

Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. However, any such action shall take effect immediately, or at such later date as the Department determines.

6. If the Department discovers material issues with an ACO's performance during its review and evaluation of the ACO's annual report or at any other time, the Department has the authority to request additional information from the ACO, require reconsideration or resubmission of the annual report, decertify the ACO, or take other actions consistent with its obligations under the Act and this chapter. The ACO may request an administrative appeal of a decertification action pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. However, any such action shall take effect immediately, or at such later date as the Department determines.

10:79A-1.8 Data analyses and annual project evaluation

(a) Pursuant to the Act, the Rutgers Center for State Health Policy (the Center) shall make HIPAA-compliant data requests to the Department and the Department of Health to support the Demonstration Project.

(b) The Department, in consultation with the Department of Health, shall review the Center's assessment of the gainsharing plans in accordance with the Act.

(c) Certified ACOs shall execute a HIPAA-required business associate agreement between the ACO and its participating hospitals, primary care offices, and other members, as needed, to permit sharing of patient-level health data. Certified ACOs shall perform data analyses of patient utilization of local hospitals to improve care coordination and monitor program performance. All such agreements shall require that beneficiaries are to be notified by all such members or providers that the ACO will obtain beneficiary-identifiable data, and that beneficiaries shall be given the opportunity to decline such data sharing, in which case no such data sharing shall occur.

10:79A-1.9 Use of savings by a managed care organization

(a) A managed care organization that participates in the Demonstration Project and expects to earn savings pursuant to a contract with an ACO shall report to the Department and make available to the public how savings earned by the managed care organization will be used.

1. Possible uses for shared savings include:
 - i. Program administration costs;
 - ii. Retained earnings;
 - iii. Increased care coordination activities; and
 - iv. Increased payments to providers for medical home activities.

TREASURY — GENERAL

(a)

**DIVISION OF PENSIONS AND BENEFITS
TEACHERS' PENSION AND ANNUITY FUND**

Election of Member-Trustee

Proposed Repeal and New Rule: N.J.A.C. 17:3-1.4

Authorized By: Teachers' Pension and Annuity Fund Board of Trustees, Mary Ellen Rathbun, Secretary.

Authority: N.J.S.A. 18A:66-56.

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

Proposal Number: PRN 2013-075.

Submit comments by July 5, 2013 to:

Susanne Culliton
Administrative Practice Officer
Division of Pensions and Benefits
PO Box 295
Trenton, NJ 08625-0295

The agency proposal follows:

Summary

The Board of Trustees of the Teachers' Pension and Annuity Fund ("TPAF" or "Fund") proposes to repeal and adopt as new, N.J.A.C. 17:3-1.4, Election of member-trustee, in order to streamline the process of electing member-trustees to the TPAF Board of Trustees. The current voting process has not been updated in recent history and is costly, time consuming, and does not fully utilize the electronic technology now available that would bring greater efficiency to the process. Under the new rule, a TPAF meeting of delegates will only be held in cases where more than one candidate is approved to run in the member-trustee election. This proposed process will eliminate the wasteful use of valuable resources required by the convention and will require attendance by delegates only when a convention is necessary. The new rule also outlines procedures for the election of member-trustee in cases where a candidate is elected as member-trustee but is unable or unwilling to serve in that position. These revisions will reduce the administrative costs associated with the member-trustee election and make the member-trustee voting process more efficient. The new rule states that letters of interest shall be submitted to the county superintendent by February 1 for the trustee's term that expires that same December 31, rather than 45 days prior to the convention date, as there will no longer automatically be a convention meeting. The county superintendent then must electronically forward the necessary information to the TPAF Board of Trustees Secretary by June 1 of that same year and such names submitted shall remain active for a period of 12 months for the purposes of conducting a vote. The new rule also sets forth that if the Board of Trustees Secretary determines that there are insufficient confirmed delegates to hold a meeting, when one is required, the Secretary will cancel the meeting and a vote will be conducted by mail or electronic mail.

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

Social Impact

The members, retirees, beneficiaries, and employers of the Fund rely on the efficient operation of the retirement system to distribute monthly retirement benefits and to provide proper service credit, death benefits, and information regarding individual accounts. The members rely upon the presence and predictability of the rules that guide the administration of their benefits. The protections and guarantees that these rules afford its members mandate their continued existence.

The proposed repeal and new rule of N.J.A.C. 17:3-1.4 will streamline the process of electing a member-trustee to the TPAF Board of Trustees by eliminating the need for a convention when only one candidate for member-trustee has been approved for election. Costs and staffing needs will also be reduced, in consideration of staffing limitations and lower administrative budgets. The proposed new rule will change the election procedures to eliminate certain mailings that are associated with the convention, thereby further reducing costs and setting forth the process to be followed if a newly-elected candidate becomes unable or unwilling to serve prior to the beginning of the candidate's term as trustee.

Economic Impact

The proposed repeal and new rule will have a positive economic impact on the TPAF, since it will reduce the administrative costs of the Board of Trustees elections for member-trustee. The cost of renting a facility for the convention will be eliminated in cases where only one candidate is running for the position of member trustee. In addition, costs will be reduced further by eliminating mailings that are necessary when an annual convention is held. Savings resulting from the reduction of resources and staff required for paper election mailings and facility rental would have to be determined. The Division will continue to monitor the impact of the proposed repeal and new rule.

Federal Standards Statement

A Federal standards analysis is not required because N.J.S.A. 52:14-15.1.a (P.L. 1996, c. 8) and 52:18A-96 et seq. govern 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 repeal and new rule will not result in the generation or loss of jobs; it will also allow staff members in the Board of Trustees office to complete other vital work. The Board of Trustees invites any interested parties to submit any data or studies concerning the jobs impact of the proposed repeal and new rule along with their written comments.

Agriculture Industry Impact

The proposed repeal and new rule will not have any impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed repeal and new rule have no effect on small businesses as the term is defined in N.J.S.A. 52:14B-16 et seq., and only affect members and retirees of the Teachers' Pension and Annuity Fund in New Jersey.

Housing Affordability Impact Analysis

The proposed repeal and new rule will not have an impact on affordable housing in New Jersey since the proposed repeal and new rule apply to the election of a member-trustee to the Teachers' Pension and Annuity Fund, and the repeal and new rule will have no impact on the average cost of housing in New Jersey.

Smart Growth Development Impact Analysis

The proposed repeal and new rule will not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the repeal and new rule only apply to the election of a member-trustee to the Teachers' Pension and Annuity Fund.

Full text of the rule proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 17:3-1.4.

Full text of the proposed new rule follows:

17:3-1.4 Election of member-trustee

(a) The Board shall prescribe the manner of election of three trustees from among the active or retired membership of the Fund. The three member-trustees shall each serve a three-year term, which shall be staggered by designated county group. An election of one trustee will occur each year for the group with the expiring three-year term. Each term of appointment shall commence on January 1 and conclude on December 31.

(b) Any member or retiree who wishes to be a candidate for the position of member-trustee shall send a written letter of interest to the Secretary of the Board by February 1 for the trustee member's term that expires the same year on December 31.

(c) To be eligible as a candidate for member-trustee, a person must be a resident of the State of New Jersey and must be employed in or retired from one of the counties of the group designated for electing a trustee that year, in accordance with (d) below.

(d) The county groups for election of a member-trustee shall be as follows:

Group A	Group B	Group C
Bergen	Middlesex	Atlantic
Essex	Monmouth	Burlington
Hudson	Morris	Camden
Union	Passaic	Cape May
	Somerset	Cumberland
	Sussex	Gloucester
	Warren	Hunterdon
		Mercer
		Ocean
		Salem

(e) Delegates shall be selected annually by each county in the manner described in this subsection, regardless of the number of candidates for member-trustee.

1. Each county superintendent's office shall be responsible for establishing and implementing the procedure for the selection of the delegates/alternates. To qualify to be a delegate or alternate, the individual must be an active or retired member of the Fund. The county superintendent's office will submit the names of the selected delegates and alternates to the Secretary of the Fund annually, for the purpose of conducting a vote by ballot for the member-trustee position.

i. Each county shall be entitled to one delegate for each 550 members employed in or retired from the county.

ii. Each county shall be entitled to elect alternates, the number not to exceed one half of the number of delegates elected.

iii. Each county superintendent shall have until June 1 to electronically forward to the Secretary of the Board the membership numbers, retirement numbers, names, mailing addresses, e-mail addresses, and school districts of the delegates and alternates. The names of delegates and alternates submitted by June 1 will remain active for a period of 12 months for the purpose of conducting a vote in accordance with (g), (i), or (j) below.

(f) In the event only one candidate has registered with the Board Secretary for the position of member-trustee, in accordance with (b) and (c) above, the candidate shall be deemed elected without voting by ballot. Notification of the election results will occur in accordance with (g)5 below.

(g) In the event that more than one candidate has registered with the Board Secretary in accordance with (b) and (c) above, the delegates and alternates selected from the membership of each county shall vote for the member-trustee in accordance with the following procedures:

1. The selected county delegates will vote for member-trustee by either electronic ballot, paper ballot, or a meeting of delegates. The design of the electronic or paper ballot shall be determined by the Board and prepared by the Board Secretary.

2. The Secretary of the Board shall provide each qualified delegate and alternate with the following documents, either by regular or electronic mail:

i. The Division's web address to obtain the Board's annual report for the preceding fiscal year;

ii. Names of the candidates for member-trustee who have registered with the Secretary of the Board; and

iii. A ballot.

3. If the Board determines that a meeting of delegates is required, the following procedures will also apply.

i. The meeting of delegates shall be held at a time and location designated by the Board and as recommended by the Secretary of the Board.

ii. The Secretary of the Board shall provide each delegate and alternate with a form of identification that will grant admission to the meeting of delegates. The identification may be sent either by regular or electronic mail.

iii. The chairperson of the Board will conduct the meeting.

iv. The Secretary of the Board will conduct a roll call of the delegates. Alternates will be seated in the place of their respective county delegate, if that delegate is absent at the time of roll call. Alternates shall be seated in the order in which they are listed by the county superintendent's office.

v. A quorum is required for the purposes of an election at a meeting and shall be a majority of the total delegates appointed by the county superintendents as provided under (e) above. To determine a quorum at a meeting, alternates shall be seated and counted toward the quorum for any absent delegate. Delegates and alternates must confirm their anticipated attendance with the Board Secretary at least 10 days prior to the meeting. If the Board Secretary determines that there are insufficient confirmed delegates to hold a meeting, the Secretary shall cancel the meeting and the vote shall be conducted by mail or electronic mail.

vi. Visitors and alternates not seated at the meeting of delegates will only be recognized for purposes of making any statements or comments during the meeting of delegates at the discretion of the chairman.

vii. Only delegates with proper identification will be permitted to participate in the voting process to elect a member-trustee.

viii. Delegates and alternates will be reimbursed for actual travel expenses incurred in connection with the meeting of delegates in accordance with State of New Jersey, Department of the Treasury reimbursement schedules. Mileage reimbursement shall not exceed 150 miles each way.

4. The candidate that receives the highest number of votes cast by the selected county delegates, or the delegate’s qualified alternate, shall be appointed as a member-trustee.

5. The Board Secretary will notify each county superintendent’s office of the election results. In addition, the election results will be posted on the Division’s website.

(h) In the event that no member is deemed to receive a majority of votes in any election, the incumbent trustee shall serve until a successor is elected in accordance with (f) or (g) above. If necessary, the Secretary may conduct a run-off election using any method specified in (g)1 above.

(i) In the event an active or retired trustee elected by the membership is unable to complete his or her term, the vacancy shall be filled in accordance with (k) below. The term of this position shall be the remainder of the unexpired term.

(j) In the event a newly-elected candidate becomes unable or unwilling to serve as member-trustee prior to the beginning of the candidate’s term as trustee, the Board shall conduct a new election to fill the Board vacancy, in accordance with (k) below. For purposes of this subsection, a member-trustee’s term will terminate in accordance with the regular election cycle for that county’s grouping.

(k) If a member-trustee cannot complete a term in accordance with (i) or (j) above, the following will apply:

1. The Board Secretary will open nominations for new member-trustee candidates. Interested parties will submit a letter of interest within 45 days of the date of notification of the vacancy.

2. If only one candidate registers for the vacant member-trustee position, that candidate will be deemed elected without ballot, and announcement of the newly elected trustee will occur in accordance with (g)5 above.

3. If more than one candidate registers for the vacant member-trustee position, election by delegate vote will be conducted, according to (g) above.

TREASURY — TAXATION

(a)

DIVISION OF TAXATION

Sales and Use Tax

Streamlined Sales and Use Tax Rules and Procedures

Proposed Amendments: N.J.A.C. 18:24-5.16, 7.17, 10.2, 10.3, 10.4, 10.6, 11.2, and 19.7; and 18:24B-1.1, 1.5, 1.6, 1.7, and 1.9

Proposed Repeals: N.J.A.C. 18:24-10.5 and 18:24B-1.2

Authorized By: Michael J. Bryan, Director, Division of Taxation.

Authority: N.J.S.A. 54:32B-24 and 54:50-1.

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

Proposal Number: PRN 2013-071.

Submit written comments by July 5, 2013 to:

Mitchell Smith
 Administrative Practice Officer
 Division of Taxation
 50 Barrack Street
 P.O. Box 269
 Trenton, New Jersey 08695-0269

The agency proposal follows:

Summary

N.J.A.C. 18:24B, Streamlined Sales and Use Tax Rules and Procedures, provide sellers and purchasers with guidance and assistance in the administration and implementation of the Streamlined Sales and Use Tax Agreement (“SSUTA” or “Agreement”). As a member state, New Jersey is required to be in compliance with the SSUTA through the incorporation of its provisions, including N.J.A.C. 18:24B, into New Jersey law, rule, and policies.

Following is a summary of the proposed amendments to N.J.A.C. 18:24B:

At N.J.A.C. 18:24B-1.1, Definitions, in order to be in compliance with the SSUTA, “Model 1 seller,” “Model 2 seller,” and “Model 3 seller” definitions are amended to state that these sellers must be registered under the Agreement. A definition of “Model 4 seller” is added.

At N.J.A.C. 18:24B-1.2, Administration of exemptions, the language in this section is proposed for repeal because it overlaps with N.J.A.C. 18:24-10 of the sales and use tax rules. The information is relocated to N.J.A.C. 18:24-10.4 and 10.5 (as discussed in this Summary below).

At N.J.A.C. 18:24B-1.5, Certification of service providers and automated systems, the colons after subsections (b) and (c) are changed to periods to fix typographical errors. “Sale” was changed to “sales” in (a) to correct a typographical error.

At N.J.A.C. 18:24B-1.6, Registration of sellers, the section is amended by adding language from the SSUTA regarding the registration of sellers in order to be in compliance with the Agreement. The section is also reorganized for clarity purposes.

At N.J.A.C. 18:24B-1.7, State review and approval of certified automated system software and certain liability relief, the word “the” is added to the last sentence of subsection (e) for grammatical correctness, so the sentence now begins “Upon expiration of the 10 days, ‘the’ CSP.” The cross-reference in subsection (c) is changed from N.J.A.C. 18:24B-1.2 to N.J.A.C. 18:24-10, as the former is proposed for repeal.

N.J.A.C. 18:24B-1.9, Relief from certain liability for purchasers confidentiality and privacy protections under Model 1, an apostrophe is added to the word “purchasers” to read “purchasers’” in the heading.

Following is a summary of the changes made to each section of N.J.A.C. 18:24:

At N.J.A.C. 18:24-5.16, Certificate issuance and acceptance procedures, subparagraphs (a)6vi and vii are deleted in order to be in compliance with the Agreement. Subparagraphs (a)6vi and vii are not replaced because the identical information is provided in N.J.A.C. 18:24-10. The word “vendor” is proposed to be replaced with “seller” at paragraph (a) since that is the term used in the Agreement.

At N.J.A.C. 18:24-7.17, Retention of records, the reference to “good faith” in subsection (b) is deleted in order to be in compliance with the Agreement.

At N.J.A.C. 18:24-10.2, General requirements, the reference to “properly completed certificate” is changed to “fully completed certificate” in order to be in compliance with the Agreement.

At N.J.A.C. 18:24-10.3, Responsibility, the reference to “good faith” is deleted and “properly completed certificate” is changed to “fully completed certificate” in order to be in compliance with the Agreement. “[P]ursuant to conditions set forth in N.J.A.C. 18:24-10.4” is added to the end of the section.

N.J.A.C. 18:24-10.4, Acceptance in good faith, is amended by incorporating the information from N.J.A.C. 18:24B-1.2(a)1, 2, 3, and 5, (b), and (c) in order to be in compliance with the Agreement. This section is further amended by adding language, in order to be in compliance with the Agreement, regarding issuing and accepting exemption certificates. The rule explains the different standards that apply to different time periods when an exemption certificate is issued at the point of purchase and upon audit. Prior to October 1, 2005, a properly completed exemption certificate that contains no statement or entry that the seller knows to be false or misleading is considered to be accepted in good faith. The seller is presumed to be familiar with the law and rules regarding the business in which he or she deals. The certificate was required to be in the physical possession of the seller on or before the 90th day following the date of the transaction to which the certificate related. The seller was held liable for the tax due on the transaction, unless the seller provided other evidence to prove that the transaction was exempt.