

ACCUMULATED ABSENCE MANAGEMENT AND FINANCING

5:30-15.1 Purpose and authority

- (a) The purpose of this subchapter is to authorize and establish procedures for local government units to follow in accounting for accumulated absences and for the payment of employees on the basis of such absences, and in establishing reserves for compensated absences.
- (b) This subchapter is promulgated pursuant to the authority of the Local Finance Board under N.J.S.A. 52:27BB-10, which empowers the Board to promulgate reasonable rules for the interpretation and administration of State laws included within the jurisdiction of the Division of Local Government Services, and N.J.S.A. 52:27BB-28, which empowers the Board to promulgate rules for the proper use of uniform accounting systems and for proper accounting methods.

5:30-15.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Accumulated absence" means any sick days, vacation days, personal days, compensatory time, or other absence time authorized as part of an employer agreement, which is not used by the employee during the allowed period, and which is permitted to accumulate over time to the benefit of the employee.

"Chief financial officer" means, except in the case of a municipality or county, the director of revenue and finance, comptroller, treasurer, collector or other financial officer of a local unit. In the case of a municipality, the chief financial officer means the person appointed pursuant to section 5 of P.L. 1998, c.110 (N.J.S.A. 40A:9-140.10); in the case of a county, the chief financial officer means the person appointed pursuant to section 4 of P.L. 1993, c.87 (N.J.S.A. 40A:9-28.4).

"Compensated absence" means the value of accumulated absence which is paid to the employee upon separation from the employer, pursuant to an employer agreement or local policy.

"Employee" means a member of a State administered pension program who is eligible for compensated absence benefits, pursuant to an employer agreement.

"Employer agreement" or *"agreement"* means a duly negotiated and approved labor agreement between the local unit and a collective bargaining organization; or a local unit employer practice or an agreement provided by ordinance or resolution as appropriate to the local unit, which, subject to law, allows the employee to accumulate sick days, vacation days, personal days, compensatory time, or other absence time, and which

obligates the local unit to compensate the employee for the value of that time upon separation from employment.

"*Local unit*" means any county, municipality, regional service agency, or a local public authority or fire district that is subject to the Local Authorities Fiscal Control Law, N.J.S.A. 40A:5A-1 et seq.

"*Separation from employment*" means retirement, or termination of employment, pursuant to local policy.

Amended by R.2023 d.094, effective August 7, 2023.

5:30-15.3 Calculation of compensated absence liability

- (a) Each municipality and county shall include a breakdown of accumulated absences and a preliminary schedule of the value of compensated absence, to be submitted as part of the local unit's introduced and adopted annual budget. The report shall provide the following information:
1. The gross number of days of accumulated absences and the dollar value of same as of the final day of the prior budget year, broken down by:
 - i. Sick days, vacation days, personal days, compensatory time, and other absence time; and
 - ii. Bargaining unit in the case of unionized employees, and individual position in the case of non-unionized employees, with those non-union employees holding more than one position reported based on the accumulated absence liability for all positions held;
 2. For each collective bargaining unit or individual position, the legal basis for the benefit;
 3. The number of individuals, regardless of whether part of a collective bargaining unit, that are subject to restrictions on accumulated absence compensation and/or accumulation pursuant to P.L. 2007, c. 92 or P.L. 2010, c. 3;
 4. A summary of any offsetting reserves or budgeted appropriations; and
 5. For municipalities, accumulated absence liability reporting shall be incorporated into the municipal user-friendly budget pursuant to N.J.A.C. 5:30-3.8. On an annual basis, the municipality shall provide a copy of its accumulated absence liability reporting to the municipal auditor.
- (b) The annual audit required of every local unit shall report, each year, on the value of compensated absence owed to employees and the amount accumulated for payment. This information shall be reflected in financial reports and the annual audit, as follows:

1. For municipalities and counties, in the Notes to the Financial Statements;
 2. For authorities, as a balance sheet liability pursuant to Government Accounting Standards Board (GASB) Statement Number 34 (1999), Basic Financial Statements--and Management's Discussion and Analysis--for State and Local Governments, incorporated herein by reference, as amended and supplemented; and
 3. For fire districts, on the Statement of Net Assets pursuant to GASB Statement 34.
- (c) All compensated absence calculations shall be made pursuant to GASB Statement Number 16 (1992), Accounting for Compensated Absences (C. 60), incorporated herein by reference, as amended and supplemented, and shall be subject to any restrictions on accumulated absence compensation and/or accumulation pursuant to State law.
- (d) Budget appropriations for compensated absences shall be shown on a single budget line in each local unit budget.

Amended by R.2023 d.094, effective August 7, 2023.

5:30-15.4 Authorization for compensated absence payments

- (a) All local unit payments for compensated absence shall be authorized locally by any one or combination of the following practices:
1. Any duly negotiated and approved labor agreement between the employer and a collective bargaining organization, executed pursuant to the New Jersey Employer-Employee Relations Act (N.J.S.A. 34:13A-1 et seq.);
 2. A provision in a local ordinance or enabling resolution; and/or
 3. An employment agreement with an individual employee, where the use of the benefit therein is authorized by local ordinance or enabling resolution.
- (b) No payments for compensated absence shall be authorized that exceed limitations established pursuant to State law.
- (c) Payment for compensated absence shall be made upon certification by the chief financial officer of the local unit that sufficient documentation of the amount of the accumulated absence has been provided, and that funds are available to pay for the amount of compensated absence due. Sufficient documentation shall include:
1. A copy of, or reference to, the agreement authorizing compensation;
 2. Documentation of the employee's hire date and the amount of accumulated absence time broken down by category;
 3. If the employee is subject to accumulated absence restrictions established by P.L. 2007, c. 92; and
 4. The total value of the compensation due based on the agreement and accumulated absence time.

- (d) In the absence of sufficient documentation, payment for compensated absence may be awarded by resolution of the governing body, subject to the following:
1. The employee shall provide the governing body with a certification that includes an annual itemization of each type of accumulated absence, records maintained by the employee or employer to substantiate the absence, and an explanation as to the reasons that sufficient documentation, as described in (b) above, is not available. Said certification shall be attached to the resolution and shall serve as evidence of the accumulated absence, based on the employee's records. Where appropriate, local government units should supplement the employees' records, when they have the ability to do so.
 2. If the employee is unable to produce all of the documentation required in (c)1 above, the governing body may, by resolution, approve payment for compensated absence based upon the employee's ability to provide partial documentation, and upon finding that there is good and reasonable cause to warrant payment in the absence of full documentation. Such good and reasonable cause may be in connection with the loss of relevant information due to technological changes in recordkeeping; the loss of data caused by fire, natural disaster and the like; the loss of dated information; or other reasonable explanation by the employee as to why sufficient documentation is not available.
 3. Upon receipt of the certification and acceptance of the employee's records, or explanation for not providing sufficient documentation, the governing body may then approve payment by resolution, provided that the chief financial officer has certified that sufficient funds are available for payment.
 4. Any resolution that is approved by the local unit in the absence of sufficient documentation shall so state that the compensation is being approved upon finding that there is good and reasonable cause to approve, based on the certified explanation provided by the employee.
- (e) For officers and employees subject to P.L. 2007, c. 92 or P.L. 2010, c. 3, payment for unused sick leave 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.

Amended by R.2023 d.094, effective August 7, 2023.

5:30-15.5 Accounting for compensated absence funds

- (a) A county or municipality may appropriate and reserve funds for the purpose of compensating employees for accumulated absence time in accordance with the following:
1. No funds may be appropriated or reserved unless the local unit has complied with N.J.A.C. 5:30-15.4(a).

2. The amount to be appropriated is specifically reserved to the governing body. Nothing in this section shall require any specific amount to be appropriated in any given year. In addition:
 - i. Total appropriations for compensated absences shall not exceed the value of the total accumulated absence, as determined by the chief financial officer of the local unit.
 - ii. Once appropriated, funds so reserved for compensated absence shall not be used for any other purpose unless so approved by the Local Finance Board.
 - iii. Current fund appropriations for municipalities and county governments shall be deposited into a dedicated trust fund, pursuant to N.J.S.A. 40A:4-39.
 - iv. Funds may be disbursed in accordance with the Local Fiscal Affairs Law, N.J.S.A. 40A:5-1 et seq., as necessary, to meet the obligations of the employer agreement.

Amended by R.2023 d.094, effective August 7, 2023.

5:30-15.6 Payment for accumulated sick leave for certain officers and employees who are subject to P.L. 2007, c. 92

(a) A local unit shall not pay supplemental compensation to any officer or employee as defined at (b) below for accumulated unused sick leave in an amount in excess of \$15,000, except an officer or employee who:

1. On July 1, 2007, or upon the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on July 1, 2007, has accrued supplemental compensation based upon accumulated unused sick leave shall, upon retirement, be eligible to receive for any unused leave not more than the amount so accumulated or not more than \$15,000, whichever is greater; or
2. Becomes an officer or employee after July 1, 2007, and has previously accrued supplemental compensation based upon accumulated unused sick leave shall, upon retirement, be eligible to receive for any unused leave not more than the amount so previously accumulated or not more than \$15,000, whichever is greater.

(b) As set forth at (a) above, "officer or employee" shall mean:

1. An elected official;
2. The statutory-based, untenured chief administrative officer of the local unit, including business administrators, county administrators, municipal or county managers, municipal or county administrators appointed pursuant to the authority of a local ordinance, executive directors, or similar positions;

3. Individuals with principal operating responsibility of a government function(s) (commonly called “department heads” or similar title), that are appointed by the governing body or a municipal or county manager, as applicable to the form of government, and who directly report to an elected official(s) or chief administrative officer;
 4. Legal counsel to the local unit, regardless of title, directly employed by the local unit;
 5. Municipal engineers or county engineers directly employed by the local unit;
 6. Municipal court judges;
 7. Appointed commissioners of a local authority subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.);
 8. Gubernatorial appointees serving in municipal or county government for a fixed term; or
 9. A person appointed by an elected public official or elected governing body of a local unit, with the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted ordinance or resolution. The Director may provide interpretations of this subpart at the request of a local unit.
- (c) For purposes of (a) above, an “officer or employee” shall not include a person who:
1. Is employed or appointed in the regular or normal course of employment or appointment procedures and consented to or approved in a general or routine manner appropriate for and followed by the local unit;
 2. Holds a professional license or certificate to perform and is performing in any of the following capacities, regardless of the position the officer or employee holds:
 - i. Certified health officer;
 - ii. Tax assessor;
 - iii. Tax collector;
 - iv. Municipal planner;
 - v. Chief financial officer;
 - vi. Registered municipal clerk;
 - vii. Construction code official;
 - viii. Licensed uniform subcode inspector;
 - ix. Qualified purchasing agent; or

- x. Certified public works manager; and
- 3. Individuals serving in an acting or temporary capacity in any of the positions listed at (c)2 above, for which a local unit may appoint an individual on an acting or temporary basis.

New Rule, R.2023 d.094, effective August 7, 2023.

5:30-15.7 Payment for accumulated vacation leave for certain officers and employees that are subject to P.L. 2007, c. 92

(a) A local unit officer or employee who does not take vacation leave that accrues on or after July 1, 2007, or on or after the date on which the person becomes an officer or employee, in a given year because of business demands shall be granted that accrued leave only during the next succeeding year, except that:

1. 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; and
2. A person who is an officer or employee on July 1, 2007, or becomes an officer or employee after July 1, 2007, and has previously accrued vacation leave shall be eligible and shall be permitted to retain and use that accrued vacation leave.

(b) As set forth at (a) above, "officer or employee" shall mean:

1. An elected official;
2. The statutory-based, untenured chief administrative officer of the local unit, including business administrators, county administrators, municipal or county managers, municipal or county administrators appointed pursuant to the authority of a local ordinance, executive directors, or similar positions;
3. Individuals with principal operating responsibility of a government function(s) (commonly called "department heads" or similar title), that are appointed by the governing body or a municipal or county manager, as applicable to the form of government, and who directly report to an elected official(s) or chief administrative officer;
4. Legal counsel to the local unit, regardless of title, directly employed by the local unit;

5. Municipal engineers or county engineers directly employed by the local unit;
 6. Municipal court judges;
 7. Appointed commissioners of a local authority subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.);
 8. Gubernatorial appointees serving in municipal or county government for a fixed term; or
 9. A person appointed by an elected public official or elected governing body of a local unit, with the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted ordinance or resolution. The Director may provide interpretations of this subsection at the request of a local unit.
- (c) For purposes of (a) above, an “officer or employee” shall not include a person who:
1. Is employed or appointed in the regular or normal course of employment or appointment procedures and consented to or approved in a general or routine manner appropriate for and followed by the local unit;
 2. Holds a professional license or certificate to perform and is performing in any of the following capacities, regardless of the position the officer or employee holds:
 - i. Certified health officer;
 - ii. Tax assessor;
 - iii. Tax collector;
 - iv. Municipal planner;
 - v. Chief financial officer;
 - vi. Registered municipal clerk;
 - vii. Construction code official;
 - viii. Licensed uniform subcode inspector;
 - ix. Qualified purchasing agent; or
 - x. Certified public works manager; and
 3. Individuals serving in an acting or temporary capacity in any of the positions listed at (c)2 above, for which a local unit may appoint an individual on an acting or temporary basis.

New Rule, R.2023 d.094, effective August 7, 2023.

Current through August 7, 2023

5:30-15.8 Accumulated absence liability for officers and employees who are subject to P.L. 2010, c. 3

A local unit shall not pay supplemental compensation for accumulated unused sick leave in an amount in excess of \$15,000 to any officer or employee who commences service with the local unit on or after May 21, 2010, or, if a collective negotiations agreement in force on May 21, 2010, contained a provision concerning supplemental compensation for accumulated unused sick leave, to any officer or employee who commences service with the local unit on or after the expiration of the collective negotiations agreement.

New Rule, R.2023 d.094, effective August 7, 2023.

5:30-15.9 Use of accrued vacation leave by officers and employees who are subject to P.L. 2010, c. 3

(a) A local unit officer or employee commencing service with the local unit on or after May 21, 2010, 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, except that 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.

(b) Notwithstanding (a) above to the contrary, if a collective negotiations agreement in force on May 21, 2010, contained a provision concerning the accrual of unused vacation leave, this section shall apply to any officer or employee who commences service with the local unit on or after the expiration of the collective negotiations agreement.

New Rule, R.2023 d.094, effective August 7, 2023.

5:30-15.10 Compensated absence compliance testing in annual audit

(a) As part of the annual audit, the auditor shall undertake sample testing of the local unit's compensated absence liability, if any, using the following procedures:

1. Inspect employee personnel records to:
 - i. Confirm whether those records support the number of hours or days of accumulated absence recorded for the employee being tested; and
 - ii. Identify whether the employee is subject to the provisions at P.L. 2007, c. 92 or P.L. 2010, c. 3, pertaining to accumulated or compensated absence;

2. Confirm that the dollar value of compensated absence recorded for the employee being tested is authorized by a labor contract, individual employment agreement, or an ordinance or resolution, as appropriate to the local unit. If the employee is subject to the provisions at P.L. 2007, c. 92 or P.L. 2010, c. 3, pertaining to accumulated or compensated absence, the auditor shall confirm that the recorded dollar value does not exceed that authorized pursuant to law; and

3. Confirm that a payout to an employee for accumulated absence is authorized by a labor contract, individual employment agreement, or an ordinance or resolution, as appropriate to the local unit. If the employee is subject to the provisions at P.L. 2007, c. 92 or P.L. 2010, c. 3, pertaining to compensation for accumulated absence, the auditor shall confirm that the payout is authorized pursuant to law.

New Rule, R.2023 d.094, effective August 7, 2023.