

Labor Negotiations



Matthew U. Watkins, Labor Consultant, NJLM

Calculating Sick Leave Payout at Retirement

After a number of seminars, webinars, and articles, there remains confusion amongst NJ local government officials on the provisions of legislation passed in 2007 and 2010. NJSA 40A:9-10 and the companion Civil Service Statute 11A:6-19.2 established, in part, new provisions for retirement payout for accumulated sick leave. I hope to clarify how the calculation is performed and some of the rules that are required when your administration calculates retirement payout, plus, the annual requirement for accounting of each employee's accumulated leave.

Tracking Leave

First and foremost, all local governments in New Jersey are required to maintain an accounting of every employee, full-time and part-time (yes, seasonal too), of their hours worked, and paid time off (PTO). PTO includes sick, vacation, compensatory, personal, or any other time off leave. This is required to be certified by the Certified Finance Officer (CFO) and subject to the Auditor's annual report.

This is not an option!

CFOs are responsible for this, and the Administration cannot avoid this requirement. For small municipalities this is a difficult obligation as they do not have resources to put in place tracking as required.

Fortunately, today's technology and services for payroll and HR management has these features. Make sure your town is doing this.

That said, a simple spreadsheet could easily provide this tracking and certainly the accounting of time off. In previous articles, I have described a document that every local government in New Jersey should have. Namely, a scattergram that includes, at a minimum, the employee's name, date of hire, date of birth, union affiliation, salary stated both as an annual rate and daily rate. (see article in the October 2021 League magazine archive, www.njlm.org/Archive.aspx?AMID=50)

Calculating Unused Sick Leave Retirement

Just as a reminder, sick leave cannot be paid out in any form other than at retirement. No municipality can compensate or incentivize an employee for not using sick time. In other words, no sick leave buyback! Regardless of any policy or labor agreement that you may have. End of story.

For any of your employees that were hired after May 21, 2010, the calculation at retirement is simple. No matter how much unused sick time that they may have accumulated before retirement, compensation for unused sick leave is capped at \$15,000. This assumes that their unused sick leave calculated at their rate at retirement is equal to, or more than, \$15,000. This is easily understood and to follow.

I stress that if an employee has not used sick time accumulated before 2010 over the past 14 years, I would be very skeptical.

For an employee hired before May 21, 2010, or department heads or executives (see definition PL. 2007, c.92) hired before July 1, 2007, the calculation is a bit different. First and foremost, the town should have clear and compelling record of the amount of accumulated sick leave on those dates (May 2010/July 2007). The dollar value of sick days accumulated prior to those dates, are frozen for the purposes of the calculation. However, and this is important, if the employee used any sick days between May 2010 and the time of their retirement, those days are used first. In practical terms, any employee in 2024 who has not used any sick days since 2007 or 2010 has an amazing constitution! Especially given that we've been through a worldwide pandemic. However, if they do have remaining



S-3636 **Requires cyclical inspection of parking structures**

Status: Introduced in the Senate and referred to the Senate Community and Urban Affairs Committee.

S-3636 requires the owner of a parking structure to engage a professional engineer to inspect the structural integrity of the parking structure at least once every five years.

The purpose of the inspection is to ensure that the parking structure meets the loads and uses for which the parking structure was designed and is to be used.

The professional engineer is required to prepare and deliver a report on the structural integrity of the parking structure to the parking structure owner within 30 days of conducting the inspection. The owner is required to submit a copy of the report to the Department of Community Affairs (DCA).

DCA is given the authority to close a parking structure, or portion of the parking structure, that fails inspection, or the owner fails to submit the report required by S-3636. The parking structure may reopen once DCA receives a report that the structure passed a structural inspection.

The League supports this measure because it ensures parking structures are safe for public use without the municipality bearing the financial and labor costs to ensure compliance. -PAP



S-3710 **Authorizes enforcement of landscape irrigation law by local enforcing agency and increases penalties.**

Status: Introduced and referred to the Senate Community and Urban Affairs Committee.

S-3710 strengthens enforcement of the "Landscape Irrigation Contractor Certification Act" by empowering local construction officials to inspect worksites, issue penalties, and shut down operations if contractors are found violating the Act. This includes inspecting worksites, assessing fines, and stopping unlicensed contractors from performing irrigation work.

In addition, S-3710 increases the penalties for violations of the Act. Fines will be up to \$5,000 for a first offense, \$10,000 for a second, and \$15,000 for subsequent offenses. Of the fines collected, 30% would go to the State's General Fund, with the remaining 70% retained by the municipality or pilot county where the violation occurred, providing additional resources for local enforcement efforts.

The League supports this legislation as it grants municipalities greater authority to regulate and enforce compliance, enhancing public safety and ensuring adherence to certification standards.



A-4850 **Prohibits procurement of single-use plastic beverage containers by State and local government entities.**

Status: Introduced and referred to the Assembly Environment, Natural Resources and Solid Waste Committee.

A-4850 prohibits state and local government entities from purchasing single-use plastic beverage containers. The bill does provide exceptions for existing contractual obligations made before the bill's effective date and when alternatives to single-use plastic containers are not economically feasible. The League of Municipalities opposes this bill due to concerns that the required revisions to procurement practices would restrict flexibility in emergency situations as it could make access to essential supplies, such as single use drinking water, a challenge to procure. ❗

Lunch & Learn

Informative Learning Series

Join the hour-long briefings given by state and federal experts on current issues impacting municipalities, & opportunities for funding. The sessions also include a Q&A period.

Can't make the live briefing?

View on-demand!

www.njlm.org/LunchAndLearn



New Jersey State League
of Municipalities

Recent topics: Encampment Resolution: Resources & Best Practices, Choosing the Rights Benefits Plan, NJDEP Real Rule, Cannabis Regulatory Commission Update, OPRA Modernization, NJ FIP Review Course with DEP, and more.