

Part A of Chapter 105 of the Laws of 2010

Abstract of Relevant Provisions Relating to Targeting and Cost Savings For “Educational Employers”

This sheet is intended to provide a handy reference to key provisions of Part A of Chapter 105 of the Laws of 2010 relating to targeting and cost savings.

Section 1. Definitions:

e. (a) A "Participating employer" means an employer, other than a state employer, which participates in a retirement system....

(b) An "Educational employer" means a participating employer which is a school district, a board of cooperative educational services, a vocational education and extension board, an institution for the instruction of the deaf and of the blind as enumerated in section 4201 of the education law, or a school district as enumerated in section 1 of chapter 566 of the laws of 1967, as amended.

f. An "Eligible employee" means a person who is a member of a retirement system... who is an employee of a participating employer which makes an election..but such term shall not include

(b) chief administrative officers of participating employers which participate in a teachers' retirement system...

g. "Eligible title" means any title where a certain number of positions in that title, as identified by agency, department, work location...as the case may be, would otherwise be identified for layoff but for this act because of economy, consolidation or abolition of functions, curtailment of activities or otherwise. However, an eligible title can also include a title as identified by agency, department, work location or appointing authority in which positions would not be eliminated but into which employees in titles affected by layoff can be transferred or reassigned pursuant to the civil service law, rule or regulation. The determination of eligible titles shall be made by: (a) the appointing authority, subject to the approval of the director of state operations for titles within the executive branch; (b) the board of trustees for the state university (including the association) subject to the approval of the director of state operations, the [state university construction] fund., and of each community college operating under the program of the state university,... and (d) the chief executive officer or other comparable official for participating employers other than the community colleges.

Relevant Substantive Sections

The relevant statutory provisions of Part A are Sections 2, 3 and 9 as follows:

§2. The determination of whether a title shall be considered eligible shall consider whether the reduction of a specific number of positions within a title would unacceptably:

a. Directly result in a reduction of the level of service required or mandated to protect and care for clients of the state or a participating employer or to assure public health and safety;

b. Endanger the health or safety of employees of the state or a participating employer; or

c. Clearly result in a loss of significant revenue to the state or a participating employer or result in substantially increased overtime or contractual costs....

§ 3. a. Eligibility for inclusion in the retirement incentive shall be determined: (a) by seniority...

b. All eligible employees serving in eligible titles desiring to avail themselves of the retirement incentive...shall provide written notice to his or her employer on or before the twenty-first day preceding the end of the open period, or before the end of the applicable open period as such open period is determined by the director of state operations. Failure to provide such written notice shall render the employee ineligible for the retirement incentive.

§ 9. Notwithstanding...

a. A participating employer...shall not be required to eliminate the positions of eligible employees in eligible titles receiving the retirement incentive...if such employer can demonstrate that it will achieve a compensation savings such that the total amount of base salary paid for the two-year period subsequent to the effective date of retirement for such eligible employees in eligible titles to those new hires, if any, who otherwise would not have been hired by such employer after the effective date of this act but for the retirement incentive provided shall be no more than one-half of the total amount of base salary that would have been paid to such eligible employees from their date of retirement for such two-year period. Each such employer shall make available its plans for achieving these savings.