

**CIVIL SERVICE**

**CIVIL SERVICE COMMISSION**

**Political Subdivisions**

**Proposed Readoption with Amendment: N.J.A.C. 4A:9**

Authorized By: Civil Service Commission, Robert M. Czech, Chair/CEO.

Authority: N.J.S.A. 11A:2-6(d), 11A:3-1(a), 11A:6-3, 11A:6-5, and 11A:9-1 et seq.;  
and P.L. 2008 c. 29.

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

Proposal Number: PRN 2015-068.

A **public hearing** concerning the rule proposed for readoption with  
amendment will be held on:

Wednesday, July 15, 2015, at 3:00 P.M.

Civil Service Commission Room

44 South Clinton Avenue

Trenton, New Jersey

Please call Annemarie Ragos at (609) 984-7140 if you wish to be included on  
the list of speakers.

Submit written comments by August 14, 2015, to:

Henry Maurer, Director

Division of Appeals and Regulatory Affairs

Civil Service Commission

P.O. Box 312

Trenton, New Jersey 08625-0312

Or electronically at: <http://info.csc.state.nj.us/cscmailer>

### **Summary**

Pursuant to N.J.S.A. 52:14B-5.1.c(2), N.J.A.C. 4A:9 expires on January 9, 2016. The Civil Service Commission has reviewed the rules and determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by law. Since N.J.A.C. 4A:9 was last readopted in 2008, along with a repeal of N.J.A.C. 4A:9-1.2, no amendments have been adopted in connection with the chapter.

It is noted that Subchapter 1 still refers to the Commissioner of Personnel. N.J.A.C. 4A:9-1.1, contains general provisions regarding the procedures that follow when a political subdivision of the State adopts, by referendum, Title 11A, New Jersey Statutes. Thus, N.J.A.C. 4A:9-1.1 provides for the classification, by the Commissioner of Personnel, of all positions in the jurisdiction adopting Title 11A. In addition, this provision also addresses how issues of permanency, seniority calculations, and vacation and sick leave entitlements would be handled in a jurisdiction adopting Title 11A.

N.J.A.C. 4A:9-1.1 is proposed for amendment to reflect the provisions of P.L. 2008, c. 29. Pursuant to that law, the Department of Personnel was abolished and replaced with the Civil Service Commission, a State agency in, but not of, the Department of Labor and Workforce Development. The law also provided that the

Department of Personnel, Commissioner of Personnel, and Merit System Board be replaced by the Civil Service Commission and Chairperson of the Civil Service Commission. Therefore, an amendment is proposed to subsection (a), which would replace the one reference to “Commissioner” with “Chairperson” in the context of providing for the classification of all positions in a jurisdiction adopting Title 11A.

As the Commission has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The proposed technical amendment to N.J.A.C. 4A:9-1.1(a), which would change terminology to reflect enactment of P.L. 2008, c. 29, is anticipated to have a positive social impact, by ensuring that all users of the rules are aware of the current title and statutory powers of the Chairperson of the Civil Service Commission.

The proposed readoption of N.J.A.C. 4A:9 would have an overall positive social impact on all users of Civil Service rules, the Civil Service selection and appointment process, Civil Service Commission operations, and the integrity of the Civil Service system in general. This chapter continues to provide guidance on the status of employees when a municipality, county or other political subdivision joins the Civil Service system. N.J.A.C. 4A:9 provides clear directions to political subdivisions of the procedures that follow adoption of Title 11A, in the areas of title classification, seniority calculations, and vacation and sick leave entitlements. In

practical terms, the provision of clear directions to political subdivisions adopting Title 11A regarding the procedures they must follow ultimately serves to protect employees' rights in the above-noted areas.

### **Economic Impact**

The proposed technical amendment to N.J.A.C. 4A:9-1.1(a), which would change terminology to reflect enactment of P.L. 2008, c. 29, is not anticipated to have any economic impact, as it ensures that all users of the rules are aware of the current title and statutory powers of the Chairperson of the Civil Service Commission.

The proposed readoption of N.J.A.C. 4A:9 would have a minimal overall economic impact since this chapter essentially sets procedures for implementing the statutory responsibilities of the Civil Service Commission and appointing authorities with respect to adoption of Title 11A. However, the clarity and simplicity of N.J.A.C. 4A:9 would continue to minimize the amount of inquiries and controversies requiring agency action, thereby conserving valuable resources and preventing the potential for time-consuming and costly litigation for public employers and public employees. Moreover, it is anticipated that readoption of N.J.A.C. 4A:9 would enable political subdivision employees to continue to receive the above-noted entitlements correctly and expeditiously, which would result in a positive economic impact on these employees.

### **Federal Standards Statement**

The proposed amendment would ensure that all users of the rules are aware

of the current title and statutory powers of the Chairperson of the Civil Service Commission and is not subject to any Federal standards or requirements. Moreover, the area of regulation governed by N.J.A.C. 4A:9 is the exclusive province of Title 11A, New Jersey Statutes, which sets forth State Civil Service laws. Therefore, a Federal standards analysis is not necessary.

### **Jobs Impact**

It is not anticipated that the rule proposed for readoption with amendment at N.J.A.C. 4A:9 would have any jobs impact. No jobs would be created or lost due to the rule proposed for readoption with amendment. The proposed amendment would ensure that all users of the rules are aware of the current title and statutory powers of the Chairperson of the Civil Service Commission.

### **Agriculture Industry Impact**

It is not anticipated that the rule proposed for readoption with amendment would have any agriculture industry impact. The rule proposed for readoption concerns procedures following adoption by political subdivisions of Title 11A. The proposed amendment would ensure that all users of the rules are aware of the current title and statutory powers of the Chairperson of the Civil Service Commission.

### **Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required since the rule proposed for readoption with amendment at N.J.A.C. 4A:9 would have no effect on small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et

seq. The rule regulates employment in the public sector. The proposed amendment would ensure that all users of the rules are aware of the current title and statutory powers of the Chairperson of the Civil Service Commission.

### **Housing Affordability Impact Analysis**

It is not anticipated that the rule proposed for readoption with amendment would have any impact on the number of housing units or the average cost of housing in New Jersey. The rule concerns employment in the public sector. The proposed amendment would ensure that all users of the rule are aware of the current title and statutory powers of the Chairperson of the Civil Service Commission.

### **Smart Growth Development Impact Analysis**

The proposed amendment would ensure that all users of the rule are aware of the current title and statutory powers of the Chairperson of the Civil Service Commission. The rule proposed for readoption with amendment would have no impact on smart growth and have no impact on new construction within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan.

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

#### SUBCHAPTER 1. PROCEDURES FOLLOWING TITLE 11A COVERAGE

4A:9-1.1 Jurisdictions adopting Title 11A, New Jersey Statutes by referendum

(a) Upon the adoption by referendum of Title 11A, New Jersey Statutes, by a political subdivision, the [Commissioner] **Chairperson** shall provide for the classification of all positions in the jurisdiction. See N.J.S.A. 11A:9-2 through 11A:9-7 for referendum procedures.

(b) Any employee who holds a position allocated to the career service and who has been continuously employed by the political subdivision for a period of at least one year prior to the adoption of Title 11A, New Jersey Statutes, including any such employee on an approved leave of absence, shall be considered a permanent employee under Title 11A, New Jersey Statutes and these rules as of the date of adoption.

(c) Seniority calculations for employees determined to be permanent under (b) above shall be based upon the length of their continuous service with that political subdivision.

(d) Vacation and sick leave entitlements under Title 11A, New Jersey Statutes, for employees determined to be permanent under (b) above shall be based upon seniority and are effective on a date set by the appointing authority. However, the date shall in no event be more than 60 days following the adoption of Title 11A, New Jersey Statutes.