

BACKGROUND ON EMPLOYEE JOB-SHARING PROTECTION ACT

The Employee Job-Sharing Furlough Protection Act would institute a job-sharing furlough program for public, private and nonprofit sector employees under the provisions of New Jersey P.L.2011, c.54, eff. Aug. 1, 2012, establishing shared work programs, and in conjunction with the provisions of the federal Coronavirus Aid, Relief and Economic Security (CARES) Act.

The legislation is designed to enable employers and employees to take advantage of two provisions of the CARES Act.

The first, Sec. 2104. Federal Pandemic Employment Compensation provides for the payment of Federal Pandemic Unemployment Compensation benefits of \$600 per week in addition to the amount of state unemployment payments determined by state law.

The second, Sec. 2108. Temporary Financing of Short-Term Compensation Payments in States With Programs In Law provides 100% reimbursement for the amount of state unemployment benefits paid to employees furloughed under the provisions of an already-existing state job-sharing furlough law, in this case New Jersey P.L.2011, c.54.

Under the current New Jersey job-sharing furlough law, employers must pay employees between 40% and 90% of their previous salary and continue pension, health coverage and other benefits during the period of the furlough. Payment of 40% of wages combined with state unemployment benefits and the additional \$600 federal benefit would provide furloughed employees with more take-home pay than they would receive from working, while generating substantial savings for public, private and non-profit employers.

The Employee Job-Sharing Furlough Protection Act is designed to ensure that employee job rights are fully protected during the furlough, and to expedite creation of the program to maximize payments to furloughed employees and savings for participating employers.

The legislation provides that pension benefit calculations for employees furloughed during the coronavirus crisis shall be calculated for 2020 as if those employees remained on the payroll at their full regular salary as if they had continued to work for the full 12 months. To ensure that there is no negative impact on the funding level of the pension system, both the public employer and employee are required to continue to make contributions at the same level as if the employee was receiving full salary during the furlough period.

The legislation also includes a provision allowing furloughed employees to continue to accrue seniority as if they were fully employed during the furlough period.

The legislation follows the provisions of existing New Jersey unemployment law in determining the salary to be used for unemployment compensation based upon the first four quarters of the preceding five completed quarters of employment – in this case, calendar year 2019.

To expedite the creation of job-sharing programs in order to maximize payments to furloughed employees and savings for participating employers, the effective date for furlough programs under this initiative will begin on the day that employers apply to the Department of Labor and Workforce Development for certification as required under New Jersey P.L.2011, c.54. Final certification of the program remains under the jurisdiction of the Department

In addition, the legislation permits participating public employers to calculate initial benefit payments under the program and provide those calculations to the Department of Labor and Workforce Development, which may make payments based on those public employer certifications and adjust amounts if necessary subsequently.

The bill would take effect immediately upon enactment.

Background

The Employee Job-Sharing Furlough Protection Act is projected to generate tens of millions of dollars in weekly savings for New Jersey state, county and municipal governments and school districts, while putting an additional \$1,000 to \$5,000 more into the pockets of furloughed workers than they would have earned by remaining full-time on the government payroll for the next three months. The furlough initiative would work equally well for private sector and nonprofit employers.

State and local government savings over a three-month period could top \$750 million if 25% of the 400,000 state and local employees were furloughed. Furthermore, the extra take-home pay would effectively translate into an additional federally funded stimulus package that would generate \$500 million in economic stimulus from the additional money that furloughed employees would have to spend.

New Jersey has 400,000 state, county and municipal government and school district employees – of whom 300,000 earn \$76,500 or less and would make more money under our furlough initiative than they would be working. These numbers do not include the tens of thousands of part-time workers not in local government pension systems.

While a majority of government employees are providing essential services during the coronavirus crisis, it is certainly reasonable to assume that any furlough initiative would include a high percentage of the 146,000 non-uniformed county and municipal government employees in the Local Public Employees Retirement System, much of the traditional white-collar workforce in state government, and most support personnel in school districts not involved in providing distance learning or other services to schoolchildren in their homes.

The Employee Job-Sharing Protection Act takes advantage of the CARES Act's federal reimbursement provisions for states with existing job-sharing furlough laws to increase the amount of federal aid we can pull in both for employees and for public, private and non-profit employers. The New Jersey law requires approval of unions representing employees, but we

believe the fact that they will agree to participate in a program under which union members earning up to \$76,500 will receive more money with full protection of pensions, benefits and seniority rights until they return to their current jobs on August 1

The federal CARES Act stimulus package provides a \$600 per week federal unemployment payment on top of weekly state unemployment benefits. Because New Jersey's maximum weekly unemployment benefit of 60% of salary up to a maximum of \$713 per week, workers earning up to \$76,500 a year would make more money by being furloughed than by continuing to work.

The CARES Act includes a provision requiring the federal government to pay 100% of the state unemployment benefit costs through July 31 for any worker furloughed in a state that already has a job-sharing furlough law in place, which New Jersey and 25 other states do. States enacting such a law now would only receive 50% federal reimbursement. Taking advantage of this furlough program would enable the state to offload the full cost of unemployment claims for public employees to the federal government.

This provision also applies to private sector and non-profit employers, who can avert future increases to their own Unemployment Insurance Trust Fund payments by shifting their UI costs to the federal government. The more employers participate, the less money the state will have to borrow from the federal government to shore up the UI Fund if it runs dry. An added inducement to private sector and nonprofit employers participating in the Small Business Administration's Payroll Protection Program under the CARES Act is that they will receive 100% loan forgiveness for the percentage of salary they continue to pay under the New Jersey program continuing and all pension and benefit costs.

Under the terms of New Jersey's job-sharing furlough law, participating public and private sector employers must pay furloughed employees 40% to 90% of salary. Our program assumptions assume 40% payment. Standard New Jersey unemployment benefits are calculated at 60% of salary up to the maximum benefit of \$713, but under our New Jersey job-sharing law, unemployment benefits for furloughed employees under this program would represent an additional 24% of salary up to a maximum of \$285 per week, which is reached at a \$61,250 salary. With the additional \$600 federal unemployment payment, the break-even point for employees participating in the program is just over \$76,500 in salary.

The increased income for employees furloughed under this program would be a tremendous boost, especially for lower-income workers. Over a three-month period:

- A \$30,000 employee who would normally make \$7,500 over three months would get \$12,600 – a \$5,100 increase.
- A \$50,000 worker would jump from \$12,500 to \$15,800, an effective pay raise of \$3,300.
- At \$70,000 in income, an employee would make \$17,500 by working and \$18,508 on furlough – a \$1,008 increase.

- AT \$76,500, we basically hit the break-even point, where \$19,125 in regular pay is just \$33 less than \$19,158 in furlough reimbursement.

These are true net savings because pension and benefit costs are the same for employed and furloughed workers.

If 100,000 government employees were furloughed for three months, we project that these employees would collect an additional net of about \$330 million in take-home pay. In effect, this is an additional federal stimulus package of almost \$500 million coming into New Jersey that would spur \$750 million in needed economic activity based upon the traditional 1.5x multiplier for stimulus spending during a recession.

For state, county and municipal governments and school districts, we project budget savings of about \$750 million if 100,000 employees were furloughed for three months under this program. The three-month savings calculations are:

- \$4,416 per employee for a worker earning \$30,000 a year
- \$7,360 for a worker making \$50,000
- 10,045 for an employee earning \$70,000; and
- 12,081 for a worker making \$85,000.

As much as 80% of the savings would most likely be achieved by county and municipal governments, by authorities and, to a lesser extent, by school districts. These savings would be a welcome budget savings for to offset expected late property tax payments in August by families that lose income due to the coronavirus recession. Municipal officials expect that escrow accounts will cover most property tax payments even for those who seek mortgage deferrals.

While this legislation is critical to guarantee that workers' pension, benefit and seniority rights are protected, the program itself could be implemented by executive order upon agreement of the public employee unions and upon approval of the furlough program by the state Labor Commissioner.

With pension and seniority rights fully protected and furloughs strictly limited to union and non-union employees whose take-home pay would increase by participating in the program, the public employee unions should have no reason not to sign on, especially because the savings will help avert layoffs in the recession that is likely to linger well after the coronavirus shelter-in-place restrictions are lifted.