

STATE OF NEW YORK

3354--B

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

Introduced by M. of A. FALL, ABBATE, SILLITTI, SIMON, THIELE, RAJKUMAR -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil service law and the labor law, in relation to leave time for COVID-19 vaccination; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The civil service law is amended by adding a new section
2 159-c to read as follows:

3 § 159-c. Leave time for COVID-19 vaccination. 1. Every public officer,
4 employee of this state, employee of any county, employee of any communi-
5 ty college, employee of any public authority, employee of any public
6 benefit corporation, employee of any board of cooperative educational
7 services (BOCES), employee of any vocational education and extension
8 board, or a school district enumerated in section one of chapter five
9 hundred sixty-six of the laws of nineteen hundred sixty-seven, employee
10 of any municipality, employee of any school district or any employee of
11 a participating employer in the New York state and local employees'
12 retirement system or any employee of a participating employer in the New
13 York state teachers' retirement system shall be entitled to absent
14 himself or herself and shall be deemed to have a paid leave of absence
15 from his or her duties or service for a sufficient period of time, not
16 to exceed four hours per vaccine injection, unless such officer or
17 employee shall receive a greater number of hours pursuant to a collec-
18 tively bargained agreement or as otherwise authorized by the employer,
19 to be vaccinated for COVID-19.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 2. The entire period of the leave of absence granted pursuant to this
2 section shall be excused leave and shall not be charged against any
3 other leave such public officer or employee is otherwise entitled to.

4 3. Nothing in this section shall be deemed to impede, infringe, dimin-
5 ish or impair the rights of a public employee or employer under any law,
6 rule, regulation or collectively negotiated agreement, or the rights and
7 benefits which accrue to employees through collective bargaining agree-
8 ments, or otherwise diminish the integrity of the existing collective
9 bargaining agreement.

10 § 2. The labor law is amended by adding a new section 196-c to read as
11 follows:

12 § 196-c. Leave time for COVID-19 vaccination. 1. Every employee shall
13 be provided a paid leave of absence from his or her employer for a
14 sufficient period of time, not to exceed four hours per vaccine
15 injection, unless such employee shall receive a greater number of hours
16 pursuant to a collectively bargained agreement or as otherwise author-
17 ized by the employer, to be vaccinated for COVID-19.

18 2. The entire period of the leave of absence granted pursuant to this
19 section shall be provided at the employee's regular rate of pay and
20 shall not be charged against any other leave such employee is otherwise
21 entitled to, including sick leave pursuant to section one hundred nine-
22 ty-six-b of this article, or any leave provided pursuant to a collective
23 bargaining agreement.

24 3. The provisions of this section may be waived by a collective
25 bargaining agreement, provided that for such waiver to be valid, it
26 shall explicitly reference this section of law.

27 § 3. No employer or his or her agent, or the officer or agent of any
28 corporation, partnership, or limited liability company, or any other
29 person, shall discharge, threaten, penalize, or in any other manner
30 discriminate or retaliate against any employee because such employee has
31 exercised his or her rights afforded under this act, including, but not
32 limited to, requesting or obtaining a leave of absence to be vaccinated
33 for COVID-19.

34 § 4. This act shall take effect immediately and shall expire and be
35 deemed repealed December 31, 2022.

BILL NUMBER: A3354B

SPONSOR: Fall

TITLE OF BILL:

An act to amend the civil service law and the labor law, in relation to leave time for COVID-19 vaccination; and providing for the repeal of such provisions upon expiration thereof

PURPOSE OR GENERAL IDEA OF BILL:

To grant public employees four hours of excused leave to receive the coronavirus vaccine.

SUMMARY OF PROVISIONS:

Section one of this bill adds a new section 159-c to the civil service law to grant public officers or employees up to four hours of paid leave per injection to receive the COVID-19 vaccine, unless such officer or employee shall receive a greater amount of time under a collectively bargained agreement or as otherwise authorized by the employer.

Such leave shall be considered excused and shall not be charged against any other leave the officer or employee is otherwise entitled to. Nothing in this bill shall be deemed to diminish the integrity of existing collective bargaining agreements.

Section two of the bill adds similar provisions to the labor law to provide up to four hours of paid leave per injection to private employees to receive the COVID-19 vaccine.

Section three of the bill provides that an employee shall not be retaliated against by an employer for taking leave to receive the COVID-19 vaccine.

Section four of the bill provides the effective date and that this act shall expire and be deemed repealed on December 31st, 2022.

DIFFERENCE BETWEEN ORIGINAL AND AMENDED VERSION (IF APPLICABLE):

The amended version makes changes to section one of the bill to provide that an employee shall be granted up to four hours of paid leave for each COVID-19 vaccine injection unless an employee will receive more hours under a collective bargaining agreement or as otherwise authorized by an employer. The amended version also adds a new section to the bill which would amend the Labor Law to add a new section 196-c which would provide up to four hours of paid leave to private employees. The amended version would also provide that an employee shall not be retaliated against for taking such leave.

JUSTIFICATION:

Many public employees are now authorized to receive the COVID-19 vaccine within the 1A or 1B categories promulgated by the New York State Department of Health. It is vital that these essential civil servants, which include healthcare workers, emergency medical service personnel, staff in congregate care facilities, police officers, firefighters, corrections officers, teachers, and more, receive the vaccine in as expeditious a manner as possible in order to continue serving on the frontlines of this pandemic at decreased risk to themselves and their families.

This legislation would mirror the existing leave of four hours that civil servants are granted for cancer screening pursuant to Section 159-b of Civil Service Law as well as recent administrative action taken by the City of New York. Granting public employees official time off to receive the vaccine without having to exhaust their other piles of leave will take us one step closer to achieving herd immunity and ending the war against COVID-19.

PRIOR LEGISLATIVE HISTORY:

New bill

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS:

None.

EFFECTIVE DATE:

Immediately.