

TREASURY - GENERAL

DIVISION OF PENSIONS AND BENEFITS

POLICE AND FIREMEN'S RETIREMENT SYSTEM

Proposed Amendment: N.J.A.C. 17:4-4.1

Creditable compensation

Authorized By: Police and Firemen's Retirement System Board of Trustees, Wendy Jamison, Secretary.

Authority: N.J.S.A. 43:16A-13(7).

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2007-31.

Submit comments by April 6, 2007, to:

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The agency proposal follows:

Summary

The Police and Firemen's Retirement System (PFRS) proposes to amend N.J.A.C. **17:4-4.1**, Creditable compensation, due to concerns expressed by Division staff, affected employers and employees, as well as collective negotiations representatives regarding its application.

It is proposed that N.J.A.C. **17:4-4.1(a)2vi**, be amended to delete the word “waivers.” Including the general term “waivers” in a listing of specific examples of payments or benefits that are extra compensation serves no purpose.

It is proposed that N.J.A.C. **17:4-4.1(a)2ix** and **x** be combined. Both relate to “increments or adjustments” relating to retirement. It is logical that, given their common subject matter, the two be combined to avoid redundancy. The proposed combination of N.J.A.C. **17:4-4.1(a)2ix** and **x** results in subparagraphs (a)2xi, xii and xiii being recodified as **x**, **xi** and **xii**.

It is proposed that recodified N.J.A.C **17:4-4.1(a)2xii** be amended to delete the phrase “during some of the member’s service and is included in the member’s base salary upon attainment of a specified number of years of service” and substitute in lieu thereof the phrase “prior to the 20th year of the member’s service credit.” The purpose of this amendment is to permit an employer to monetarily recognize an employee for the employee’s years of service through senior officer pay and have that compensation recognized as part of base salary for pension calculation purposes while at the same time protecting the financial soundness of the PFRS. By precluding senior officer pay as part of a member’s base salary after the member’s 20th year in the PFRS, the Board has acted to ensure that that the PFRS has sufficient funds to pay the increased retirement benefits relating to senior officer pay.

A 60-day comment period is provided and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed amendments will have a beneficial effect on members and on the PFRS.

The proposed amendments to N.J.A.C. **17:4-4.1(a)2vi**, **ix** and **x** clarify the intent of these

provisions by deleting a term that does not add to the intent of the provision, that is, “waiver,” and by merging two provisions to avoid redundancy. The proposed amendment to recodified N.J.A.C. 17:4-4.1(a)2xii clarifies in what years of service an employer can monetarily recognize an employee for their years of service and have that compensation recognized as part of base salary for pension calculation purposes.

Economic Impact

The proposed amendments will have a positive economic impact on the PFRS, employers and members in that it clearly establishes when senior officer’s pay will be recognized as part of base salary for pension calculation purposes and does so in a manner that ensures the financial soundness of the PFRS.

The Division of Pensions and Benefits will continue to monitor the impact of the proposed amendments. The Division is not aware of any provisions in the proposed amendments that would impose any hardship or costs on PFRS members or on the public in general.

Federal Standards Statement

A Federal standards analysis is not required because N.J.S.A. 43:16A-13(7) governs the subject of this rulemaking, and there is no Federal requirement or standard that affects the subject of this rulemaking.

Jobs Impact

The operation of the proposed amendments will not result in the generation or loss of jobs.

The Division of Pensions and Benefits invites any interested parties to submit any data or studies concerning the jobs impact of the proposed amendments with their written comments.

Agriculture Industry Impact

The proposed amendments will not have any impact on the agriculture industry.

Regulatory Flexibility Statement

The rules of the Police and Firemen's Retirement System only affect public employers, public employees and their dependents and beneficiaries. Thus, the proposed amendments do not impose any reporting, recordkeeping or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Smart Growth Impact

The proposed amendments will not have any impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

17:4-4.1 Creditable compensation

(a) The compensation of a member subject to pension contributions and creditable for retirement and death benefits in the system shall be limited to base salary, and shall not include extra compensation.

1. (No change.)

2. "Extra compensation" means individual salary adjustments which are granted primarily in anticipation of a member's retirement or as additional remuneration for performing temporary duties beyond the regular workday. Forms of compensation that have been identified as extra compensation include, but are not limited to:

i. -v. (No change.)

vi. Sell-backs, trade-ins [, waivers,] or voluntary returns of accumulated sick leave, holiday pay, vacation, overtime, compensatory time, or any other payment or benefit in return for an increase in base salary;

vii.-viii. (No change.)

ix. Increments or adjustments granted for retirement credit **or in recognition of the member's forthcoming retirement;**

[x. Increments or adjustments in recognition of the member's forthcoming retirement;]

Recodify existing xi. and xii. as **x. and xi.** (No change in text.)

[xiii.] **xii.** Any form of compensation which is not included in a member's base salary [during some of the member's service and is included in the member's base salary upon attainment of a specified number of years of service] **prior to the 20th year of the member's service credit.**

(b)-(i). (No change.)