

Effective Date: June 20, 2016.
Expiration Date: February 11, 2022.

Summary of Public Comment and Agency Response:
No comments were received.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 through 24 require State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The adopted amendments are not promulgated under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards, or requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq., do not require a Federal standards analysis for the adopted amendments.

Full text of the adoption follows:

SUBCHAPTER 8. EXTENSIONS TO PROVIDE REGULATED SERVICES

14:3-8.5 General provisions regarding costs of extensions

(a)-(c) (No change.)

(d) Regulated entities, customers, applicants, developers, builders, municipal bodies, and other persons shall cooperate fully in order to facilitate construction of an extension at the lowest reasonable cost consistent with system reliability and safety. This includes sharing trenches, where practicable, allowing the applicant, where practicable, to dig the portion of the trench located on the property to be served, and coordinating scheduling and other aspects of construction to minimize delays and to avoid difficult conditions, such as frozen or unstable soils. If the applicant elects to dig the portion of the trench located on the property to be served, the applicant is responsible for ensuring that the excavation is done in accordance with utility/utilities standards and that the resulting trench complies with utility/utilities standards. Whether using an individual trench, a shared trench, or applicant-dug trench, a utility shall not place an extension within a trench unless the trench complies with the appropriate utility/utilities standards. A municipality shall not impose an ordinance or other requirement that conflicts with this subchapter or which would prevent or interfere with another person's compliance with this subchapter.

(e)-(j) (No change.)

14:3-8.14 Refunds of contributions paid for extensions built from March 20, 2005 through December 30, 2009, to serve areas not designated for growth

(a)-(b) (No change.)

(c) The refund process is as follows:

1.-5. (No change.)

6. The party requesting the refund shall agree in writing to hold harmless and indemnify the utility, as to the amount of the refund, against any competing claim for a refund.

Recodify existing 6. and 7. as 7. and 8. (No change in text.)

(d) (No change.)

TREASURY — GENERAL

(a)

DIVISION OF PENSIONS AND BENEFITS

General Administration

Readoption with Amendments: N.J.A.C. 17:1

Adopted New Rules: N.J.A.C. 17:1-3.13, 5.8, and 6.4

Proposed: January 19, 2016, at 48 N.J.R. 119(a).

Adopted: May 17, 2016, by Florence J. Sheppard, Acting Director,
Division of Pensions and Benefits.

Filed: May 17, 2016, as R.2016 d.65, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 52:14-15.1a (P.L. 1996, c. 8) and 52:18A-96 et seq.

Effective Dates: May 17, 2016, Readoption;
June 20, 2016, Amendments and New Rules.

Expiration Date: May 17, 2023.

Summary of Public Comments and Agency Responses:

The comment period officially ended on March 19, 2016. Comments on the notice of proposed readoption were received from Paul L. Kleinbaum, of the Law Offices of Zazzali, Fagella, Nowak, Kleinbaum & Friedman and representing the State Police Benevolent Association (PBA).

N.J.A.C. 17:1-6.1(a)

1. COMMENT: The commenter asserts that in cases where a member is subject to charges that may render the member's service or part of that service dishonorable, the Division should establish a window of 30 days for the employer to submit documentation regarding such charges, to ensure no undue delay occurs in the processing of a member's retirement application. The commenter states that if charges against a member were rendered before the member submitted a retirement application, the employer will already possess the documentation regarding those charges, so a 30-day window would provide adequate time for employer submittal. If the documentation is not submitted within the 30-day limit, the Division should proceed with processing the member's retirement application.

RESPONSE: While it is noble of the commenter to express concern about the expedient delivery of retirement benefits to members, it is the responsibility of each board of trustees to protect the taxpayer public by working to prevent members with dishonorable service from receiving service credit and full retirement benefits for such service. Pursuant to N.J.S.A. 43:1-3, "The board of trustees of any State or locally-administered pension fund or retirement system created under the laws of this State is authorized to order the forfeiture of all or part of the earned service credit or pension or retirement benefit of any member of the fund or system for misconduct occurring during the member's public service which renders the member's service or part thereof dishonorable and to implement any pension forfeiture ordered by a court pursuant to section 2 of P.L.2007, c.49 (C.43:1-3.1)."

Establishing a 30-day window for the submittal of documentation regarding a member's dishonorable service would provide a loophole that could allow members with dishonorable service and/or their employers to circumvent the statutory provisions regarding their dishonorable service, by allowing the 30-day limit to lapse before submitting such documents. If an employer failed to submit documentation within the allotted time frame, the member could end up receiving approval for service credit and retirement benefits for periods of dishonorable service, despite the existing statutory provisions that authorize the forfeiture of earned service credit and retirement benefits when dishonorable service has occurred.

Further, N.J.S.A. 43:1-3.2 allows the board of trustees of any State-administered retirement system to "require the production of documents in a matter concerning the rendering of honorable service by a public officer or employee seeking to receive a public pension or retirement benefit. If any person shall refuse to ... produce any books, papers or documents, the board may apply ex parte to the Superior Court to compel the person to comply ..." No time frame is provided in statute for the submittal of documents regarding dishonorable service, and the applicable board may require more than 30 days to request employer submittal of documentation regarding the member's dishonorable service when the employer fails to do so, or to appeal to the Superior Court to obtain documents related to a member's dishonorable service, if any person refuses to produce such evidence. In addition, when the Division requests documents regarding a member's dishonorable service from the employer, the member receives a copy of the notice as well, so the member also has the opportunity to submit documentation related to the dishonorable service, to ensure submittal.

As noted above, it is the Division's responsibility to uphold statute in matters regarding the award of pension benefits when a member's service has been deemed dishonorable. An important step in establishing that a member's service was dishonorable is the receipt of documents concerning the member's dishonorable service. For the reasons provided above, a time limit of 30 days for the submittal of documents related to a member's dishonorable service will not be included at N.J.A.C. 17:1-6.1(a).

N.J.A.C. 17:1-6.1(d)

2. COMMENT: The commenter would like the verbiage of N.J.A.C. 17:1-6.1(d) modified by replacing the word, "may" with the word "shall," so that it states, "The Board of Trustees of the Division shall award the dependent a monthly benefits in cases where financial dependence on the incarcerated member's earnings is established." The purpose of this revision is to ensure that the Board of Trustees or the Division awards a monthly benefit if financial dependence is established. The commenter notes that the Board would still retain discretion over the amount of the benefit awarded, based on the dependent's need.

RESPONSE: According to statute, it is the Board's responsibility to determine if an incarcerated member's dependents rely on the member's pension for maintenance. If this dependency is established, the board will determine and pay the member's dependent the amount of the benefit that is necessary for the dependent's maintenance. N.J.S.A. 43:1-2 specifically states that "no pension or subsidy shall be paid by this State or by any municipality or school district of this State to any person for the period during which he is confined in a penal institution as a result of conviction of a crime involving moral turpitude, and such person shall lose all right to so much pension or subsidy as he would receive or be entitled to receive had he not been so confined; provided, that nothing herein contained shall prevent the payment of the pension for the sole benefit of the mother, father, wife or minor children of the person so confined in a penal institution if the board or commission administering the pension fund shall determine that such pension is necessary for their maintenance and, thereupon, the board or commission shall provide for the payment to the aforesaid person or persons so determined to be entitled to the benefit of the pension." Thus, according to the verbiage of current statute, nothing shall prevent the payment of the pension to the incarcerated member's dependent(s), if the applicable board or commission determines that the pension is necessary for the dependent's maintenance. For this reason, the word "shall" will replace the word "may" in the rule upon adoption. This change conforms the rule to current statute, and is beneficial to the incarcerated member's dependents, so it is to be adopted without an additional comment period.

N.J.A.C. 17:1-6.3(a)1

3. COMMENT: In cases where a member is subject to administrative or criminal charges that resulted in a settlement agreement between the member and employer, the commenter again asserts the Division should establish a window of 30 days for the employer to submit documentation regarding the settlement agreement, to ensure no undue delay occurs in the processing of a member's retirement application. The commenter states that if the settlement agreement was established before the member applied for retirement, 30 days would provide adequate time for employer submittal because the employer already possesses the applicable documentation regarding the settlement agreement. If the documentation is not submitted within the 30-day limit, the Division should proceed with processing the member's retirement application.

RESPONSE: The board of trustees of each State-administered retirement system is responsible for upholding all statutes related to settlement agreements and the award of pension benefits, particularly when a settlement agreement involves a member's dishonorable service. In cases where an employer has agreed not to pursue any civil or criminal charges against an employee for misconduct, in exchange for the employee's resignation in good standing, the employer must inform the board of trustees of the member's retirement system of the settlement agreement, so the board can determine whether to forfeit all or part of the member's earned service credit or pension for the misconduct during the member's public service that renders the member's service or part of that service, dishonorable. When the Division must request documents

regarding a settlement agreement from the employer, the member receives a copy of the notice and has the opportunity to submit documentation related to the settlement agreement, to ensure submittal. Under N.J.S.A. 43:1-3.3, an employer who fails "to fully disclose the settlement to the board of trustees of the pension fund or retirement system so that it can determine whether to order the forfeiture of all or part of the earned service credit or pension or retirement benefit of any member of the fund or system for misconduct occurring during the member's public service which renders the member's service or part thereof dishonorable," is responsible for reimbursing the retirement system of all pension costs incurred by the State or locally-administered retirement system. Imposing a time limit of 30 days for documentation submittal in settlement agreement cases could lead to approvals for retirement benefits that should be forfeited or reduced under statute. It could also trigger increases in required employer reimbursements to the State-administered retirement systems, for pension costs incurred in such cases. Therefore, the rule to be adopted will not be changed to include a time frame of 30 days. The rule to be adopted will protect both the taxpaying public and the member's employer, by helping to prevent awards of benefits in cases where a settlement agreement for misconduct occurred.

N.J.A.C. 17:1-6.4

4. COMMENT: The commenter would like this section deleted entirely, asserting that it goes beyond N.J.S.A. 43:16A-6 through 7 by adding limitations on eligibility for disability retirements. Further, the commenter states that in cases where abuse is suspected, each board of trustees should continue to evaluate retirement applications on a case-by-case basis, with assistance from the Fraud and Abuse Unit. The commenter also asserts that a member is already required by N.J.S.A. 43:16A-6 through 7 to be "a member in service" when filing a disability retirement application.

RESPONSE: Disability retirement benefits are intended for members who become disabled while in active service and can no longer work, not for members who have voluntarily or involuntarily terminated service for some other reason. If their service ends on the basis of other grounds, some members decide to apply for a disability retirement, in order to try to receive the highest retirement benefits available under their former membership.

Proposed N.J.A.C. 17:1-6.4 is intended to prevent members from applying for a disability retirement benefit when their service has voluntarily or involuntarily terminated for reasons unrelated to a disability, such as a partial forfeiture for dishonorable service or a settlement agreement involving civil or criminal charges brought against the member. These former members do not qualify for disability retirement benefits, as they were not totally and permanently disabled from performing their job duties when their service ended; their public service ended for a reason completely unrelated to a physical or mental disability that keeps them from continuing to perform their job duties. N.J.A.C. 17:1-6.4 is not intended to address cases of fraud and abuse; instead, its purpose is to prevent individuals from applying for disability retirement benefits who are ineligible and do not qualify.

Finally, proposed subsection (c) stipulates that the Division will review all disability retirement applications submitted after a member has terminated service, to determine whether the member's application is eligible for processing, which means that all disability retirement applications will continue to be reviewed on a case-by-case basis, as a way to protect both the taxpaying public and members who apply.

Disability retirements offer generous benefits that are to be awarded to eligible members who become totally and permanently disabled, either physically or mentally, and can no longer perform their regular job duties. They are not intended for members who seek to receive these generous benefits after voluntarily or involuntarily separating from public service for any other reason, including the reasons enumerated in proposed N.J.A.C. 17:1-6.4(b). The board of trustees of each State-administered retirement system has an obligation to protect the taxpaying public by striving to ensure that these costly benefits are awarded only to eligible members who have become totally and permanently disabled from performing their regular job duties.

N.J.A.C. 17:1-7.5(e)

5. COMMENT: The commenter expresses a major concern regarding proposed N.J.A.C. 17:1-7.5(c). The commenter asserts that if a member can establish good cause for missing an appointment or failing to cancel a scheduled independent medical examination (IME), failing to pay for a rescheduled IME on time, or submitting additional medical documentation after the initial IME is completed, the required payments should be forgiven. The commenter further states that there may be circumstances beyond the member's control, so at the very least, the Division should allow the member to have the chance to explain.

RESPONSE: The current verbiage of proposed N.J.A.C. 17:1-7.5(c) allows a member to miss a scheduled appointment, but also requires the member to call to cancel the initially scheduled IME appointment when the member cannot attend. When a member repeatedly misses a scheduled IME and does not call to cancel that appointment, the cost of the appointment must still be paid; presently, taxpayer dollars cover that cost.

Proposed N.J.A.C. 17:1-7.5(c) is intended to put the responsibility for attending or cancelling a scheduled IME appointment on the member, to prevent members from missing scheduled appointments carelessly and repeatedly without bothering to cancel. Since taxpayer dollars are currently used to pay for such missed appointments, proposed N.J.A.C. 17:1-7.5(c) is also intended to protect the taxpaying public from such instances of negligence by members.

When a member applies for a disability retirement, the member receives clear instructions and contact information regarding the cancellation of a scheduled IME appointment in correspondence from the Disability Review Section. Proposed N.J.A.C. 17:1-7.5(c) is intended to protect taxpayer dollars and prevent blatant negligence on the part of members who fail to attend or fail to cancel scheduled IME appointments; members who act responsibly by calling to cancel an IME appointment they must miss will be unaffected by this rule.

N.J.A.C. 17:1-7.8

6. COMMENT: The commenter would like the member to have 60 days from receipt of notice of the member's pension option selected and beneficiary designation, instead of 30 days, so that the member has sufficient time to consider the available choices and make changes to the selected pension option and beneficiary designated.

RESPONSE: The Division of Pensions and Benefits provides extensive information about the retirement process to members of all of the State-administered retirement systems, from the moment they enroll. Retirement estimates, pension counselors, retirement seminars, member handbooks, webinars, and other tools in various formats are made available to members, to explain available pension options, the designation of a pension beneficiary, and other aspects of the retirement process. In many publications, the Division advises members to begin to inquire about retirement at least six months before their actual retirement date, so that important decisions about pension option selection and beneficiary designations can be made before the member submits a retirement application.

Further, the 30-day window for pension option and beneficiary designation changes has a statutory basis and, therefore, cannot be changed. Once a member's retirement becomes "due and payable," either 30 days after the member's retirement date or 30 days after the member's retirement is approved by the applicable board, whichever is later, the member cannot alter the pension option selected or the beneficiary designated to receive the member's pension benefit. For this reason, the window for pension option and pension beneficiary designation changes cannot be changed.

N.J.A.C. 17:1-7.10(a)

7. COMMENT: The commenter would like members to have the opportunity to show good cause for submitting documentation after the scheduled IME, before they are charged for the cost of the addendum to the disability retirement application. The commenter asserts that is not necessarily in a member's control and a member should not be penalized in such cases.

RESPONSE: When a member files a disability retirement application, the application instructions direct members to submit all reports and

documents relating to their injury. Therefore, it is the member's responsibility to make sure that all medical documentation is provided, as requested, and to inform the Disability Review Section if delays occur. In disability retirement cases, the burden of proof rests with the member. Because members who are awarded a disability retirement benefit receive a generous pension and in many cases, paid health benefits for life, they need to be vigilant about ensuring that all required documents are submitted in a timely manner. Failing to do so can jeopardize the disability retirement award.

Further, it is important to note that members receive correspondence on more than one occasion, advising them of the disability retirement application process and providing them with contact information for questions and concerns. If an issue with an IME appointment arises, the applicant is given every opportunity to notify the applicable parties. N.J.A.C. 17:1-7.10(a) is intended to encourage members to be diligent about submitting all medical documentation, so that the Medical Review Board or IME can render a determination regarding a member's disability retirement application. Therefore, N.J.A.C. 17:1-7.10(a) cannot be changed.

N.J.A.C. 17:1-7.10(e)

8. COMMENT: The commenter would like the word, "known" added to N.J.A.C. 17:1-7.10(e), so that it states, "The Division reserves the right to require a member to sign a sworn certification that no known underlying condition existed related to the disability for which the member is seeking a benefit and that all known available medical reports related to the disability have been disclosed to the IME prior to the examination." The commenter asserts that an applicant could have been injured many years before the application and returned to full duty without any problems before the event occurs that causes the disability.

RESPONSE: It is unnecessary to add the word, "known" in either case above, since in the context of the proposed rule, a member can only certify what is known to the member anyway. If the member signs a sworn certification stating that no underlying condition existed related to the disability for which the member is seeking a benefit and all available medical reports have been disclosed before the IME examination, it is clear that the underlying condition and medical reports are those that are known to the member. For this reason, the word "known" will not be added.

N.J.A.C. 17:1-7.10(j)

9. COMMENT: The commenter seeks to limit N.J.A.C. 17:1-7.10(j) so it only applies when members return to employment with the same or similar duties and responsibilities. He asserts that many Police and Firemen's Retirement System (PFRS) members find employment after a disability retirement award, in positions that have nothing to do with their prior duties as law enforcement or correction officers or firefighters, or in positions that are not limited by the disability that was the basis for the awarded disability retirement. He states that they should not be required to notify the Division when they have found employment that is not limited by their disabilities.

RESPONSE: Unless otherwise specified, the General Administration rules apply to all of the State-administered retirement systems, not just the PFRS, so the change that the commenter is seeking would have to be valid for all applicable retirement systems. While PFRS statutes do allow members of the Police and Firemen's Retirement System (PFRS) who are awarded a disability retirement to return to other types of employment in some cases, when they would not be able to return to a PFRS-covered position, due to the nature of PFRS work, this is not true for every retirement system administered by the State of New Jersey, or even for every position assumed. In addition, it is the responsibility of the Division to determine whether a new position assumed by that individual has the same or similar duties and responsibilities as performed in the position that the member retired from. The boards of the State-administered retirement systems have the responsibility to monitor whether a member's disabling condition improves enough for a return to work and/or a suspension of benefits, as a way of preventing abuses of disability retirement awards. The purpose of this rule is to eliminate loopholes that might allow members who are awarded disability retirement benefits to return to positions with duties similar to those performed prior to

retirement, while at the same time receiving those disability retirement benefits; thus, it allows the Division to fulfill its statutory responsibilities regarding the monitoring of disability retirement awards.

Summary of Agency-Initiated Change

The Division is making a technical change to N.J.A.C. 17:1-7.10, which reflects current Division procedures regarding disability retirement application submittals, in cases where the disability retirement award is denied by the Board but the applicant qualifies for another type of retirement benefit. Since members now use the Member Benefits Online System (MBOS) to submit a disability retirement application, the member would not submit a separate paper application to change the retirement type; instead, the member is able to amend the MBOS retirement application on file to change the type of retirement selected. As long as the application for retirement is amended within 30 days of the Board's decision, the applicant is permitted to retain the retirement date indicated on the disability retirement application that is on file with MBOS.

Federal Standards Statement

The rules readopted with amendments and new rules meet, but do not exceed, the applicable Federal standards, that is, 26 U.S.C. §§ 401(a), 403(b), and 414(d). There are no other Federal standards applicable to the subject matter of this chapter, therefore a Federal standards analysis is not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 17:1.

Full text of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. ADMINISTRATIVE PRACTICES

17:1-1.1 Description of the Division of Pensions and Benefits

(a)-(d) (No change.)

(e) The Division's benefits programs include the following three supplemental retirement savings programs: the New Jersey State Employees Deferred Compensation Plan, Supplemental Annuity Collective Trust (SACT), and the Additional Contributions Tax Sheltered Program (ACTS). The Division also administers the IRC Section 125 program, termed TaxSave, for State employees, as well as the IRC Section 132 program known as Commuter TaxSave.

(f)-(i) (No change.)

17:1-1.1A Election of representative to the State Investment Council

(a) Pursuant to N.J.S.A. 52:18A-83.a(1), the Board of Trustees of the Public Employees' Retirement System (PERS), the Teachers' Pension and Annuity Fund (TPAF), and the Police and Firemen's Retirement System (PFRS) of New Jersey shall each elect one of its board members for a three-year term commencing on July 1, to serve as a member of the State Investment Council at its regular meetings. Board members who are designated to serve on the State Investment Council must be active members of their retirement system or retired members of their retirement system receiving a retirement allowance.

1. Each active or retired member of the PERS, TPAF, and PFRS Board of Trustees who is elected by his or her Board to serve as a member of the State Investment Council may not hold any office, position, or employment in any political party and may not benefit directly or indirectly from any transaction made by the Director of the Division of Investment.

2. Any active or retired member elected by the Board of Trustees of the PERS, TPAF, and PFRS to serve as the State Investment Council representative shall be required to comply with all other requirements provided in N.J.S.A. 52:18A-83. Any elected member who fails to comply with the requirements stipulated in the law will be automatically disqualified as a representative.

(b) (No change in text.)

17:1-1.5 Annual statements; retirement system

(a) Updated online statements of member accounts are made available over the Internet, through the Member Benefits Online System, to active

members of the following retirement systems and funds after each quarterly posting in each calendar year:

1. Public Employees' Retirement System - State and local members;
2. Teachers' Pension and Annuity Fund - State and local members;
3. Police and Firemen's Retirement System - State and local members;
4. State Police Retirement System members;
5. Members of the Legislative Part of the Public Employees' Retirement System;
6. Members of the Prosecutors Part of the Public Employees' Retirement System; and
7. Members of the Workers Compensation Judge Part of the Public Employees' Retirement System.

(b) Until MBOS becomes available for Judicial Retirement System (JRS) accounts, statements of member accounts will continue to be mailed annually to the employers of active JRS members, after the employer reporting for the second quarter of the calendar year is complete.

(c) Until MBOS becomes available for Alternate Benefit Program (ABP) accounts, statements of member accounts will continue to be mailed annually to employers of active ABP members, after the employer reporting for the fourth quarter of the calendar year is complete.

(d) (No change in text.)

(e) It is the responsibility of the employer of members who receive a paper statement to direct all statements to the appropriate party when a disputed address is involved. Employers will mail statements for transferred employees who receive a paper statement to the new employer for distribution. Employers will mail statements to the employee's home address for any situation where the employee is not available for statement distribution at the employer's location.

17:1-1.6 Quarterly statements; supplemental annuity

Statements of members' accounts are mailed quarterly to participants of the tax sheltered and regular, after-tax sheltered Supplemental Annuity Collective Trust.

17:1-1.13 Suspension of pension payments

(a) The disbursement of pension payments shall be suspended under the following circumstances:

1.-4. (No change.)

5. For those who receive their pension payment via paper check, if a retirant or beneficiary fails to cash three consecutive monthly pension checks, the monthly benefit shall be suspended until a personally endorsed, notarized signature card has been received; or

6. (No change.)

SUBCHAPTER 2. ACCOUNTING

17:1-2.4 Delinquent notices

(a) Reporting agencies that do not file timely reports or remittances will receive a delinquent notice.

(b) In the event the employer does not respond to the delinquent notice for the Report of Contributions, and if the report is not received in a timely manner to update the members of the local employer's report, the mayor, school superintendent, or person of a similar authority will be sent a letter advising of the delinquency and the ramifications of such delinquency.

17:1-2.9 Adjustment statements

(a)-(c) (No change.)

(d) For clearing account overages that are the result of quarterly transmittal overpayments, these monies shall be refunded directly to the employer.

(e)-(g) (No change.)

17:1-2.12 Lost pension checks; direct deposit of pension payments

(a)-(b) (No change.)

(c) Members who retire on or after July 1, 2011, must receive their pension payment via direct deposit/electronic fund transfer (EFT).

1. Members may sign up for EFT/direct deposit of their retirement benefit payment in one of two ways:

i. Using the Internet-based Member Benefits Online System (MBOS), if the member has registered for an MBOS account; or

ii. Completing and submitting an Authorization for Direct Deposit of Benefit Payment form by mail.

2. When the bank or account information to which a pension payment is direct deposited requires updating, members can update their direct deposit/EFT authorization information in one of three ways:

i. Using the Member Benefits Online System (MBOS) via the Internet, provided the member has registered for an MBOS account;

ii. Completing and submitting an Authorization for Direct Deposit of Benefit Payment form by mail; or

iii. Calling the Automated Information System by telephone.

3. Upon demonstration of good cause, the Director may waive the requirements of this subsection.

17:1-2.13 Administrative expenses; prorated among systems

(a) Not later than 60 days after receipt of the expenditures by account, the Division will prepare a complete fiscal statement indicating the administrative expenses incurred by the Division within its State appropriation for the previous fiscal year ending the prior June 30.

1.-2. (No change.)

3. Included in the administrative expenses incurred by the Division shall be those of the State Division of Investment as the expenses of that Division pertain to the investment of monies appropriate to each retirement system or fund calculated on the number of transactions processed for the respective systems.

(b) To the extent that there are costs that are attributable to the Division as a whole, as distinguished from costs attributable to each separate program administered by the Division, all systems will share in the cost of the Division's expenses on a pro rata basis.

(c) (No change.)

17:1-2.18 Service and salary credit: awards of back pay

(a) When a member appeals the suspension or termination of the member's employment and through an award or settlement becomes entitled to full pay for all or a portion of that employment for the period of such suspension or termination, the member shall receive service credit for the period covered by the award or settlement, a full normal pension, and, if applicable, contributory group life insurance, as long as the contributory group life insurance contribution is received from the member or is deducted from the value of the award. The member must receive full back pay, including normal salary increases before mitigation and the contributions will be computed on the base salaries that the employee would have earned for the reinstated suspended or terminated period. In the event that the amount of back payment, after mitigation, is insufficient to deduct the value of the normal pension contributions and, if applicable, the contributory group life insurance due, such contribution shall be paid by the member to the respective retirement system by certified check or money order.

(b)-(g) (No change.)

SUBCHAPTER 3. ENROLLMENT, MEMBERSHIP, TRANSFERS, AND WITHDRAWALS

17:1-3.1 Compulsory enrollments; failure to enroll

(a) Employers have a statutory responsibility to enroll employees on a timely basis. Employers are required to use the available online enrollment applications provided through the Employer Pensions and Benefits Information Connection (EPIC), to enroll newly hired employees.

1. The Division will accept paper applications on a limited basis when:

i. An online application for a specific State-administered retirement system or fund is not available;

ii. When accompanied by an Interfund Transfer form; or

iii. The employee's enrollment cannot be processed online for any other reason.

2. When an employer fails to file an application for enrollment even though the employee and employer have been advised of the compulsory nature of enrollment, the employer shall pay the employee contributions required as a result of a delayed enrollment, as required by the governing statute and pursuant to (b) and (c) below.

3. Upon successful submission and full certification of the employee's online enrollment application, the certifying officer will receive an e-mail

confirmation that enrollment is complete from the Division of Pensions and Benefits.

4. Upon receipt of a properly completed enrollment application, the member's beneficiary shall automatically be their estate until the enrolled member files a Designation of Beneficiary form.

(b) For the purpose of establishing an employer's liability for payment of the employee contributions on delinquently filed enrollment applications, as well as the member's requirement to prove insurability, one year shall cover the 12-month period elapsing between the employee's date of enrollment or transfer and the date the enrollment application or report of transfer is received by the Division.

(c) (No change.)

17:1-3.2 Multiple enrollments prohibited; contributions

For enrollments occurring after May 21, 2010, multiple membership is prohibited. For enrollments occurring in some retirement systems on or before May 21, 2010, an employee may have been enrolled in the system on the basis of more than one position with more than one employer participating in the retirement system. Within the limits of the statute and board rules, such an employee was required to enroll for each position.

17:1-3.3 Enrollment schedules

Employees appointed after the third day of the biweekly pay period will be enrolled the next pay period and after the 16th day of a month for members scheduled on a monthly basis will be enrolled as of the first of the following month.

17:1-3.5 Intrafund transfers

An active member of the Teachers' Pension and Annuity Fund, the Police and Firemen's Retirement System, or the Public Employees' Retirement System who terminates employment with one participating employer but transfers to another covered position with a different employer within the same retirement system may continue such membership, provided the member meets all eligibility criteria for the member's date of enrollment (membership tier).

17:1-3.9 Waiver of retirement benefits upon withdrawal

If a member is eligible to begin receiving a monthly retirement allowance (due to the member's age or years of creditable service), the member may obtain the estimated amount of the retirement allowance through the Member Benefits Online System (MBOS). The Division shall require the member to sign a waiver of such monthly benefits, should the member still wish to withdraw.

17:1-3.10 Peacetime military service; service credit

(a) A member, former member, or a person required to be a member of a State-administered retirement system who leaves employment covered by a State-administered retirement system to enter the uniformed services of the United States may obtain service credit in the State-administered retirement system, as provided in this section upon returning to covered employment within the time period and under the circumstances required for entitlement to reemployment rights under Federal law (38 U.S.C. §§ 4301 et seq.).

(b) (No change.)

(c) The types of service or situations eligible for reemployment rights include regular active duty, initial active duty for training, active and inactive duty training for members of reserve components and National Guard units, and situations where an employee leaves employment for the uniformed services or for examination of fitness for the uniformed services and is not taken into the uniformed services.

1.-7. (No change.)

8. The employer shall notify the Division in writing within 30 days that a member has returned from service in the uniformed services and shall provide the dates of such service.

9. The member may make contributions to the retirement system for all of the period of service in the uniformed services to obtain credit in the pension system for inclusion of such service in the calculation of benefits. The member must file a written request with the Division so that a schedule of back deductions will be generated. The schedule of back deductions shall be based upon the employee's rate of contribution in effect on the date the employee returned to employment multiplied by the salary the employee would have received for the period of service; or if

the determination of such salary is not reasonably certain, on the basis of the employee's average rate of compensation during the year immediately preceding such service for the period of time in which no credit was received in the system for that service. Any payment to the plan described in this paragraph shall begin as soon as practicable after the date of reemployment and shall continue for the lesser of five years or three times the period of the uniformed service. If the member does not request in writing back deductions at the time of return to employment, the member may request to receive credit for such service until the expiration of either five years or three times the period of the uniformed service, whichever is shorter. Repayment still must be made in the above referenced time frame.

10. The member is permitted to make additional elective deferrals to the Supplemental Annuity Collective Trust (SACT), the New Jersey State Employees' Deferred Compensation Plan, the Additional Contributions Tax Sheltered Programs (ACTS), and the Alternate Benefit Program in an amount not exceeding the maximum amount the employee would have been permitted to contribute during the period of military service if the employee had actually been employed by the employer during that period.

11. (No change.)

12. An employer who participates in the Alternate Benefit Program (ABP) and reemploys a person under this section, shall be liable to the ABP for funding any obligation of that plan to provide benefits under the ABP for the period served by a person in the uniformed services, upon that person's reemployment. The employer shall allocate the amount of any employer contribution for that person in the same manner and extent that the allocation occurs for other employees during the same period of service. However, the employer is not required to make up the earnings that those contributions would have made had the person reemployed under this paragraph been employed continuously.

i.-iv. (No change.)

17:1-3.13 Proof of age

(a) All members of the defined benefit plans and defined contribution plans administered by the Division shall establish proof of their age with the Division. Acceptable proof-of-age documents include birth certificates with visible seal, passports, U.S. passport cards, naturalization or immigration papers, valid New Jersey, New York, or Pennsylvania digital driver licenses, or digital non-driver ID cards from the New Jersey Motor Vehicle Commission (MVC), indicating a member's age.

(b) In the event that a State-administered retirement system member dies before satisfactory evidence of the member's date of birth has been filed with that system, appropriate proof-of-age evidence shall be required before any death claim is processed for settlement.

(c) In the event proof of age has not been filed with a member's State-administered retirement system before retirement, such proof must be filed before any retirement benefits may be disbursed.

(d) If a member is transferring from one State-administered retirement system, where proof of age was already secured, to another system, no additional proof of age will be required.

SUBCHAPTER 4. PURCHASES AND ELIGIBLE SERVICE

17:1-4.1 Purchases; cancellation, interest on outstanding purchases, or cash discount requested

(a)-(b) (No change.)

(c) A member who authorizes a purchase that requires installment payments but who has not had installment payments made toward that purchase for two years due to inactivity in the account, shall be informed by the Division that the remainder of the purchase will be canceled. The member shall receive a pro rata credit for the service purchased to the date that the installment payments ceased. The member may request to pay the cash discount value of the outstanding arrearage for the purchase in full within 60 days of the Division notice. Any subsequent requests to purchase the remaining service credit shall be based on the laws and rules in effect on the date that the subsequent request is received.

(d)-(e) (No change.)

SUBCHAPTER 5. INSURANCE AND DEATH BENEFITS

17:1-5.2 Optional settlements; group life insurance

Death benefits under the group life insurance contracts may be paid under any optional settlement made available by the insurance company. The beneficiary will be informed of such opportunity when such optional settlements are possible. If the beneficiary requests advice concerning such settlements, the claim shall be forwarded to the carrier for contact with the beneficiary. The Division will be advised of the final settlement for the recording of the data with the retirement system.

17:1-5.3 Accrued increase; limitations

Upon the death of a retiree or a beneficiary receiving a pension, any payments that were due to the deceased shall be paid to a named beneficiary as established in the records of the State-administered retirement system, or if none is named, to the deceased's estate, minus any other monies a member may owe, such as an outstanding pension loan or other arrears.

17:1-5.4 Group life insurance and pension benefits

(a)-(b) (No change.)

(c) Special needs trusts are permissible beneficiary designations but are restricted to those special needs trusts created pursuant to 42 U.S.C. § 1396p(d)(4)(A). Before filing, a member must ensure that the special needs trust has been prepared in accordance with 42 U.S.C. § 1396p(d)(4)(A). The Division is not responsible for discerning whether the special needs trust document complies with statutory requirements at the time of filing with the Division.

(d) (No change in text.)

17:1-5.6 Domestic partners

(a) Resolutions by the employer to adopt the provisions of P.L. 2003, c. 246, the Domestic Partnership Act, were accepted through February 19, 2007. After February 19, 2007, same-sex couples were allowed to establish a civil union in New Jersey under P.L. 2006, c. 103, but were no longer permitted to enter into a domestic partnership in New Jersey. Effective October 21, 2013, same sex marriages were legally recognized in New Jersey, and effective June 26, 2015, same sex marriages were legally recognized across the United States. An employer who decided to adopt the provisions of P.L. 2003, c. 246, had to adopt the provisions for all its employees and retirees in all of the retirement systems in which it participated and not just members of a specific retirement system.

1. An employer was also permitted to adopt the provision of P.L. 2003, c. 246, for the State Health Benefits Program (SHBP) and School Employees Health Benefits Program (SEHBP) separately from the resolution for the retirement systems, through February 19, 2007. Once adopted, such a resolution may only be rescinded on a prospective basis. Anyone receiving a survivor's benefit, SHBP coverage, or SEHBP coverage based on the old resolution shall continue to do so until such time as they no longer meet the definition of widow, widower, surviving spouse, or dependent.

2. (No change.)

(b) Pursuant to P.L. 2003, c. 246, the Domestic Partnership Act (N.J.S.A. 26:8A-1 et seq.), the SHBP, SEHBP, and State-administered retirement system provisions found in sections 41 through 56 of the Domestic Partnership Act only apply in the case of two persons who are of the same sex and have established a domestic partnership on or before February 19, 2007, in New Jersey. Therefore:

1.-3. (No change.)

(c)-(d) (No change.)

17:1-5.7 Civil unions

(a) Civil union partners have all the rights and privileges of married couples. The Federal Internal Revenue Code (IRC) allows an employer to provide certain benefits to its employees on a tax-exempt basis. Those benefits can also be extended to spouses and dependents of an employee on the same tax-exempt basis. The IRC, however, does not recognize a civil union partner in the same manner as a spouse and does not automatically recognize a civil union partner as a dependent for tax purposes. Therefore, employers may have to treat civil union SHBP and SEHBP benefits as taxable on Form W-2 and withhold Federal income, Social Security, and Medicare taxes on its value. The employer shall be

responsible for the employer share of Social Security and Medicare taxes due on the civil union benefit, including the taxes due on any State paid benefits.

1.-2. (No change.)

17:1-5.8 Reimbursement of funeral expenses for public safety personnel

(a) In the event that an eligible public safety employee is killed in active service while performing his or her duties, family members who pay for the public safety employee's funeral costs are entitled to receive a reimbursement for those funeral expenses from the Treasurer of the State of New Jersey, pursuant to the provisions of P.L. 2014, c. 177. Public safety employees are defined to be: full-time members of a State, county, or municipal law enforcement agency or a county sheriff's office who are statutorily empowered to act for the detection, apprehension, arrest, and conviction of offenders against laws of the State of New Jersey; active members in good standing of a paid, part-paid, or volunteer fire department of a duly incorporated first aid, emergency, ambulance, or rescue squad; or State or county correctional officers. Members of the following groups qualify as public safety personnel whose family members are eligible for the funeral expenses reimbursement called for under P.L. 2014, c. 177:

1. Permanent full-time members of the Police and Firemen's System in active service;

2. Permanent full-time members of the State Police Retirement System in active service;

3. Permanent full-time members of the Public Employees' Retirement System in active service who work in Law Enforcement Officer (LEO) titles; and

4. Volunteer emergency workers in good standing who qualify for the Volunteer Emergency Worker's Survivors Pension (VESP), pursuant to N.J.S.A. 43:12-28.1 and N.J.A.C. 17:1-11.1, 11.2, and 11.3, such as volunteer firefighters, first aid workers, rescue squad workers, and emergency medical technicians (EMTs).

(b) Eligible family members include the spouse, parents, child(ren), or other persons who pay the funeral expenses of a public safety employee who is killed in the line of duty. The family member who pays for the funeral expenses of a public safety worker killed in the line of duty must submit an itemized bill with proof of payment from the funeral home in order to receive a reimbursement for those funeral costs.

(c) The maximum allowable reimbursement shall not exceed \$10,000 in total. If workers' compensation covers any part of the funeral expenses paid, pursuant to N.J.S.A. 34:15-13, the reimbursement shall be reduced by the amount covered by workers' compensation.

SUBCHAPTER 6. HONORABLE SERVICE

17:1-6.1 Honorable service

(a) The receipt of a public pension or retirement benefit is expressly conditioned upon the rendering of honorable service by a public officer or employee. Pursuant to N.J.S.A. 43:1-3, the Boards of Trustees of the State-administered retirement systems are authorized to order the forfeiture of all or part of the pension or retirement benefit of a member of the fund or system for misconduct occurring during the member's public service, which render the member's service or part thereof, dishonorable.

1. In cases where a member is subject to charges that may render the member's service or part of that service dishonorable, the employer shall submit all documentation regarding the charges brought against the member to the Division and to the employee before any benefit claims will be processed. Such documentation may include, but is not limited to: reports related to the employee's misconduct, disciplinary action taken, plea agreements, and sentencing and plea transcripts. The Board of Trustees will review honorable service issues prior to a disability application being processed.

2. All claims for retirement and death benefits will be held in abeyance until the Division receives the required documentation regarding the charges brought against the member.

(b)-(c) (No change.)

(d) A retiree's retirement allowance shall be immediately suspended as of the date of an incarceration as a result of a conviction of a crime

involving moral turpitude. In cases in which a retiree is incarcerated, the member's spouse or other dependents may file a dependency claim, in order to prove they are dependent on the monthly retirement allowance of the incarcerated member for financial support.

1. A dependent must submit evidence in support of the claim of dependency, through tax statements, completed state and Federal income tax returns, a listing of monthly bills and expenses, and other financial documents that indicate financial dependency on the member.

2. The Board of Trustees or the Division **[may]** **shall** award the dependent a monthly benefit in cases where financial dependence on the incarcerated member's earnings is established. The awarded benefit may be lower than the member's monthly pension allowance, as it is based on the dependent's need.

17:1-6.2 Indictments, dismissals, litigation, or appeals

(a)-(b) (No change.)

(c) No claims for retirement or death benefits can be processed until the matter has been fully adjudicated and completely resolved to the satisfaction of the Board of Trustees, pursuant to N.J.A.C. 17:1-1.13(a)4. Resolution of these charges must be verified by contact with the County Prosecutor's Office, the Attorney General's Office, the Department of Education, the Civil Service Commission, the employer, or other responsible agencies.

(d)-(e) (No change.)

17:1-6.3 Settlement agreements; employer responsibility for reimbursement to the pension fund or retirement system for associated costs

(a) Pursuant to the provisions of P.L. 2007, c. 49 (N.J.S.A. 43:1-3.3), the following shall apply:

1. A State, county, or local employer participating in a State pension fund or retirement system shall be responsible for informing the Division of any settlement agreement between the employer and an employee that provides for the employer not to pursue any civil or criminal charges or an action for misconduct against the employee in exchange for the employee's resignation in good standing. A copy of the settlement agreement must be provided to the Division by the certifying officer within 60 days of execution of such agreement. Such agreement must also be included with any employer certification of service and salary relative to an employee's claim for benefits from the pension fund or retirement system.

i. In cases where a member was subject to administrative or criminal charges that resulted in a settlement agreement between the member and employer, the employer is required to submit to the Division and to the employee all documentation related to the settlement agreement, including the specific underlying charges, disciplinary actions taken, and reports related to the employee's misconduct, before any benefit claims submitted by the member will be processed.

ii. A member's claims for retirement or death benefits submitted after reaching a settlement agreement will be held in abeyance until the Division receives the required settlement agreement and all related documentation; and

2. (No change.)

17:1-6.4 Disability retirement applications and termination of service

(a) Each disability retirement applicant must prove that his or her retirement is due to a total and permanent disability that renders the applicant physically or mentally incapacitated from performing normal or assigned job duties at the time the member left employment; the disability must be the reason the member left employment.

(b) Members who have involuntarily or voluntarily terminated service for any of the reasons listed below will not be permitted to apply for a disability retirement:

1. Removal for cause or total forfeiture of public service;
2. Settlement agreements reached due to pending administrative or criminal charges, unless the underlying charges relate to the disability;
3. Loss of licensure or certification required for the performance of the member's specific job duties;
4. Voluntary separation from service for reasons other than a disability; and
5. Job abolishment or reduction in force.

(c) The Division will review all disability retirement applications submitted after a member has terminated service to determine whether the member's application is eligible for processing, pursuant to (a) above.

SUBCHAPTER 7. RETIREMENTS

17:1-7.1 Retirement quotations

(a) Members who apply for retirement will receive a quotation of retirement benefits upon the completion of the retirement calculation. For members of retirement systems that provide for optional survivor benefits, the retirement quotations will include a description of the various options available. If the member named a spouse as the pension beneficiary on the application and provides the spouse's birth date, all survivor options will be included in the quotation, in addition to the maximum allowance.

(b)-(c) (No change.)

17:1-7.4 Biweekly salary computation; retirement and death benefits

(a) (No change.)

(b) In computing final compensation upon which pension contributions were based, in the case of a 12-month employee reported on a biweekly basis, the number of biweekly pays used depends on a member's date of enrollment and the system or fund in which the member is enrolled, as specified in N.J.A.C. 17:2-6.24, 17:3-6.26, 17:4-6.26, and 17:5-5.9. Final compensation will include any retroactive salary payments made for the covered period.

(c)-(f) (No change.)

17:1-7.5 Disability applications; priorities

(a)-(b) (No change.)

(c) If the Medical Review Board has not given a specific medical recommendation upon which the Board or Commission may act, the case will not be forwarded to the Secretary of the retirement system, but the Disability Review Section will proceed in accordance with the advice of the Medical Review Board to obtain additional information needed by the Board or Commission to render a medical recommendation.

1. The Disability Review Section will schedule a medical examination for the purpose of providing additional information to the Medical Review Board to make a determination about a disability retirement application. The initial independent medical examination (IME) scheduled by the Disability Review Section will be provided at no cost to the applicant.

2. If the applicant fails to attend and fails to cancel the initial IME scheduled by the Disability Review Section, the applicant will be required to pay for any subsequent medical examinations arranged by the Disability Review Section. This payment is required before the Division will reschedule the IME.

3. Failure to provide payment for the rescheduled IME within 90 days of the missed appointment date will result in the dismissal of the disability retirement case.

4. The member will be responsible to pay the IME's contractual rate for any subsequent IME required when additional medical documentation is submitted after the initial medical examination. The cost for the review of subsequent medical reports must be paid by the member in accordance with (c)3 above.

17:1-7.6 Medical examinations; out-of-State

(a) (No change.)

(b) (No change in text.)

17:1-7.7 Post-retirement employment; employer certification; break-in-service—10-month members

(a) (No change.)

(b) Members employed on a 10-month schedule who retire as of July 1st and return to another position within the same pension system, prior to October 1st of the same year, shall be deemed not to have a valid break-in-service for retirement purposes; thus, they are not considered to have a bona fide retirement.

17:1-7.8 Employer resolution; involuntary disability application

(a) Applications for the involuntary disability retirement of an employee of a local employer must be accompanied by a resolution of the

governing body, or in the case of a State employee, by a letter from the State department head, certifying that the employee is disabled and unable to perform the employee's regular or assigned duties.

(b) As N.J.S.A. 43:5-5 requires members to make their own option selection or beneficiary designation at retirement, an employer who is submitting an involuntary disability retirement application must select the maximum option and list the member's beneficiary as "estate". If the involuntary disability retirement is approved by the Board, the member may change the option selection and beneficiary designation for the pension benefit within 30 days. The member may also file a Designation of Beneficiary form, to designate a specific beneficiary to receive the member's life insurance benefits.

17:1-7.10 Ordinary disability applications; medical examinations

(a) Applicants for disability retirement shall submit with their applications all the medical information they can supply relative to their disability, including reports of their personal physicians and consulting physicians, hospital records, diagnostic test results, and any other medical information which would assist the Medical Review Board and the Board or Commission of the retirement system in determining eligibility of the applicants for disability retirement. The Disability Review Section shall forward the applications and the accompanying medical information to the Medical Review Board.

1. The applicant must submit all required documentation within six months of submitting the disability retirement application, or the disability retirement application will be cancelled. The member will then be required to complete a new disability application for a future retirement date.

2. If additional documentation that existed at the time of the independent medical examination (IME) is submitted after the IME, the applicant will be charged for the cost of the addendum to the disability retirement application.

(b) (No change.)

(c) The Board or Commission that governs the pension fund or retirement system may request that an applicant be examined or reexamined by a physician or physicians under contract with the Division or that additional information be obtained, if it deems that the medical information available is insufficient to make a decision on the eligibility of the applicant for ordinary disability retirement.

(d) All accidental disability retirement applicants are required to undergo an IME after all medical documentation has been submitted.

(e) The Division reserves the right to require a member to sign a sworn certification that no underlying condition existed related to the disability for which the member is seeking a benefit and that all available medical reports related to the disability have been disclosed to the IME prior to the examination.

(f) A member filing for any type of disability retirement shall not file a separate application for any other type of retirement while an ordinary or accidental disability application is pending.

(g) If a disability retirement application is denied by the Board and the applicant qualifies for any other retirement benefit, the applicant will be required to *[submit a separate]* ***amend the*** application for retirement for that benefit. If the applicant *[submits]* ***amends*** the *[separate]* application for retirement within 30 days of the Board's decision, the applicant may retain the retirement date designated on the disability retirement application.

(h) The member's disability retirement application will be processed on the basis of the medical conditions described on the disability retirement application submitted. If the disability retirement application is denied, the member may file an appeal within 45 days, based on the medical conditions described on the original application.

(i) If a disability retirement application is denied by the Board and the applicant wishes to reapply for a disability retirement based on a new incident date or different or additional medical condition, the applicant will be required to submit a new application for retirement with a new retirement date. The applicant must also continue to meet the requirements of N.J.A.C. 17:1-6.4(a). All supporting documentation required must be submitted in support of the new medical conditions listed on the application.

(j) Members who are granted an accidental disability retirement benefit will receive certification of the award and will be advised that they are responsible for notifying the Division if the disabling condition improves enough to allow the member to return to gainful employment, or if the member becomes employed again. This certification must be signed and returned to the Division before any retirement benefits will be paid.

SUBCHAPTER 8. PENSION ADJUSTMENT PROGRAM

17:1-8.1 Employer payments; multiple enrollees

The liability of the several employers in the case of multiple enrollees (a pensioner receiving benefits from a retirement system on the basis of several positions covered by the same system) whose enrollments occurred on or before May 21, 2010, will be prorated on the basis of the final salaries reported to the system prior to retirement. Multiple membership is not permitted for enrollments after May 21, 2010.

17:1-8.3 Return to public employment; pension adjustments

(a) (No change.)

(b) The benefit year for each retirement will be the initial year in which the retirement is effective and the member shall satisfy the 24-month waiting period for each retirement before the pension adjustment benefits may be received for that retirement, if any such pension adjustment benefits are in effect.

(c) (No change.)

17:1-8.4 Employer payments

The employers shall review the detailed tabulations of retirees and beneficiaries provided with the invoice for employer liability submitted by the Division and shall report any corrections or revisions within 60 days of receipt of the invoice; otherwise invoices must be paid as submitted.

17:1-8.5 Calculation of cost-of-living adjustment (COLA)

(a) Cost-of-Living Adjustments were temporarily suspended for retirees and benefit recipients of all retirement systems as of June 28, 2011, but with no reductions to any COLA increases that were added to retiree benefits prior to June 28, 2011.

(b) Pension committees were formed for the State Police Retirement System, the Police and Firemen's Retirement System, the Teachers' Pension and Annuity Fund, and the Public Employees' Retirement System, to monitor the "funded ratio" for each plan, where "funded ratio" means the ratio of the value of a plan's assets to the value of a plan's accrued liabilities (times 100 to express as a percentage). The State House Commission was granted the authority to monitor the funded ratio for the Judicial Retirement System. Monitoring of the funded ratio is to continue until a "target funded ratio" of 75 percent is reached, with an annual increase in the funded ratio over seven fiscal years, to a value of 80 percent.

(c) When the "target funded ratio" for a plan is reached, the pension committee for that fund/system will have the authority to reactivate the cost of living adjustment on pensions, modify the basis for the calculation of the cost of living adjustment, and/or set the duration and extent of the activation, as long as the resulting impact does not cause the funded ratio to drop below the target funded ratio in any one year of a 30-year projection period.

(d) Until June 28, 2011, when COLA increases were suspended, the calculation for the increased benefit under P.L. 2002, c. 109 for all employees who retired prior to January 1, 2001, was done by the Division using the calendar year 2001 average Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers (CPI-W), U.S. City Average, All Items.

(e) The calculation for the increased benefit under P.L. 2002, c. 109 for all employees who retired on or after January 1, 2001, but before June 28, 2011, was done using the average CPI for the calendar year in which the employee retired.

(f) Prior to June 28, 2011, the calendar year used to calculate the above increases for beneficiaries was based upon the year in which the employee retired. If the employee retired prior to January 1, 2001, the provisions of (a) above would apply. If the employee retired between

January 1, 2001 and June 28, 2011, the provisions of (b) above would apply.

(g) Prior to June 28, 2011, the Division provided employers participating under the provisions of P.L. 2002, c. 109 with a rate chart to be used to calculate the above increases, on or before November 15th of each year.

SUBCHAPTER 11. VOLUNTEER EMERGENCY WORKERS SURVIVORS PENSION

17:1-11.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

"Child" means a deceased volunteer firefighter's, emergency medical technician's, or first aid or rescue squad worker's unmarried child or children who are:

1.-3. (No change.)

4. Of any age who, at the time of the volunteer emergency worker's death, is disabled because of a mental or physical incapacity, is unable to do any substantial, gainful work because of the disability, and the disability has lasted or can be expected to last for a continuous period of not less than 12 months, as certified by a licensed medical doctor.

"Division" means the Division of Pensions and Benefits, the agency charged by the Treasurer with responsibility for administering the Volunteer Emergency Workers Survivors Pension.

"Dependent parent(s)" means the parent of the volunteer emergency worker who is receiving at least one-half of his or her support from the volunteer emergency worker in the 12-month period immediately preceding the volunteer emergency worker's death in the course of volunteer service. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the volunteer emergency worker.

"Widow" means the woman to whom the volunteer emergency worker was married on the date of the volunteer emergency worker's death and who has not remarried.

"Widower" means the man to whom the volunteer emergency worker was married on the date of the volunteer emergency worker's death and who has not remarried.

17:1-11.2 Survivor's pension payable pursuant to N.J.S.A. 43:12-28.1

(a) The survivor's pension pursuant to N.J.S.A. 43:12-28.1 shall equal \$15,000 annually and shall be paid to the eligible widow or widower monthly until his or her death or remarriage, or, should there be no surviving widow or widower, to the eligible child or children of the volunteer emergency worker split equally among the children.

(b) If the volunteer emergency worker's surviving widow or widower remarries or dies leaving an eligible child or children, a survivor's pension equal to a total of \$10,000 annually shall be paid to the child or children, split equally among the children.

(c) If the volunteer emergency worker leaves no surviving widow, widower, or child, a survivor's pension equal to a total of \$5,000 annually shall be paid to the dependent parent(s).

17:1-11.3 Eligibility for a survivor's pension

(a) The governing body of any municipality served by the volunteer emergency worker shall, by resolution, determine the eligibility for a survivor's pension of the widow, widower, children, or parent of the volunteer emergency worker who has died as the result of injuries sustained in the course of performance of duty, not as a result of willful negligence, as a member of the volunteer fire company or first aid or rescue squad on or after January 1, 2000.

(b) If the volunteer emergency worker is sponsored by a county, the governing body of the municipality being served by the volunteer emergency worker at the time of the incident resulting in the volunteer emergency worker's death shall, by resolution, determine the eligibility for a survivor's pension of the widow, widower, children, or parent of any volunteer emergency worker who has died as the result of injuries

sustained in the course of performance of duty, not as a result of willful negligence, within the borders of the municipality after January 1, 2000.

(c)-(d) (No change.)

17:1-11.4 Application for a survivor’s pension

(a) (No change.)

(b) The resolution must be accompanied by a certified death certificate of the volunteer emergency worker, a copy of the accident or police report, and an application for the survivor’s pension. The application must be completed in all respects and filed with the Division on or before the date benefits are to begin. The application must include a copy of the marriage certificate in the case of a widow or widower, a copy of the birth certificate(s) in the case of a child or children, or a copy of the volunteer emergency worker’s tax return indicating the dependency of the parent(s). The child’s birth certificate must name the volunteer emergency worker as the child’s parent, unless the child was legally adopted, in which case, a copy of legal documentation evidencing the adoption is required.

(c) (No change.)

(d) If the municipal governing body determines, by resolution, the eligibility of a widow, widower, children, or parent for a survivor’s pension, after the January of the calendar year in which the benefit should have started, the Volunteer Emergency Worker Survivors Pension shall be paid on a prospective basis only. Eligibility for benefits shall begin with the first month following the receipt of the resolution.

17:1-11.5 Ineligibility to receive two survivor’s benefits

A survivor who is eligible for accidental death benefits under a State-administered retirement system cannot receive a Volunteer Emergency Workers Survivors Pension for the same event.

SUBCHAPTER 13. NEW JERSEY STATE EMPLOYEES TAX SAVINGS PROGRAM (TAX\$AVE)

17:1-13.7 Forfeiture of account balances

In the event that the amount elected by an employee to fund a plan account in a given plan year exceeds the employee’s total claims eligible for payment from the plan account, for expenses incurred in that plan year, including the 2 1/2 month grace period immediately following the end of the calendar year (as submitted no later than April 30 of the following calendar year), the balance in the plan account shall be forfeited to the State.

SUBCHAPTER 14. THE NEW JERSEY STATE EMPLOYEES COMMUTER TAX SAVINGS PROGRAM (COMMUTER TAX\$AVE PROGRAM)

17:1-14.1 Establishment of plan

State employees eligible to participate in the State Health Benefits Program, except those part-time employees participating due to the provisions of P.L. 2003, c. 172 (N.J.S.A. 52:14-17.33a), are eligible to participate in the New Jersey State Employees Commuter Tax Savings Program, which shall be referred to as the Commuter Tax\$ave Program, set forth in this subchapter. The Division has been charged by the Treasurer with responsibility for administering the Commuter Tax\$ave Program. In each month, an employee, but not the employee’s spouse or domestic partner, may participate in one or both of the plan options available: mass transit expenses and commuter parking expenses.

17:1-14.2 Enrollment in and deductions for the Commuter Tax\$ave Program

(a) (No change.)

(b) Monthly deductions shall be taken by Centralized Payroll in the first pay period of the month prior to the benefit month. State colleges and universities may establish a schedule of deductions to occur each month prior to the benefit month.

(c) The amount of any reduction in an employee’s salary for the purpose of contributing to the payment of the qualified transportation fringe benefit shall continue to be treated as regular compensation for all other purposes, including the calculation of pension contributions and the amount of any retirement allowance, up to the limit permitted by the Federal Internal Revenue Code, but shall not be included in the

computation of Federal, Social Security, or Medicare taxes withheld from the employee’s salary.

SUBCHAPTER 17. COMPLIANCE WITH INTERNAL REVENUE CODE

17:1-17.8 Normal retirement age for the Public Employees’ Retirement System

(a) In addition to any other vesting provided by State law and in accordance with Internal Revenue Service guidance, a member’s benefit is nonforfeitable upon attainment of the normal retirement age, which is as follows:

1. For PERS General:

i. (No change.)

ii. Age 62 for persons who become members on or after November 2, 2008 (Tier 3 and Tier 4); and

iii. Age 65 for persons who become members on or after June 28, 2011 (Tier 5);

2.-6. (No change.)

17:1-17.14 Retiree reemployment

(a)-(c) (No change.)

(d) In order to demonstrate that there has been a bona fide severance from employment in compliance with Federal law, each member and the member’s employer shall certify as part of the application for a retirement benefit that the member has had a bona fide severance from employment with the employer as of a specific date and that there is no pre-arranged agreement for that member to be reemployed by the employer as an employee, a contract employee, a leased employee, or an independent contractor. The certification shall be made under penalties of perjury.

(e)-(f) (No change.)

(g) As required by Federal law, the Division shall issue a Form 1099-R with respect to any retired member who receives a taxable distribution from the defined benefit plans. In order to fulfill its obligations under Federal law with respect to the defined benefit plans, the Division must identify those retired members who may be subject to a premature distribution penalty (10 percent of the taxable amount of the benefit) because they have not attained age 59 1/2. In the case of a retired member who returns to employment with the same employer (as defined in (e) above) within the 180-day period specified in (e) above, if the retired member has not attained age 59 1/2 during the time that some or all of distributions were made from the defined benefit plans, the Division shall code the Form 1099-R to indicate that the distribution is an “Early Distribution” and that no known exception from the penalty applies.

(a)

**DIVISION OF PENSIONS AND BENEFITS
JUDICIAL RETIREMENT SYSTEM**

Judicial Retirement System

Readoption with Amendments: N.J.A.C. 17:10

Adopted Repeals and New Rules: N.J.A.C. 17:10-5.2 and 5.5

Proposed: December 7, 2015, as 47 N.J.R. 2907(b).

Adopted: May 17, 2016, by the Judicial Retirement System, Henry Matwiejewicz, Acting Secretary.

Filed: May 17, 2016, as R.2016 d.066, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

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