whether any existing hiring or promotional lists should be merged, inactivated, or re-announced. ~~Non-transferred employees shall be removed or suspended only for good cause and after the opportunity for a hearing before the Civil Service Commission; provided, however, that they may be laid-off in accordance with the provisions of N.J.S.11A:8-1 et seq., and the regulations promulgated thereunder.~~ The final decision of which employees shall transfer to the new employer is vested solely with the local unit that will provide the service, ~~and subject to the provisions of any existing collective bargaining agreements within the local units.~~

~~e. e.~~ If the joint meeting operates under the provisions of Title 11A, Civil Service, of the New Jersey Statutes, and a local unit receiving the service is not subject to that Title, and the parties desire that some or all employees of the local unit be transferred to the joint meeting, the Civil Service Commission shall vest only those employees who have been employed one year or more in permanent status pursuant to N.J.S.40A:9-9 in appropriate titles, seniority, and tenure with the providing local unit based on the duties of the position. Once transferred, transferred employees will be subject to any applicable collective bargaining agreements, employment contracts and personnel policies that exist for the new entity. The final decision of which employees shall transfer to the new employer is vested solely with the joint meeting, ~~and subject to the agreements affecting the parties, provided that those agreements do not conflict with the provisions of any existing collective bargaining agreements within the local units.~~

~~d. f.~~ (1) If the joint meeting does not operate under the provisions of Title 11A, Civil

Service, of the New Jersey Statutes, and the local unit receiving the service is subject to that Title, and the parties desire that some or all employees of the recipient local unit are to be transferred to the joint meeting, then the transferred employees shall be granted tenure in office and shall be removed or suspended only for good cause and after a hearing. The transferred employees shall be subject to layoff procedures prior to the transfer to the new entity. Once transferred, they will be subject to any applicable collective bargaining agreements, employment contracts and provisions personnel policies that exist for the new entity. The final decision of which employees shall transfer to the joint meeting is vested solely with the joint meeting, ~~and subject to the provisions of any existing collective bargaining agreements within the local units.~~

(2) A joint meeting established after the effective date of sections 1 to 37 of P.L.2007, c. 63 (C.40A:65-1 et al.) that affects both employees in local units subject to Title 11A, Civil Service, of the New Jersey Statutes and employees in local units not subject to that Title, shall determine whether the employees of the joint meeting shall be subject to the Title. If the joint meeting determines that the employees shall not be subject to Title 11A, Civil Service, of the New Jersey Statutes, then the employees from the local units in which the Title is in effect shall have the same rights as employees transferred pursuant to paragraph (1) of this subsection.

N.J.S.A. 11A:8-1.1 Temporary Layoff

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

a. An appointing authority in State or local service may institute a temporary layoff for economy, efficiency, or other related reasons. A temporary layoff shall be defined as: (1) the closure of an entire layoff unit for one or more work days over a defined period; or (2) a staggered layoff of each employee in a layoff unit for one or more work days over a defined period. A temporary layoff shall be considered a single layoff action even though the layoff of individual employees takes place on different days during the defined period. The defined period shall be set forth by the appointing authority in its temporary layoff plan; however, in a staggered layoff, the maximum period to stagger one day off shall not exceed 45 days.

b. A temporary layoff may, with the approval of the Chair/CEO, be subject to limited exceptions when necessary to ensure continued public health and safety, including but not limited to child welfare, law enforcement, and care for prisoners, patients, and other residents in the care or custody of the State or local government.

c. In a temporary layoff, no employee in the layoff unit, whether career, senior executive, or unclassified, shall be paid for any work day that is designated as a temporary layoff day. Any employee who is designated as exempt from a temporary layoff day pursuant to subsection b. of this section shall be paid his or her regular wages for working on that day.

d. A temporary layoff plan shall be submitted to the Chair/CEO at least 15 days prior to the issuance of temporary layoff notices, or such other period as permitted by the Chair/CEO. The temporary layoff plan shall describe the implementation of the temporary layoff, including the specific day(s) on which the layoff unit will be closed, any exceptions pursuant to subsection b. of this section, and, if staggered, the reasons for not closing the entire layoff unit on a specific day, and the staffing plan for implementing a staggered temporary layoff. Part-time employees shall be designated for a proportional amount of temporary layoff time, consistent with the ratio of hours worked to full-time employment. In a staggered temporary layoff, the appointing authority shall be permitted, in its sole discretion, to designate as unpaid temporary layoff time any planned or unplanned leave time taken by an employee during the defined layoff period, up to the maximum temporary layoff time for that defined layoff period. Employees shall not be permitted to substitute any paid leave for an unpaid temporary layoff day.

e. For purposes of accrual of leave time, anniversary dates, paid holidays, and seniority, temporary layoff time shall be treated as if the employee is in pay status. An employee serving a working test period shall have the working test period extended for the time equal to the temporary layoff time. A federal Family and Medical Leave Act leave or other leave for medical or family reasons shall not be affected by a temporary layoff. An

alternate work week program may be suspended for pay periods in which a temporary layoff is implemented.

f. Since a temporary layoff is intended to apply equally to all employees in the layoff unit, subject only to the exceptions and staggered schedules set forth in this section, the following subsections of N.J.S. 11A:8-1 shall not be applicable to a temporary layoff: b. (seniority); d. (job location); e. (lateral and demotional title rights); f. (application of lateral and demotional title rights within job locations); g. (exercise of lateral and demotional title rights); and h. (special reemployment rights).

An Act permitting counties and municipalities to rescind the adoption of civil service and supplementing Title 11A of the New Jersey Statutes.

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

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. The clerk of any county or municipality operating under the provisions of Title 11A of the New Jersey Statutes shall submit the question of rescinding the adoption in the county or municipality of the provisions of Title 11A of the New Jersey Statutes to the voters of the county or municipality upon either:
 - a. The filing of a petition with the clerk requesting the rescission. The petition shall be signed by the registered voters of the county or municipality equal in number to at least 15% of the valid votes cast in the county or municipality at the last preceding general election. Each name shall be printed and signed and the place of residence indicated by street and number or other description sufficient to identify the place. At the bottom of each separate page of the petition there shall be printed an affidavit, which shall be signed by the circulator of that page, that the circulator, and only the circulator, personally circulated the page, that all signatures to the petition appearing on that page were made in the circulator's presence, and that the circulator believes them to be genuine signatures of the persons whose names they purport to be. If a rescission petition is presented to a prospective petition signer by a part print advertisement, paid mailing, or paid solicitor, the petition and any appeal for the signature of such a prospective signer shall disclose prominently (1) the identity of the person paying for the printed or personal solicitation, and (2) that the solicitor is paid; or
 - b. The adoption of an ordinance or resolution by the governing body of the county or municipality, rescinding the provisions of Title 11A of the New Jersey Statutes.
2. Within 10 days from the date of filing the petition or ordinance, the clerk shall, in the case of a petition, in conjunction with and with the cooperation of the commissioner of registration of the appropriate county, complete an examination and ascertain whether or not the petition is signed by the requisite number of qualified voters, shall attach to the petition a certificate showing the result of the examination, and, in the case of a municipal clerk, shall transmit to the county clerk a notice that the question of rescission has been qualified for submission to the voters, including with that notice a copy of the certificate. The question shall be submitted at the next general election, or alternatively in the case of a municipality in which municipal elections are held the next municipal election, occurring on or after the 60th day following the date on which the clerk shall have issued the certificate.
3. The clerk shall, prior to an election at which the question of rescinding the adoption of the provisions of Title 11A is to be submitted to the voters, give public notice of that

submission. Public notice includes, but is not limited to, publication in the county's or municipality's official newspaper once a week for at least four weeks and posting the notice in five of the most public places in the county or municipality for at least four weeks before the election. The municipal clerk or county clerk, as appropriate, shall cause the question to be printed upon the ballots to be used at the election.

4. If the clerk refuses or neglects to comply with the provisions of this act, P.L. , c. (C.) (now pending before the Legislature as this bill), a registered voter of the county or municipality may apply to a judge of the Superior Court in the county in which the political subdivision is located for an order directing and compelling the submission of the question involved in the petition. The judge shall hear the matter summarily. If the judge finds and determines that the petition is in accordance with law, an appropriate order shall be issued. Any clerk failing to comply with the order of the court, or any public official, officer, agent or employee, interfering with, or preventing, a clerk from satisfying an order, shall be guilty of a crime of the fourth degree.
5. If the result of the election is favorable to rescinding the adoption of Title 11A of the New Jersey Statutes, the result shall be certified by the governing body of the county or municipality to the Chairperson of the Civil Service Commission. The rescission shall take effect on a date established by the Chair/CEO no less than six months and no greater than one year following the election at which it was approved. If a majority of the votes cast at the election are against rescission, no new election may be held on the same question before the second general election or municipal election, as appropriate, following the election at which that rejection of rescission was voted.
6. A fire district or districts within a municipality that has rescinded Title 11A of the New Jersey Statutes shall be deemed to have rescinded Title 11A of the New Jersey Statutes with respect to its employees.
7. N.J.S. 11A:9-6 is amended to read as follows:

11A:9-6. Adoption of title; elections. The [method of submitting the question of] procedure for the adoption, rejection or rescission of this title [to] by the voters of a county or municipality shall conform as nearly as possible to the provisions of Title 19 of the Revised Statutes, if appropriate, relating to the submission of public question and [when submitted] at a school district election shall conform as nearly as possible to the provisions of Title 18A of the New Jersey Statutes, if appropriate, relating to the submission of public questions in school districts.
8. The Civil Service Commission shall promulgate regulations providing for the orderly transition, in any county, municipality, fire district or school district which has adopted the rescission, in the personnel system of the county or municipality during the period prior to the effective date as set forth in Section 5 above.