

New Jersey municipalities, state legislators searching for solution to budget-straining payouts for unused sick time

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Of the 16 large to moderately sized towns in the region for which the total accrued sick and vacation time was examined, practically every town has different rules about how they award, calculate, cap and award accumulated sick- and vacation-time payouts to municipal employees.

In addition, not only does each town have different rules for payouts, many times a town will have different rules for different employees, depending on which union they belong to or whether they belong to a union at all.

Hamilton Township is one of the few to have a set cap of \$15,000 for both union and non-union employees, along with Middle Township and its across-the-board cap of \$12,500.

Egg Harbor City caps payouts to 45 days worth of sick time upon retirement — so that only two employees will have payouts of about \$31,000 while all others have no more than \$16,000.

Some towns have caps in place for newer employees. Lower Township has a cap of \$15,000 for most employees, Township Clerk Claudia Kammer said, except for several older employees who are entitled to as many as 180 days' worth of sick time.

Other towns have different rules for each union, such as Ventnor — which caps City Hall employees at \$16,000 and police at \$30,000, while 10 firefighters have accrued sick time of more than \$30,000, including two with more than \$50,000 due to the lack of a hard cap.

Absecon also has different standards for different unions, with maximums of \$50,000, 180 days or whichever is lower, said City Administrator Terry Dolan, as well as a limit of 50 percent of the time accrued for non-represented employees. Dolan himself, meanwhile, is capped at 60 days.

Some towns have different rules for employees and department heads. Upper Township has a maximum of \$10,000 in payouts for employees and 75 percent of time accrued for department heads, leaving the highest accrued values at almost \$54,000 and \$51,000, with several more in the \$20,000 to \$30,000 range.

Some have different rules by employee. Egg Harbor Township has caps of either \$30,000, \$15,000 or \$10,000 for City Hall employees — or occasional limits of 25 percent or 50 percent of sick time accrued, whichever is smaller. Police, meanwhile, measure their cap in days — all at 220 — or by 25 percent, 50 percent, 75 percent or 100 percent of time accrued, so that several officers have listed values of more than \$30,000.

Somers Point also has a “mixed bag” of rules, City Administrator Wes Swain said, with a \$20,000 cap for the Teamsters union and 180-day caps for police — though even with caps, one police officer is listed as having “capped” sick leave value of \$110,000 for 285 days, a number based on the 2011 salary that may only increase over time.

It certainly appears difficult in Margate, however, where one officer is listed as having accumulated \$298,831 in sick time, a figure that both the interim city administrator and police chief believe to be an obvious mistake. “That’s impossible,” is how Chief David Wolfson put it.

When municipal employees retire with substantial unused sick time, it can literally break the local budget.

Consider former Brigantine Fire Chief John Frugoli, who this year is getting \$156,000 because he didn’t use all of his sick and vacation time.

Or former Absecon Police Chief Charles Smith, who got \$282,000 in 2009 when he retired. Or the combined \$340,000 that Little Egg Harbor Township had to pay to three employees who retired in 2010.

State legislators are debating how to reform payouts of unused sick days to municipal employees on their retirement. But that doesn't affect the crush of upcoming budget-breaking payouts that municipalities — and their taxpayers — are facing.

Brigantine, for its part, will probably see several more payouts of more than \$100,000 to firefighters over the next few years, with four having already accrued more than that amount, including one who has accrued \$138,000. Five more have accrued \$87,000 or more. Those figures include compensatory time (deferred payments in lieu of overtime) and banked holiday time, but unused sick-day time will make up more than 70 percent of most payouts.

The reality — in a state already in financial trouble — is that continuing to pay public employees for unused sick time is unsustainable, said Michael Busler, a fellow at the William J. Hughes Center for Public Policy at Richard Stockton College.

“Here's the view,” Busler said. “The state of New Jersey is in a financial mess, spending way more than we have in revenues, and we need to cut spending dramatically. ... Personally, (reform) would be a way of reducing spending that's relatively painless.”

The original purpose of sick days, established during the days of civil service reforms, was that if an employee was ill, he or she should not lose a day's pay or be compelled to come into work and make others sick.

Brian Kronick, an attorney with the New Jersey State League of Municipalities, said it's possible the idea of banked sick days may have originated as a benefit for tenured teachers and spread to other positions. But with employees allowed to bank the value of unused sick days, the payouts soon ballooned.

“You can view it as like insurance,” Busler said. “If you need insurance, it's there, but if you don't need it you just don't use it. I have homeowner's insurance, and I'm not going to get my homeowner's insurance back if I haven't used it. If I'm going to move, should I set my garage on fire, let it burn and use the fire insurance I've never used? ... (Sick days) were just never meant to be banked.”

To overhaul this process, no less than 10 different bills have been proposed in the state Legislature this year, not counting the numerous bills proposed in previous sessions — or Gov. Chris Christie's efforts to change sick-day payout rules so that they apply retroactively.

A law passed in 2010 caps sick-day payouts for employees hired after May 2010 at \$15,000, said Lori Buckelew, a senior analyst with the League of Municipalities. A subsequent bill would have expanded that and added more restrictions, but Christie vetoed it. The governor has maintained that employees should not be allowed to accumulate any sick days at all, and has even proposed an eventual drawing-down of accumulated days over time.

“There's one idea that henceforth you can't accumulate anything, and that if you are sick and use a sick day, your bank (of accumulated time) will dwindle,” Kronick said. “Some do think that's illegal, and could lead to someone filing a claim if you take away banked time. If somebody didn't take a sick day for 20 years and was depending on that, it would be pretty hard to take that benefit away.”

Of all the new bills proposed, two introduced by Assemblywoman Pamela Lampitt, D-Burlington, Camden — one dealing with union employees, one with non-union — has advanced beyond the committee stage. The bills would essentially cap accumulated leave at its current monetary value for any employee with \$7,500 or more of accrued time and limit new employees to that same \$7,500 number.

“I think my bill embodies everything that should and could be done,” Lampitt said. “It allows entities to negotiate at zero. However, if they do negotiate, they still have a threshold.”

In her bill, someone who uses sick days “appropriately” will be able to use the capped value of unused sick days to go toward health care benefits or health retirement accounts upon retirement — an important tool, she said, “with salaries stagnant and health care expenses rising.”

The fact that the bills separate union and non-union employees, preserving collective bargaining rights for the

former, is also important, she said, as many of the most “egregious” payouts are due to non-union employees such as department heads.

Determining which local public employees have a large payout awaiting them upon retirement — and how much they will get — is made more difficult by how municipalities are required to compile accumulated sick-time information. The state mandates that the total value of all accumulated sick days be calculated and listed for each employee, even though the actual payout may be limited by various monetary, time or career caps.

Ocean City Administrator Frank Donato said that distinction is important to note when looking at lists of accrued sick-time values.

“When the Governor’s Office said what the liability was for each town and divided it up among each taxpayer, saying, ‘Here’s how much each taxpayer owes,’ one of the things you have to understand is that we have to account for every single employee and what time they have on the books at the moment,” Donato said.

But, he added, “those employees are only due for payouts if they legitimately retire at the end of a 25-year career. If they leave the employment of the city, they won’t be entitled to any sick time.”

Simply listing the total value, he said, “makes the number larger than whatever we’ll pay out.”

In Margate, Police Chief David Wolfson said he will be paid only for 100 of his 306 accumulated sick days upon retirement, which would come out to \$54,100 — though again, the total accrued value of \$108,000 is listed on documents by law.

How do cities deal with these time bombs waiting to go off?

In Absecon, where the impact of payouts is “extreme” in the year in which they happen, City Administrator Terry Dolan said, City Council has paid for them using a fund derived from the sale of a large piece of city property in 2002. More than \$2 million has been paid out so far, and this year an additional \$100,000 was added.

“So number one, you should be proactive,” Dolan said. “We did look ahead. We never know when people are going to retire, we never expect people to retire, so you have to almost guess to prepare for it.”

Certain job titles see retirements past 60, others from the late 40s through late 50s, he said, “but that’s about as far as it gets. We don’t sit around with actuarial tables looking at the likelihood of 66-year-old male administrators in Atlantic County retiring. ... You just use your experience and make a guess.”

In Brigantine, City Manager Jennifer Blumenthal said that if the city “suspects” there will be retirements, money — \$60,000 this year, \$151,000 last year — will be placed in the overtime budget.

Many times, she said, “We would know about it because they would put in for their pension.”

Even if the new bill is passed, however, it might not end the various problems with sick time, Blumenthal said.

“The time that employees get off, a lot of this is based on state statutes that allow 15 sick days a year, plus vacation days, holidays and personal days. If you’re capped at \$15,000, then you’re just going to use those days — and that’s going to be more expensive to the taxpayer because you’re going to have to add more to your staff,” she said.

In addition, she said, Christie’s statements that employees should use sick days only when sick might not account for much “when a new generation thinks that having a headache qualifies for sick in their mind. And as for regulating it, you don’t have too much of a say if there’s a doctor’s note.”

Somers Point Administrator Wes Swain, meanwhile, said he has his own thoughts about what changes should be made.

“But,” he added, “the governor hasn’t given me a call yet.”

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Posted in Breaking, Ocean, New jersey, Cumberland, Cape may, Atlantic on Saturday, April 21, 2012 7:32 pm.
Updated: 11:13 am.

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