

# RULE PROPOSALS

## INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

## ADMINISTRATIVE LAW

### (a)

#### OFFICE OF ADMINISTRATIVE LAW Civil Service Commission Law Enforcement Officer and Firefighter Cases Proposed Readoption: N.J.A.C. 1:4B

Authorized By: Laura Sanders, Acting Director, Office of Administrative Law.

Authority: N.J.S.A. 40A:14-208 and 52:14F-5(e), (f), and (g).

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

Proposal Number: PRN 2017-251.

Submit comments by December 15, 2017, to:

Thomas E. Harris Jr., Assistant Director  
Office of Administrative Law  
Quakerbridge Plaza, Bldg. 9  
PO Box 049  
Quakerbridge Road  
Trenton, New Jersey 08625  
E-mail: [oal.comments@oal.nj.gov](mailto:oal.comments@oal.nj.gov)

The agency proposal follows:

#### Summary

P.L. 2009, c. 16, N.J.S.A. 40A:14-200 et seq., signed into law on March 5, 2009, and effective on June 1, 2009, established a 180-day time limit for the appeal process for terminations of certain law enforcement officers and firefighters. The Office of Administrative Law adopted special rules, which were effective on May 29, 2009, establishing hearing procedures for the conduct of these cases, pursuant to the requirements of N.J.S.A. 40A:14-208 (see 41 N.J.R. 2716(a)). At that time, the rules were set to expire on July 1, 2010, the first day of the 13th month following their effective date, in accordance with P.L. 2009, c. 16. The Office of Administrative Law (OAL) readopted the rules without change, effective September 7, 2010, see 42 N.J.R. 985(a); 2321(a). As the OAL has filed this notice of readoption prior to September 7, 2017, the current expiration date, that date is extended 180 days to March 6, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2).

A summary of the sections proposed for readoption follows:

Pursuant to proposed N.J.A.C. 1:4B-1.1, these rules apply to hearings arising under N.J.S.A. 40A:14-200 et seq., concerning the suspension of certain law enforcement officers and firefighters. The rules do not apply when the charge relates to a pending or potential criminal charge. The rules should be read in conjunction with the rules of the Civil Service Commission at N.J.A.C. 4A:2-2.13.

Proposed N.J.A.C. 1:4B-2.1 defines “law enforcement agency,” “law enforcement officer,” “firefighter,” and “public fire department.”

Under proposed N.J.A.C. 1:4B-3.1, appeals are filed simultaneously with the Clerk of the Office of Administrative Law and the Civil Service Commission and must use the law enforcement officer and firefighter removal appeal form found incorporated in the chapter Appendix. Appellants must provide a copy of the preliminary and final notice of disciplinary action. Failure to provide required information may result in the appeal’s dismissal.

The time for filing an appeal and the procedure when an appeal is not simultaneously or timely filed are set out in proposed N.J.A.C. 1:4B-3.2.

Proposed N.J.A.C. 1:4B-10.1 requires the parties to commence discovery no later than 30 days from receipt of the notice of filing.

Post hearing submissions are prohibited, except for settlements or if expressly permitted by the judge for good cause, pursuant to proposed N.J.A.C. 1:4B-14.1.

Proposed N.J.A.C. 1:4B-18.1 sets forth the process for extending the period for issuing a final agency decision.

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

#### Social Impact

The rules proposed for readoption implement the requirements of N.J.S.A. 40A:14-20 et seq., and set forth a procedure that would result in the determination of removal appeals of law enforcement officers and firefighters within 180 days. The parties will benefit from more rapid resolution of the case and clarity regarding the termination issue which will occur as a result of an expedited process for resolution of these cases.

#### Economic Impact

Providing a process that will result in a more expeditious resolution of these cases should save public expenditures for back pay when the determination of an appointing authority is reversed and reduce the amount of salary that must be returned to the appointing authority by the employee if the appointing authority’s determination is affirmed.

#### Federal Standards Statement

A Federal standards analysis is not required because the contested case hearing procedures are proposed in the implementation of the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and are not subject to any Federal standards or requirements.

#### Jobs Impact

The rules proposed for readoption will not generate or cause the loss of any jobs.

#### Agriculture Industry Impact

The rules proposed for readoption will not impact on the agriculture industry.

**Regulatory Flexibility Statement**

The rules proposed for readoption do not impose any reporting, recordkeeping, or compliance requirements on 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. The rules proposed for readoption govern major disciplinary procedures for certain law enforcement officers and firefighters.

**Housing Affordability Impact Analysis**

The rules proposed for readoption will have no impact on the affordability of housing in this State, nor will they have any impact on the costs of housing. The rules set forth procedures for contested case hearings.

**Smart Growth Development Impact Analysis**

The rules proposed for readoption will have no impact on the number of housing units or the availability of affordable housing in the State, and will have no effect on smart growth development in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The rules set forth procedures for contested case hearings.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 1:4B.

**BANKING****(a)****DEPARTMENT OF BANKING AND INSURANCE****DIVISION OF BANKING****Governmental Unit Deposit Protection****Proposed Readoption with Amendments: N.J.A.C. 3:34**

Authorized By: Richard J. Badolato, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8, 8.1, and 15 and 17:9-41 et seq.

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

Proposal Number: PRN 2017-250.

Submit comments by December 15, 2017, to:

Denise Illes, Chief  
Office of Regulatory Affairs  
New Jersey Department of Banking and Insurance  
20 West State Street  
PO Box 325  
Trenton, NJ 08625-0325  
Fax: (609) 292-0896  
E-mail: [legsgregs@dobi.nj.gov](mailto:legsgregs@dobi.nj.gov)

The agency proposal follows:

**Summary**

In accordance with N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 3:34 were scheduled to expire on November 1, 2017. In accordance with N.J.S.A. 52:14B-5.1.c(2), the filing of this notice of proposal with the Office of Administrative Law extended the expiration date by 180 days to April 30, 2018.

The Department of Banking and Insurance (Department) is proposing to readopt the rules at N.J.A.C. 3:34, which implement the Governmental Unit Deposit Protection Act, N.J.S.A. 17:9-41 et seq., (“Act” or “GUDPA”), which establishes the collateral requirements for depositories that accept deposits of New Jersey governmental unit funds. The Department has reviewed the existing Governmental Unit Deposit Protection rules and has determined them to be reasonable, necessary, and proper for the purpose for which they were originally promulgated. The rules are proposed for readoption with amendments.

N.J.A.C. 3:34-1.1 sets forth the purpose and scope of the chapter.

N.J.A.C. 3:34-1.2 sets forth necessary definitions. The terms defined include: “Act” or “GUDPA”; “adequately capitalized”; “association”;

“call report”; “capital funds”; “Commissioner”; “credit union”; “critically undercapitalized”; “‘custodial depository’ or ‘custodian’”; “Department”; “eligible collateral”; “governmental unit”; “public depository”; “pubic funds”; “significantly undercapitalized”; “uninsured”; “valuation date”; and “well capitalized.”

N.J.A.C. 3:34-1.3 sets forth the general requirements, to comply with the Act and this chapter.

N.J.A.C. 3:34-1.4 requires that each public depository electronically file a quarterly report with the Department. The report is due the same day as the call reports, which all depositories are required to file with Federal regulators. The existing rule sets forth the information to be included in the report and along with the report. On November 16, 2016, the Department issued Bulletin No. 16-07 as a reminder to financial institutions of their obligations under the Act, and to advise those institutions of a certification required for the quarterly GUDPA filing mandated by N.J.A.C. 3:34-1.4. The Department is proposing to amend the section to add a new subsection (c) to codify the requirement that a public depository must also file a certification attesting to the accuracy and completeness of the filed report, and that said certification be signed by a member of the public depository’s audit committee, its Chief Financial Officer, or an equivalent officer. The certification must be filed with the Department upon the filing of a call report.

Pursuant to the Act, at N.J.S.A. 17:9-43i, non-exempt public depositories are required to pay an annual fee to be prescribed by the Commissioner and to be dedicated to the operations of the Department in connection with the administration and enforcement of the Act. N.J.A.C. 3:34-1.5 sets forth the fees required of such public depositories. If a public depository pays assessments pursuant to N.J.A.C. 3:5, the dedicated funding rules, it is exempt from paying the annual fee.

N.J.A.C. 3:34-1.6 establishes collateral obligations for public depositories holding uninsured public funds. These collateral obligations are security for the public deposits. The amount of required collateral is determined by the amount of uninsured public deposits, New Jersey capital as set out in N.J.A.C. 3:34-1.6(b), and capital category as listed in N.J.A.C. 3:34-1.6(a).

N.J.A.C. 3:34-1.7 sets forth the type of eligible collateral that is permitted.

N.J.A.C. 3:34-1.8 sets forth the web address that can be used to determine if a depository is an approved public depository. It is proposed to be amended to update that address.

N.J.A.C. 3:34-1.9 provides the scope of the following terms in the subchapter: “surplus,” “undivided profits,” “reserves,” and “capital deposits.”

N.J.A.C. 3:34-1.10 provides requirements related to public depositories, substitution of collateral.

N.J.A.C. 3:34-1.11 provides requirements related to public depositories and custodial depositories concerning collateral. It also specifies actions that the Commissioner may take in the event that a public depository fails to meet its minimum regulatory capital requirements or reasons grounded in other safety and soundness concerns arise with respect to a public depository.

N.J.A.C. 3:34-1.12 provides the requirement that each public depository shall have a written agreement with a custodial depository, that must indicate that the collateral pledged is to be held subject to the order of the Commissioner and is held as security for public funds as required under the Act.

N.J.A.C. 3:34-1.13 addresses the securing of public deposits that are otherwise required to be secured by law.

N.J.A.C. 3:34-1.14 provides for records to be maintained by the Commissioner and the posting on the Department’s website of a listing of public depositories eligible to act as a depository for public funds.

N.J.A.C. 3:34-1.15 sets forth the application process, including required information to be provided, for depositories to seek approval from the Commissioner to act as a public depository and accept public funds.

N.J.A.C. 3:34-1.16 sets forth reporting requirements of certain credit unions that qualify as a public depository related to financial education programs.