

7. Chapter 7 of the plumbing subcode, entitled “Plumbing Fixtures, Fixture Fittings and Plumbing Appliances,” shall be amended as follows:

- i.-iii. (No change.)
- iv. In Note 1 to Table 7.21.1, Minimum Number of Required Plumbing Fixtures, delete the second [and third] sentence[s].
- v.-viii. (No change.)
- ix. Section 7.23, Safety Features for Spas and Hot Tubs, shall be deleted and Section 7.23, Safety Features for Spas and Hot Tubs, shall be inserted as follows:

“7.23 Safety Features for Swimming Pools, Spas, and Hot Tubs.

7.23.1, Suction Entrapment Avoidance. Suction outlets shall be designed and installed in accordance with [ANSI/APSP/ICC-7] ANSI/PHTA/ICC-7.”

8.-9. (No change.)

10. Chapter 12 of the plumbing subcode, entitled “Vents and Venting,” shall be amended as follows:

- i.-ii. (No change.)
- iii. Section 12.10, Wet Venting, shall be deleted and the text of the 2015 National Plumbing Code shall be inserted:

12.10 WET VENTING

12.10.1 Single Bathroom Groups

a. An individually vented lavatory in a single bathroom group shall be permitted to serve as a wet vent for the water closet, the bathtub, or shower stall, the water closet and bathtub/shower if all of the following conditions are met.

1. The wet vent is 1-1/2” minimum pipe size if the water closet bend is 3” size, or it shall be 2” minimum pipe size if the water closet bend is 4” pipe size.

2. A horizontal branch drain serving both the lavatory and the bathtub or shower stall is 2” minimum pipe size.

3. The length of the trap arm for the bathtub or shower stall is within the limits of Table 12.8.1. If not, the bathtub or shower stall shall be individually vented.

4. The distance from the outlet of the water closet to the connection of the wet vent is within the limits established by Section 12.8.4. Otherwise, the water closet shall be individually vented.

5. A horizontal branch serving the lavatory and the bathtub or shower stall shall connect to the stack at the same level as the water closet, or it may connect to the water closet bend, or the lavatory and bathtub or shower stall may individually connect to the water closet bend.

6. When the bathroom group is the topmost load on a stack, a horizontal branch serving the lavatory and the bathtub or shower stall may connect to the stack below the water closet bend, or the lavatory and the bathtub, or shower stall may individually connect to the stack below the water closet bend.

12.10.2 Double Bathtubs and Lavatories

Two lavatories and two bathtubs or showers back-to-back may be installed on the same horizontal branch with a common vent for the lavatories and with no back vent for the bathtubs or shower stalls provided the wet vent is 2” in size and the lengths of the tub/shower drains conform to Table 12.8.1.

12.10.3 Multi-Story Bathroom Groups

a. On the lower floors of a stack, the waste pipe from one or two lavatories may be used as a wet vent for one or two bathtubs or showers as provided in Section 12.10.2.

b. Each water closet below the top floor shall be individually back vented.

EXCEPTION: The water closets in bathroom groups shall not be required to be back vented if the following conditions are met:

(1) The 2” waste serving the tubs/showers and lavatories connect directly into the water closet bend with a 45° wye tap in the direction of flow; or

(2) A special stack fitting is used that consists of a 3” or 4” closet opening and two side inlets each 2” in size and the inverts of which are above the center, and below the top of the water closet opening; and one of the 2” inlets is connected to the tub/shower drains, and the other is connected to the waste pipe from a maximum of two lavatories that are vented to a vent stack or stack vent; or

(3) In lieu of the special stack fitting of Section 12.10.3b(2) above, 4” closet bends with two 2” wye taps may be used.

12.10.4 Bathtubs and Water Closets

a. An individually vented bathtub in a single bathroom group shall be permitted to serve as a wet vent for the water closet if all of the following conditions are met:

1. The wet vent is 2” minimum size.

2. The distance from the outlet of the water closet to the connection of the wet vent is within the limits established by Section 12.8.4. Otherwise, the water closet shall be individually vented.

12.10.5 Reserved

12.10.6 Floor Drains and Floor Sinks

a. A lavatory or sink shall be permitted to serve as a wet vent for a floor drain or floor sink if all of the following conditions are met:

1. The wet vent shall be not less than 1-1/2” size for a 1 DFU lavatory or 2” for 2 DFU sink.

2. The wet vent shall be larger than 1/2 the size of the drain for the floor drain or floor sink.

3. The distance from the outlet of the floor drain or floor sink to the connection of the wet vent shall be within the limits established by Table 12.8.1.

11.-14. (No change.)

15. Chapter 18 of the plumbing subcode, entitled Referenced Standards, shall be amended as follows:

i. In Section 18.2, Standards Organizations, insert the following: “[APSP—The Association of Pool and Spa Professionals, 2110] **Pool & Hot Tub Alliance (Formerly APSP—The Association of Pool and Spa Professionals), 2111** Eisenhower Avenue, Ste. 500, Alexandria, VA 22314, tel: 703-838-0083, fax: 703-549-0493,” and “International Code Council, Inc., 500 New Jersey Avenue, NW, 6th Floor, Washington D.C. 20001, tel: 888-422-7233.”

16.-17. (No change.)

[18. Appendix G of the plumbing subcode, entitled “Green Plumbing and Mechanical Code Supplement,” shall be deleted in its entirety.]

18. Appendix G, entitled “We-Stand Excerpts,” shall not be adopted as part of the plumbing subcode. Appendix G may be used as a reference standard for special design plumbing systems in accordance with Appendix E.

19. Appendix L, entitled “Tiny Houses,” shall be adopted as part of this subcode.

(c) (No change.)

TREASURY—GENERAL

(a)

**DIVISION OF PENSIONS AND BENEFITS
PUBLIC EMPLOYEES’ RETIREMENT SYSTEM
COVID-19 Accidental Disability Rules**

Proposed Amendments: N.J.A.C. 17:2-1A.1, 2.1, 3.2, 3.14, 4.1, 4.9, 4.11, 5.1, 6.1, 6.5, 6.10, 6.26, 7.1, 8.1, 8.4, 8.5, 8.6, and 8.14

Proposed New Rules: N.J.A.C. 17:2-6.6, 6.23, 7.3, 8.2, and 10

Authorized By: Public Employees’ Retirement System Board of Trustees, Jeff Ignatowitz, Secretary.

Authority: N.J.S.A. 43:15A-1 et seq.; and P.L. 2020, c. 54, P.L. 2021, c. 140, and P.L. 2021, c. 226.

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

Proposal Number: PRN 2022-053.

Submit comments by June 17, 2022, to:

Susanne Culliton
Assistant Director
Division of Pensions and Benefits

PO Box 295
Trenton, NJ 08625-0295
DPB.regulations@treas.nj.gov

The agency proposal follows:

Summary

The Division of Pensions and Benefits (Division) is responsible for reviewing the Public Employees Retirement System (PERS) rules at N.J.A.C. 17:2. When a change in the law or a court decision occurs that could affect the administration and operation of the State-administered retirement systems, the rules are reviewed and if changes are required, steps are taken to propose modifications to those rules. Additionally, the rules are periodically reviewed to determine whether current rules reflect current procedures and practices of the Division in administering its governing statutes.

On July 1, 2020, Governor Murphy signed P.L. 2020, c. 54 (the Act), which permits active eligible law enforcement officers, firefighters, and emergency medical technicians enrolled in the Public Employees' Retirement System (PERS) to receive an accidental disability retirement allowance for disability resulting from contracting COVID-19, provided they test positive for SARS-CoV-2 during the public health emergency in the State declared by the Governor in Executive Order No. 103 (2020). In order to implement the provisions of this Act, which has an effective date of March 6, 2020, the PERS Board of Trustees (Board) must promulgate rules.

On June 30, 2021, Governor Murphy signed P.L. 2021, c. 140, which reopens the Workers' Compensation Judges Part of the PERS and requires Workers' Compensation Judges to be enrolled in PERS with the same membership and benefit provisions as State employees, except as provided at P.L. 2001, c. 259. Membership in the retirement system shall be a condition of employment for service as a judge of compensation. Any Workers' Compensation Judges who are currently enrolled in the Defined Contribution Retirement Program (DCRP) shall be transferred and enrolled in the Workers' Compensation Judges Part of the PERS. All Workers' Compensation Judges shall be given service credit in the Workers' Compensation Judges Part of the PERS for service starting on the judge's date of appointment.

On September 24, 2021, Governor Murphy signed P.L. 2021, c. 226, which reopens the Prosecutors Part of PERS and requires prosecutors to be enrolled in the PERS with the same membership and benefit provisions as State employees, except as provided at P.L. 2001, c. 366. Membership in the retirement system shall be a condition of employment for service as a prosecutor. Any service credit that has been established in the PERS prior to September 24, 2021, shall be established in the Prosecutors Part without further assessment of cost to the prosecutor; provided, however, any service credit that has been established in the PERS or the Judicial Retirement System (JRS) not deferred pursuant to section 1 at P.L. 2019, c. 287 (N.J.S.A. 43:6A-11.1) by a member of the retirement system in any position prior to service as a county prosecutor, nominated and appointed pursuant to Article VII, Section II, paragraph 1 of the New Jersey Constitution, shall be established in the Prosecutors Part without further assessment of cost to the prosecutor. Any county prosecutor or acting county prosecutor enrolled in the DCRP as a county prosecutor or acting county prosecutor shall be eligible for service credit in the Prosecutors Part, except that the county prosecutor or acting county prosecutor shall first pay the amount equivalent to that amount contributed pursuant to section 3 at P.L. 2007, c. 92 (N.J.S.A. 43:15C-3) during each fiscal year of membership in the DCRP to be credited. All outstanding obligations, such as loans, purchases, and other arrearage, shall be satisfied by a prosecutor, as previously scheduled for payment to the PERS.

Therefore, the Board proposes the following amendments and new rules, which affect retirements and claims within PERS.

Subchapter 1A. Definitions

At N.J.A.C. 17:2-1A, Definitions, the Board proposes to add the following new definitions: "Employer Pensions and Benefits Information Connection," "independent medical examiner," "Member Benefit Online System," "Medical Review Board," and "treating physician." The terms "Employer Pensions and Benefits Information Connection" and "Member Benefit Online System" are terms the Board frequently uses to refer to the

Internet-based applications that are utilized by employers and employees to manage pension and health benefits information electronically. Employers who completed the certification requirements are able to perform a wide range of tasks online, such as: submit payroll certifications; check on the status of enrollment and/or retirement applications; generate a statement of account for active members; transmit electronic payments; submit purchase, withdrawal, and retirement certifications; complete a report of contributions; and generate a loan or retirement estimate. Registered employees and retirees are able to access member account information, beneficiary designation, request pension letters and statements, and health benefits account information (if applicable). Employees are able to obtain estimates and apply for pension loans, submit purchase applications, generate retirement estimates, and submit online retirement applications, as well as view payroll certifications. Retirees are able to view retirement check information and check history, submit online direct deposit/electronic fund transfer applications, view and change Federal and State income tax withholding, view Form 1099-R information, and request duplicates. The Medical Review Board reviews all reports, hospital records, medical examination forms, and other medical records in support of a disability retirement application. "Treating physician" means someone who provides the member, or who has provided the member, with medical treatment on an ongoing basis. Generally, the Division will consider that a member has an ongoing treatment relationship with a physician when the medical evidence establishes that the physician is seeing, or has seen, the member with a frequency consistent with accepted medical practice for the type of treatment and/or reevaluation required for the member's medical condition(s). The Division in the past has used the term "attending physician," which, in some cases, only applied to a physician in a hospital setting or emergency room.

Subchapter 2. Enrollment

At Subchapter 2, the Board proposes to add new N.J.A.C. 17:2-2.1(h), which requires Workers' Compensation Judges to be enrolled in PERS with the same membership and benefit provisions as State employees, except as provided at P.L. 2001, c. 259. Membership in the retirement system is a condition of employment for service as a judge of compensation. Any Workers' Compensation Judges who are currently enrolled in the DCRP shall be transferred and enrolled in the Workers' Compensation Judges Part of the PERS. All Workers' Compensation Judges shall be given service credit in the Workers' Compensation Judges Part of the PERS for service starting on the judge's date of appointment.

Subchapter 3. Insurance and Death Benefits

The Board proposes to amend N.J.A.C. 17:2-3.2(e) to include verbiage for an overpayment and procedures for collecting such funds. The existing rule only addresses what would happen in the event of an underpayment. This amendment specifies that in the case of an overpayment, any monies due to the beneficiary or beneficiaries would be reduced in the amount of such overpayment. The Board has long had the authority to recover overpayments under the statutory provision for Correction of Errors at N.J.S.A. 43:15A-54.

N.J.A.C. 17:2-3.14(a) is proposed for amendment to specify that the required information needed for beneficiary designations must include a full name, Social Security number, tax identification number (for estates or trusts), address, and date of birth. This information assists the Division with locating beneficiaries in an efficient manner. In turn, this assists the Division with processing claims in a timely fashion.

Subchapter 4. Membership

At Subchapter 4, N.J.A.C. 17:2-4.1(a) is proposed for amendment to add language that is consistent with N.J.S.A. 43:15A-6.r1 and 2. Specifically, that compensation shall mean the base or contractual salary, for services as an employee, which is in accordance with the established policies of the member's employer for all employees in the same position. Additionally, new N.J.A.C. 17:2-4.1(a)14 is proposed to include language that would not permit compensation for performing temporary duties beyond the regular work day or shift.

The Board proposes to amend N.J.A.C. 17:2-4.9, Loans, to clearly state the Internal Revenue Service (IRS) regulations regarding the repayment of loans that are taken from a qualified plan. Specifically, the IRS (I.R.C.

§ 72 (p)(2)(C)) requires that all loans be repaid within five years and, if the member fails to make payments on the plan loan within this timeframe, it will be deemed a distribution.

The Board proposes new N.J.A.C. 17:2-4.11(c)6 to add an additional reason for rejecting a withdrawal application. If a member has a pending retirement application, it must be rescinded before the processing of the withdrawal application can proceed. Since the retirement allowance is comprised of employer and employee contributions, a member cannot withdraw and simultaneously collect a monthly retirement allowance.

Subchapter 5. Purchases and Eligible Service

At Subchapter 5, the Board proposes to amend N.J.A.C. 17:2-5.1(a) to state that active members who are not contributing to the fund must purchase their requested service credit in a lump sum. Further, language was added to specify that the purchase request must represent active service in a State-administered system for which the member would have otherwise been eligible to be enrolled.

Subchapter 6. Retirements

The Board proposes to amend N.J.A.C. 17:2-6.1, Applications, to propose new subsection (f), which will require a PERS member to request a reasonable accommodation from their employer prior to applying for disability retirement. The certifying officer, as defined at N.J.A.C. 17:2-1.5, will certify that the member requested a reasonable accommodation, and whether such request was able to be provided. The certifying officer will provide this information upon completion of the Certification of Service and Final Salary. The Board also proposes to amend recodified N.J.A.C. 17:2-6.1(g)1 and 2 to include the defined term “treating physician” and to specify that the two required medical reports for a disability retirement must be completed on a form prescribed by the Division. Finally, proposed new N.J.A.C. 17:2-6.1(g)6 is added to clarify when a disability retirement application is ripe for consideration by the Board.

The Board proposes to amend N.J.A.C. 17:2-6.5(a)1 to remove the phrase “that reflects an intentional or purposeful deviation from the standard of care exercised by a reasonable person in similar circumstances.” That phrase was added at N.J.S.A. 17:2-6.5(a) in 2017 but declared inoperative by *In re N.J.A.C. 17:2-6.5*, Docket No. A-2059-18 (Appellate Division, June 21, 2021).

The Board proposes new N.J.A.C. 17:2-6.6, Outstanding arrears, back deductions, or shortages. This proposed new section details how outstanding arrears or shortages are handled at retirement. Since an employee’s monthly retirement allowance is based in part on employee contributions, all outstanding arrears and shortages must be paid in full prior to a retirement check being issued. The Division has indicated that for timely and efficient processing, all outstanding obligations to the pension fund must be satisfied within 90 days, after which the request for retirement will be cancelled. This timeframe is consistent with the time the Division allows an employee to submit additional information needed to process any retirement application. The employee will qualify to receive a retirement check on the first of the month following receipt of the outstanding amount in its entirety, provided 30 days following the retirement or 30 days following the approval of the retirement by the Board of Trustees has elapsed, whichever is later.

The Board proposes to amend N.J.A.C. 17:2-6.10(a)1 to update the method by which an employer can initiate a disability retirement application on behalf of a member. Since all retirement applications are now submitted online, a certifying officer or other designated officer who wishes to complete an involuntary disability retirement application must authorize an application online through the Employer Pensions and Benefits Information Connection (EPIC). Also, paragraph (a)2 is proposed for amendment to reflect that the employer must submit an electronic, rather than just a written, statement as to the grounds for the employer’s request for the member’s involuntary disability retirement and all available medical documentation. Additionally, paragraph (a)3 is proposed for amendment to reflect that a written statement must be provided to the Board within 30 days to contest the involuntary disability retirement.

The Board proposes new N.J.A.C. 17:2-6.23, Disability retirement application and termination of service. This proposed new section is

necessary to clarify that the applicant is responsible for proving 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. Furthermore, this section lists a series of reasons that would preclude one from applying for a disability retirement and the Division’s procedures for verifying whether an applicant is eligible once an application is filed. These reasons include: removal for cause or total forfeiture of public service; settlement agreements reached due to pending administrative or criminal charges (unless the underlying charges relate to the disability for which the member is seeking a benefit); loss of licensure or certification required for the performance of the member’s specific job duties; and voluntary separation from service for reasons other than a disability.

The Board proposes to amend the heading at N.J.A.C. 17:2-6.26 to “Disability retirement applications; medical examinations; physicians.” This amendment is needed to accurately reflect additional information regarding disability retirement applications, which is added as proposed new subsections (a) and (c) through (g). Specifically, subsection (a) lists all the documentation that a member who files for a disability retirement must provide prior to the Board’s determination of eligibility. Paragraph (a)1 necessitates all required documentation must be provided within six months of submitting the application or the application will be canceled, and the member will be required to submit a new disability retirement application for a future retirement date. The existing information at N.J.A.C. 17:2-6.26 is codified as subsection (b). Proposed new subsection (c) sets forth the Division’s reservation of 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 seeks the benefit and that all available medical records related to the disability have been disclosed to the independent medical examiner (IME) prior to the examination. Subsection (d) prohibits a member filing for a disability retirement from filing for any other type of retirement while an application for an ordinary or accidental disability retirement is pending. Subsection (e) explains that if the member is denied a disability retirement, but is eligible for any other type of retirement benefit, the member must submit a written statement to receive that benefit. If this is received within 30 days of the Board’s decision, the member may retain the retirement date on the disability retirement application. Subsection (f) clarifies that a disability retirement application will be processed on the basis of the medical conditions described on the submitted application. If the application is denied, the member may file an appeal within 45 days, based on the medical conditions described on the submitted application. Additionally, if a member who files an appeal qualifies for a deferred retirement in the future and wishes to collect a deferred retirement while the appeal is pending in the Office of Administrative Law, they must submit a written statement at the time of the appeal. Finally, proposed subsection (g) sets forth the process of reapplying for a disability retirement based on a new incident date or different or additional medical conditions. This will require submitting a new application for disability retirement with a new retirement date and supplying all supporting documentation in support of the new incident or medical condition listed on the application.

Subchapter 7. Transfers

N.J.A.C. 17:2-7.1 is proposed for amendment to correct the heading to correct a grammatical error. Additionally, paragraph (b)1 is proposed for amendment to clarify that once a transfer is completed, all rights and benefits under the former system terminate. This alleviates the confusion of some members who believed they could maintain rights under both systems.

The Board proposes new N.J.A.C. 17:2-7.3 to add language regarding transfers from DCRP to the Workers’ Compensation Judges Part of PERS. Specifically, all Workers’ Compensation Judges enrolled in the DCRP will be transferred to the Workers’ Compensation Part and will receive service credit starting on the date of their appointment as a judge. The service credit transferred from the DCRP shall be used to determine eligibility for employer-paid health benefits in retirement. The transfer from the DCRP to the Workers’ Compensation Part is to be completed as a trustee-to-trustee transfer in accordance with the Internal Revenue Code. The Second Injury Fund will bear the cost for the unfunded liability based on this transfer, which cost will be determined by the PERS actuary. This

transfer is retroactive for Workers' Compensation Judges who retired on or after May 20, 2021, and have not received a distribution from their DCRP account.

Subchapter 8. Prosecutors Part

At N.J.A.C. 17:2-8.1, Definitions, the Board proposes to add the following new definition: "prosecutor." Prosecutor is defined to mean: a county prosecutor, first assistant prosecutor, or assistant prosecutor, as defined at N.J.S.A. 2A:158-1 et seq.; the Director of the Division of Criminal Justice in the Department of Law and Public Safety; any assistant director, deputy director, assistant attorney general, or deputy attorney general employed by that Department and assigned to that Division between January 7, 2002, and May 20, 2010; and again after September 24, 2021; and a criminal investigator (as defined at N.J.S.A. 52:17B-100.1) in the Division of Criminal Justice who was ineligible for enrollment in the Police and Firemen's Retirement System between January 7, 2002 and May 20, 2010; and again after September 24, 2021.

The definition for "service" is proposed to be amended to mean "service" as a prosecutor as defined at N.J.S.A. 43:15A-155, which includes the following: for members employed as prosecutors on January 7, 2002, service shall include any PERS service credited to a member's account on January 7, 2002, pursuant to P.L. 2003, c. 140; and for members employed as prosecutors on September 24, 2021, service shall include any PERS service credited to a member's account on September 24, 2021, pursuant to P.L. 2021, c. 226. Additionally, the Board proposes to remove the paragraph referencing the closure of the Prosecutors Part of PERS as of May 21, 2010.

The Board proposes to add new N.J.A.C. 17:2-8.2, to implement the provisions at P.L. 2021, c. 226, which reopens the Prosecutors Part of PERS. This section will outline the provisions of the law and explain how purchases and transfers of service credit will be processed.

N.J.A.C. 17:2-8.4, Ineligibility for credit in the Prosecutors Part, is proposed for amendment to replace the date of January 7, 2002, with September 24, 2021, the date of the enactment of P.L. 2021, c. 226. A person who is not employed as a prosecutor on September 24, 2021, is not eligible to have any portion of his or her PERS account credited to the Prosecutors Part, except as provided under the definition of "service" at N.J.A.C. 17:2-8.1. Similarly, at N.J.A.C. 17:2-8.5, Interfund transfers, subsection (a) is proposed for amendment to replace the date of January 7, 2002, with September 24, 2021, for the aforementioned reason. A person who is not employed as a prosecutor on September 24, 2021, is not eligible to transfer any portion of his or her State-administered defined benefit retirement system service into the Prosecutors Part. The State-administered defined benefit system service shall be credited as regular PERS credit.

The Board proposes to amend N.J.A.C. 17:2-8.6, Purchase of service, at subsection (a) to correct the punctuation by adding a period at the end of the sentence. Subsection (b) is proposed for amendment to replace the date of January 7, 2002, with September 24, 2021, for the reasons set forth above. Paragraph (b)1 is proposed for amendment to update the language to permit an active member of the Prosecutors Part of PERS to purchase temporary service as a prosecutor beginning on September 24, 2021, which led directly to permanent employment as a prosecutor. Paragraphs (b)2 and 3 are amended to replace the date of January 7, 2002, with September 24, 2021, to coincide with the reopening of the Prosecutors Part of PERS.

At N.J.A.C. 17:2-8.17(b), the date of January 7, 2002, is being replaced with September 24, 2021, to coincide with the reopening of the Prosecutors Part of PERS.

Subchapter 10. COVID-19 Accidental Disability

The Board proposes to add N.J.A.C. 17:2-10, COVID-19 Accidental Disability, to implement P.L. 2020, c. 54, which extends accidental disability and accidental death benefits to active eligible law enforcement officers, firefighters, and emergency medical technicians enrolled in PERS who contract COVID-19 and test positive for SARS-CoV-2 during the public health emergency declared by the Governor at Executive Order No. 103 (2020) and suffer a qualifying disability or death. The subchapter will set forth: the purpose of this subchapter, definitions, eligibility, accidental death in the line of duty, and filing requirements.

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

Social Impact

The proposed amendments and new rules benefit PERS members, retirees, and survivors of members and retirees by increasing eligibility for accidental disability and accidental death benefits for emergency medical technicians who contract COVID-19 during the public health emergency declared by the Governor in Executive Order No. 103 (2020).

Economic Impact

The proposed amendments and new rules will result in an increase in contributions to PERS by the State and local government employers. According to the fiscal estimate produced by the Office of Legislative Services, "extending accidental disability and accidental death benefits to certain members of the Public Employees' Retirement System (PERS), the Police and Firemen's Retirement System (PFRS), and the State Police Retirement System (SPRS) due to the coronavirus disease 2019 (COVID-19) will result in indeterminate increases in the unfunded liabilities of, normal costs of, and employer contributions to the three retirement systems."

Federal Standards Statement

The proposed amendments and new rules meet the applicable Federal standards set forth at 26 U.S.C. § 403(b). There are no other Federal standards applicable to the subject matter of this subchapter.

Jobs Impact

As the proposed amendments and new rules concern retirement benefits for active members or retirees who already are, or may become, disabled or who may die due to COVID-19 during the public health emergency declared by the Governor at Executive Order No. 103 (2020), it is not anticipated to have any effect upon the generation or loss of jobs in the future. Implementation of the proposed new rules will not result in the generation or loss of jobs.

Agriculture Industry Impact

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

Regulatory Flexibility Statement

N.J.A.C. 17:2 affects PERS members, retirees, and survivors of members and retirees. Thus, the proposed amendments and new rules do not impose any reporting, recordkeeping, or other compliance requirements upon small businesses, as defined pursuant to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The proposed amendments and new rules will have no impact on the affordability of housing in New Jersey, nor will they involve a change in the average costs associated with housing, because the rules pertain only to the administration of the PERS for members, retirees, and survivors of members and retirees.

Smart Growth Development Impact Analysis

The proposed amendments and new rules will not have any impact on the achievement of smart growth; nor will they involve a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey, because the rules pertain to the administration of the PERS for members, retirees, and survivors of members and retirees.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

PERS has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 1A. DEFINITIONS

17:2-1A.1 Definitions

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

...
“Employers Pensions and Benefits Information Connection” or **“EPIC”** is a set of Internet-based applications that allow registered employers who have obtained authorization by the certifying officer of the location access to manage their employees’ pensions and, if applicable, health benefits account information. The specific group of application buttons that are visible will depend on the type of employer and the level of access authorized by the certifying officer of the location.

...
“Independent medical examiner” or **“IME”** means the physician or group of physicians contracted by the Division to perform an independent medical evaluation on disability retirement applicants.

“Member Benefits Online System” or **“MBOS”** is a set of Internet-based applications that allow registered members access to manage their pension and, if applicable, health benefits account information.

“Medical Review Board” or **“MRB”** consists of three physicians, each responsible for reviewing all medical documentation submitted in relation to any applications submitted for ordinary or accidental disability retirement.

...
“Treating physician” is defined as someone who provides the member, or has provided the member, with medical treatment on an ongoing basis.

SUBCHAPTER 2. ENROLLMENT

17:2-2.1 Enrollment eligibility

(a)-(g) (No change.)

(h) **Workers’ Compensation judges** are to be enrolled in the **Workers’ Compensation Judges Part of PERS** with the same membership and benefit provisions as State employees, except as provided at P.L. 2001, c. 259. Membership in the retirement system shall be a condition of employment for service as a judge of compensation. Any **Workers’ Compensation judges** who are currently enrolled in the DCRP shall be transferred and enrolled in the **Workers’ Compensation Judges Part of the PERS**. All **Workers’ Compensation judges** shall be given service credit in the **Workers’ Compensation Judges Part of the PERS** for service starting on the judge’s date of appointment.

SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS

17:2-3.2 Computation of insurance benefits

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

(e) Where [post-audits] **post-death audits** establish that the insurance benefits were underpaid, an additional check shall be sent to the beneficiary for the value of the underpayment. **Should any change or error in the records result in any member receiving from the pension fund more than he or she would have been entitled to receive had the records been correct, the Board of Trustees shall correct such error, as far as practicable, and shall adjust the payments payable to the member’s designated beneficiary or estate pursuant to N.J.A.C. 17:1-2.10.**

17:2-3.14 Acceptable designation of beneficiaries

(a) The beneficiary designation on a duly executed retirement application that is filed with and accepted by the Division supersedes any older designation of beneficiary on file. **Such beneficiary designation shall include: full name, Social Security number, tax identification number (for estates or trusts), address, and date of birth.** The designation is effective upon acceptance by the Division, even if the retirement date on the application is in the future or the member cancels the retirement **application**.

1.-2. (No change.)

(b) (No change.)

SUBCHAPTER 4. MEMBERSHIP

17:2-4.1 Creditable compensation

(a) The compensation of a member subject to pension and group life insurance contributions and creditable for retirement and death benefits in the System shall [be limited to base salary and] **mean the base or contractual salary, for services as an employee, which is in accordance with established salary policies of the State for all employees in the same position, but shall not include extra compensation.** Forms of compensation that have been identified as extra compensation include, but are not limited to:

1.-11. (No change.)

12. Retroactive increments or adjustments made at or near the end of a member’s service, unless the adjustment was the result of an across-the-board adjustment for all similarly situated personnel; [and]

13. Any form of compensation which is not included in a member’s base salary during some of the member’s service and is included in the member’s base salary upon attainment of a specified number of years of service[.]; and

14. Compensation for performing temporary duties beyond the regular work day or shift.

17:2-4.9 Loans

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

(c) **All pension loans must be repaid within a period not to exceed five years. If the member has an outstanding loan balance and applies for a new loan, the entire balance must be repaid within five years of the date of the first loan. Furthermore, the new loan amount, when added to the highest balance due (without interest) during the prior 12-month period for all loans from all retirement plans cannot exceed \$50,000. The \$50,000 maximum limit includes all retirement plans the member has an interest in due to his or her employment relationship with the State and/or any other governmental plans sponsored or administered by a public sector employer in New Jersey. Loan amounts above the \$50,000 aggregate limit shall be deemed a distribution, which is subject to additional tax.**

(d) If a member’s loan, or portion of a loan, is deemed a distribution pursuant to (c) above, the member is still required to repay the full amount of the outstanding loan, including any portion deemed a distribution, unless the member terminates his or her account by withdrawing his or her contributions. If the member withdraws from the retirement system, the settlement will be the net amount of the member’s contributions minus the outstanding loan. If the member returns to work and the member’s account is reactivated, or the member retires, the member must repay the full amount of the outstanding loan with additional interest computed from the date the member stopped making loan payments.

(e) Pursuant to I.R.C. § 72 (p)(2)(C), members must make regular periodic payments to repay their outstanding loans. If a member obtains a loan and fails to make required loan repayments for three consecutive months, the Division will send a letter to the member requesting payment within 30 days. If the payment is not made, the Division will treat the outstanding loan as a deemed pension distribution. A deemed distribution cannot be canceled by resuming loan payments or repaying the loan in full. Unlike a normal pension distribution, a loan treated as a distribution cannot be rolled over to an Individual Retirement Account (IRA) or another qualified retirement plan.

17:2-4.11 Termination; withdrawal

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

(c) No application shall be approved, if:

1.-5. (No change.)

6. The member has a pending retirement application, unless the member agrees to rescind such application.

SUBCHAPTER 5. PURCHASES AND ELIGIBLE SERVICE

17:2-5.1 Eligibility for purchase

(a) Only active members of the System **who are currently contributing, or who have contributed within the last two years to the**

System, shall be eligible to make application for purchase of service credit. Active members who are not currently contributing to the PERS, [shall] **must** purchase their requested service in a lump sum. **The purchase request must represent active service in a State-administered retirement system for which the member received a salary and was eligible for enrollment, but the information must be verified by the employer as to salary information, service, and title.**

(b)-(e) (No change.)

SUBCHAPTER 6. RETIREMENTS

17:2-6.1 Applications

(a)-(e) (No change.)

(f) A member must request a reasonable accommodation, as defined by the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 through 12213, prior to filing for a disability retirement. Upon completion of the Certification of Service and Final Salary, the employer's designated certifying officer will certify that a reasonable accommodation was requested and whether such accommodation could be provided.

[(f)] **(g)** In addition to the requirements [in] at (a) through [(e)] **(f)** above, the following shall apply when an application for disability retirement is filed:

1. An application for a physical disability retirement must be supported by at least two medical reports. One must be provided by the member's personal or [attending] **treating** physician [and the] **on a form prescribed by the Division. The other may [consist of] be either hospital records supporting the claim of disability or a report from a second physician on a form prescribed by the Division.** The medical condition described on the member's retirement application must correspond to the medical reports submitted in support of the member's disability retirement application. Further, in the case of a member filing for an accidental disability retirement, only those disabilities associated with the purportedly disabling event shall be considered. If the member is denied an accidental disability retirement **application** but qualifies for an ordinary disability retirement based on the disabilities associated with the purportedly disabling event identified on the original accidental disability application, no additional application needs to be filed, pursuant to [(f)] **(g)**6 below. The required documentation must be received within six months of the date of filing the disability **retirement** application. If it is not received, the retirement will be canceled and the member will be required to complete a new disability application for a future retirement date;

2. An application for a mental health disability retirement must be supported by at least two medical reports. One must be provided by the member's personal or [attending] **treating** psychiatrist or psychologist [and the other may consist] **on a form prescribed by the Division. The other "medical report" may be in the form of either hospital records supporting the claim of disability [or], a report from a second psychiatrist or psychologist on a form prescribed by the Division, or a report from the member's personal or [attending] treating physician, or licensed clinical social worker.** The required documentation must be received within six months of the date of filing the disability retirement application. If it is not received, the retirement will be canceled and the member will be required to complete a new disability **retirement** application for a future retirement date. The medical condition described on the member's retirement application must correspond to the medical reports submitted in support of the member's disability retirement application;

3.-4. (No change.)

5. A member filing for an accidental or ordinary disability retirement shall not file a separate application for any other type of retirement, including one based on any other [allegedly-disabling] **allegedly disabling** condition, while the original disability retirement application is pending. A separate application can be filed only for a date subsequent to withdrawal of the previous application[; and].

i. An application for a disability retirement will be forwarded to the Board for consideration only when all documentation is received. The Division 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

IME scheduled by the Division will be provided at no cost to the applicant; and

6. (No change.)

[(g)] **(h)** (No change in text.)

[(h)] **(i)** A member who previously retired pursuant to (a) through (d) above and is reenrolled pursuant to [(g)] **(h)** above must file a new retirement application with the Division in order to initiate payment of the retirement allowance. Except in the case of disability retirement, the previous retirement allowance shall then be reinstated, and the new retirement allowance, based on the member's subsequent covered employment, shall commence. If the member retained the same membership level and account upon returning to employment, the previous and subsequent retirement allowances shall then be combined and paid in one monthly benefit check. If the member is enrolled under a different membership level and account, the accounts will not be combined. The retirement allowance shall become effective on the first of the month following receipt of the application unless a future date is requested.

[(i)] **(j)** (No change in text.)

17:2-6.5 Willful negligence

(a) Willful negligence is defined as:

1. Deliberate act or deliberate failure to act [that reflects an intentional or purposeful or deviation from the standard of care exercised by a reasonable person in similar circumstances];

2.-3. (No change.)

17:2-6.6 [(Reserved)] Outstanding arrears, back deductions, or shortages

(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) The quotation of retirement benefits will also include any outstanding arrears or shortages due to delinquent enrollment, back deductions, purchases of service credit, and audits. All outstanding arrears or shortages must be paid in full by the employee prior to any retirement check being issued. Failure to pay the outstanding amount in its entirety within 90 days from the Division's notification to the member of the outstanding obligation will result in the retirement application being cancelled. If the retirement application is cancelled, the member will be required to file a new application with a future retirement date. If the outstanding obligation is paid within 90 days of the Division's notification, but beyond the original retirement date, the member will qualify to receive a retirement check on the first of the month following receipt of the outstanding amount in its entirety, provided the conditions at N.J.A.C. 17:2-6.2 are met. No retroactive checks will be issued.

17:2-6.10 Involuntary disability application

(a) If an application for an accidental disability retirement benefit or for an ordinary disability retirement benefit is filed by an employer for one of its employees enrolled in the System before May 21, 2010, the member will be promptly notified by letter that:

1. The member's employer has properly initiated a disability **retirement** application [signed by the Certifying Officer] **online through the Employer Pensions and Benefits Information Connection (EPIC) authorized by the certifying officer**, or other designated officer [of the employer], on the member's behalf;

2. The member's employer has submitted [a written] **an electronic** statement as to the grounds for the employer's request for **the** member's involuntary disability retirement and all available medical documentation;

3. The member has a period of 30 days to contest [his or her] **the** involuntary **disability** retirement **by submitting a written statement** before the Board acts on the employer's application;

4.-6. (No change.)

17:2-6.23 [(Reserved)] **Disability retirement application 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; and the member must prove the disability is the reason for leaving employment.

(b) Members who have involuntarily or voluntarily terminated service for any of the reasons listed in this subsection 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 for which they seek a retirement benefit;
3. Loss of licensure or certification required for the performance of the member's specific job duties, unless the loss is the result of the disability for which they seek a retirement benefit; and/or
4. Voluntary separation from service for reasons other than a disability.

(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.

17:2-6.26 [Medical] **Disability retirement applications; examinations; physicians**

(a) In addition to the reports required with the application pursuant to N.J.A.C. 17:2-6.1(g)1 and 2, applicants for a 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 that would assist the independent medical examiner, Medical Review Board, and the Board in determining eligibility of the applicants for a disability retirement. The Division 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 application will be canceled. The member will then be required to complete a new application for a future retirement date.

(b) N.J.S.A. 43:15A-42 requires the Board to designate physicians to perform medical examinations. When an applicant provides sufficient medical documentation, as set forth [in] at N.J.A.C. 17:2-6.1, and the Medical Review Board concurs, no further evaluation is necessary. However, if the medical documentation is not sufficient to establish total and permanent disability after a review by the Medical Review Board, then an independent medical evaluation shall be required.

(c) The Division reserves the right to require a member to sign a sworn certification that:

1. The member knows of no preexisting or underlying conditions that relate to the disability and are not disclosed in the records submitted with the application for which the member is seeking a benefit; and

2. All available medical reports related to the disability have been disclosed to the IME prior to the examination.

(d) 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 retirement application is pending before the Board.

(e) 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 written statement to receive that benefit. If the applicant submits the written statement within 30 days of the Board's decision, the applicant may retain the retirement date designated on the disability retirement application.

(f) The member's disability retirement application will be processed on the basis of the medical conditions described on the submitted application. If the disability retirement application is

denied, the member may file an appeal within 45 days, based on the medical conditions described on the submitted application. An applicant who files an appeal of a denial of disability retirement may qualify for a deferred retirement during the pendency of the appeal in the Office of Administrative Law. An applicant that wishes to accept the deferred retirement must include a written statement accepting deferred retirement at the time of the appeal.

(g) 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 with a new retirement date. The applicant must also continue to meet the requirements at N.J.A.C. 17:1-6.4(a). All supporting documentation required must be submitted in support of the new incident or medical conditions listed on the application.

SUBCHAPTER 7. TRANSFERS

17:2-7.1 Honorable service[s]; interfund transfers; State-administered retirement systems

(a) No change.

(b) Except as noted [in] at (a) above, a member is eligible to transfer the former membership in a State-administered defined benefit retirement system into the retirement system that covers the new eligible employment, if the member has first ended employment with the former employer, and has not taken another position subject to coverage in the State-administered retirement system of the former account which would have the same effective date as the membership in the new State-administered retirement system.

1. A member desiring to transfer service credit and contributions from one State-administered defined benefit retirement system to another must file an "Application for Interfund Transfer." This application will [terminate membership in] void all possible claims against the former system when approved and the new membership is commenced in the new system.

2.-7. (No change.)

(c)-(e) (No change.)

17:2-7.3 Transfers for Workers' Compensation Judges pursuant to P.L. 2021, c. 140

Pursuant to P.L. 2021, c. 140, all Workers' Compensation judges enrolled in the DCRP will be transferred to the Workers' Compensation Judges Part of PERS and will receive service credit starting on the date of their appointment as a judge. The service credit transferred from the DCRP shall be used to determine eligibility for employer-paid health benefits in retirement. The transfer from the DCRP to the Workers' Compensation Judges Part of PERS is to be completed as a trustee-to-trustee transfer in accordance with the Internal Revenue Code. The Second Injury Fund will bear the cost for the unfunded liability based on this transfer, which cost will be determined by the PERS actuary. This transfer is retroactive for Workers' Compensation judges who retired on or after May 20, 2021, and have not received a distribution from their DCRP account.

SUBCHAPTER 8. PROSECUTORS PART

17:2-8.1 Definitions

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

...

"Prosecutor" is defined as follows:

1. A county prosecutor, first assistant prosecutor, or assistant prosecutor as defined at N.J.S.A. 2A:158-1 et seq.;

2. The Director of the Division of Criminal Justice in the Department of Law and Public Safety; and any assistant director, deputy director, assistant attorney general, or deputy attorney general employed by that Department and assigned to that Division between January 7, 2002 and May 20, 2010; and again after September 24, 2021; and

3. A criminal investigator (as defined at N.J.S.A. 52:17B-100.1) in the Division of Criminal Justice who was ineligible for enrollment in the Police and Firemen's Retirement System between January 7, 2002 and May 20, 2010; and again after September 24, 2021.

... "Service" as a prosecutor as defined [by] at N.J.S.A. 43:15A-155 shall include [service as] the following:

(a) For members employed as prosecutors on January 7, 2002, service shall [also] include any PERS service credited to a member's account on January 7, 2002[. Pursuant], pursuant to P.L. 2003, c. 140[, for an individual nominated and appointed pursuant to Article VII, Section II, paragraph 1 of the New Jersey Constitution to the position of a county prosecutor between January 7, 2002 and May 21, 2010, service shall also include regular PERS service credited as of the date of appointment].

[1. A county prosecutor, first assistant prosecutor, or assistant prosecutor as defined in N.J.S.A. 2A:158-1 et seq.;

2. The Director of the Division of Criminal Justice in the Department of Law and Public Safety; any assistant director, deputy director, assistant attorney general, or deputy attorney general employed by that Department and assigned to that Division between January 7, 2002 and May 20, 2010; and

3. A criminal investigator (as defined by N.J.S.A. 52:17B-100.1) in the Division of Criminal Justice who was ineligible for enrollment in the Police and Firemen's Retirement System between January 7, 2002 and May 20, 2010.

N.J.S.A. 43:15A-156 closed the Prosecutors Part of the PERS to new members as of May 21, 2010. A prosecutor who becomes a member of the PERS on or after the effective date of P.L. 2010, c. 1 shall not be a member of the Prosecutors Part and the provisions of N.J.S.A. 43:15A-155 et seq., shall not apply to such prosecutor or the prosecutor's beneficiary.]

(b) For members employed as prosecutors on September 24, 2021, service shall include any PERS service credited to a member's account as of September 24, 2021, pursuant to P.L. 2021, c. 226.

...

17:2-8.2 [(Reserved)] P.L. 2021, c. 226

(a) N.J.S.A. 43:15A-156 closed the Prosecutors Part of PERS to new members as of May 21, 2010. On September 24, 2021, the Prosecutors Part of PERS was reopened and requires prosecutors to be enrolled in the PERS with the same membership and benefit provisions as State employees, except as provided at P.L. 2001, c. 366. Membership in the retirement system shall be a condition of employment for service as a prosecutor.

1. For members employed as prosecutors on September 24, 2021, any service credit that has been established in the PERS prior to September 24, 2021, shall be established in the Prosecutors Part of PERS without further assessment of cost to the prosecutor; provided, however, any service credit that has been established in the PERS or the Judicial Retirement System (JRS) not deferred pursuant to section 1 at P.L. 2019, c. 287 (N.J.S.A. 43:6A-11.1) by a member of the retirement system in any position prior to service as a county prosecutor, nominated and appointed pursuant to Article VII, Section II, paragraph 1 of the New Jersey Constitution, shall be established in the Prosecutors Part of PERS without further assessment of cost to the prosecutor.

2. Any county prosecutor, or acting county prosecutor, enrolled in the DCRP as a county prosecutor, or acting county prosecutor, shall be eligible for service credit in the Prosecutors Part of PERS, except that the county prosecutor, or acting county prosecutor, shall first pay the amount equivalent to that amount contributed pursuant to section 3 at P.L. 2007, c. 92 (N.J.S.A. 43:15C-3) during each fiscal year of membership in the DCRP to be credited.

3. All outstanding obligations, such as loans, purchases, and other arrearage, shall be satisfied by a prosecutor as previously scheduled for payment to the Public Employees' Retirement System.

17:2-8.4 Ineligibility for credit in the Prosecutors Part

A person who was not employed as a prosecutor on [January 7, 2002] September 24, 2021, is not eligible to have any portion of his or her Public Employees' Retirement System account credited to the Prosecutors

Part except as provided under the definition of "service" [in] at N.J.A.C. 17:2-8.1.

17:2-8.5 Interfund transfers

(a) A person who contributes to another State-administered retirement system and was not employed as a prosecutor on [January 7, 2002] September 24, 2021, is not eligible to have any portion of his or her State-administered defined benefit retirement system credit transferred into the Prosecutors Part. The State-administered defined benefit retirement system service shall be credited as regular PERS credit.

(b) (No change.)

17:2-8.6 Purchase of service

(a) Any active member of the Prosecutors Part may make an optional purchase of service as authorized [by] at N.J.A.C. 17:2-5.5.

(b) Any purchase requested after [January 7, 2002] September 24, 2021, shall be credited as regular PERS service in the calculation of benefits, except for the following three types of service, which shall be credited as Prosecutors Part service. The cost of this Prosecutors Part service shall be determined using Prosecutors Part actuarial purchase factors:

1. Temporary service as a prosecutor [from January 7, 2002 through May 21, 2010, leading] beginning on September 24, 2021, which led directly to a permanent employment as a prosecutor;

2. Service properly credited in the Prosecutors Part on or after [January 7, 2002] September 24, 2021, as to which contributions had been withdrawn in accordance with N.J.S.A. 43:15A-8.b; and

3. Leaves of absence without pay after [January 7, 2002] September 24, 2021, from service as prosecutor. A prosecutor may purchase the period of a leave of absence pursuant to N.J.A.C. 17:2-5.5(a4).

(c) (No change.)

17:2-8.14 Retirement date for prosecutors having both regular and Prosecutors Part PERS service

(a) (No change.)

(b) A prosecutor who has both regular and Prosecutors Part PERS service may, after filing the necessary application, begin receipt of the Prosecutors Part benefit at age 55, or at any age with 20 or more years of service if the member was employed as a prosecutor as of [January 7, 2002] September 24, 2021. The member may begin receipt of the remaining regular PERS benefit at age 60 if enrolled in the regular PERS before November 2, 2008; at age 62 for those members who enroll between November 2, 2008 and May 21, 2010; or at age 65 for those members who enroll after May 21, 2010, based on the member's final average salary in the regular PERS covered position in accordance with the PERS retirement rules, so long as the member is vested in the regular PERS account, or the regular PERS account is still active pursuant to N.J.S.A. 43:15A-7(e). The maximum amount of the PERS benefit shall be determined as of the effective date of retirement from the Prosecutors Part. Should a retired member of the Prosecutors Part return to employment prior to receipt of the regular PERS retirement benefit, that PERS benefit shall not increase and the provisions of N.J.A.C. 17:2-8.16 shall apply. If the member has 25 years or more of regular PERS service, the member may begin receipt of the regular PERS benefit at any age after filing the necessary application.

SUBCHAPTER 10. COVID-19 ACCIDENTAL DISABILITY

17:2-10.1 Purpose of this subchapter

P.L. 2020, c. 54 extends accidental disability and accidental death benefits to active eligible law enforcement officers, firefighters, and emergency medical technicians enrolled in the Public Employees' Retirement System (PERS) who are totally and permanently disabled, as a result of contracting COVID-19 during the public health emergency declared by the Governor in Executive Order No. 103 (2020). The purpose of this subchapter is to establish the rules necessary to implement the provisions of this law.

17:2-10.2 Definitions

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

“COVID-19” means a highly contagious respiratory disease caused by the SARS-CoV-2 virus.

“Emergency medical technician” means a person who was trained in basic life support services as defined in section 1 at P.L. 1985, c. 351 (N.J.S.A. 26:2K-21) and certified by the Department of Health to perform these services, during the public health emergency.

“Public health emergency” means the health emergency in the State of New Jersey as defined by the Governor in Executive Order No. 103 (2020).

“SARS-CoV-2” means severe acute respiratory syndrome coronavirus 2. It is the virus that causes COVID-19 (the disease).

17:2-10.3 Eligibility

(a) For purposes of subsection a of section 10 at P.L. 1965, c. 89 (N.J.S.A. 53:5A-10), permanent and total disability shall be deemed to have occurred as a direct result of a traumatic event occurring during and as a result of the performance of regular or assigned duties if:

1. The member contracts COVID-19 during the public health emergency, as defined at N.J.A.C. 17:2-10.2;
2. The member is permanently and totally disabled as a result of COVID-19;
3. The member’s regular or assigned duties required the member to interact with the public, or to directly supervise other personnel so interacting with the public, on any date during the public health emergency; and
4. The member interacted with the public or directly supervised personnel that interacted with the public within 14 calendar days prior to the appearance of symptoms consistent with COVID-19, confirmed, in writing, by a licensed health care provider on a form approved by the Board of Trustees and also confirmed by a positive test result for SARS-CoV-2.

(b) A member who retired during the public health emergency, as defined at N.J.A.C. 17:2-10.2, shall be eligible to apply for a retirement allowance pursuant to this subchapter, and, if approved, the retirement allowance approved pursuant to this subchapter shall be made retroactive to the date of the initial retirement date.

(c) This section shall not apply to any member who had retired and subsequently returned to employment pursuant to Executive Order No. 115 (2020) or any other Executive Order similarly permitting a retired member to return to employment without reenrollment to assist during the public health emergency and state of emergency.

(d) New onset diseases and chronic psychological diseases resulting from prior exposure to, and recovery from, COVID-19 shall not be deemed a permanent and total disability resulting from COVID-19.

17:2-10.4 Accidental death in the line of duty (COVID-19)

(a) For purposes of subsection a of section 14 at P.L. 1965, c. 89 (N.J.S.A. 53:5A-14), a member whose death is attributable to COVID-19, complications therefrom, or the aggravation or acceleration of a preexisting condition caused thereby, shall be deemed to have occurred as the direct result of an accident met in the actual performance of duty at some definite time and place if:

1. The member contracted COVID-19 and the member’s death occurs after receiving a positive test result for SARS-CoV-2 during the public health emergency in this State declared by the Governor in Executive Order No. 103 (2020);
2. The member died as a result of COVID-19; and
3. The member’s regular or assigned duties required the member to interact with the public or directly supervise personnel who interact with the public, and the member so interacted with the public or directly supervised such personnel, on any date during the public health emergency in this State declared by the Governor in Executive Order No. 103 (2020), and as extended, and within 14 calendar days prior to the appearance of symptoms consistent with COVID-19, which diagnosis has been confirmed, in writing, by a licensed health care provider on a form approved by the Board and by a positive test result for SARS-CoV-2.

(b) The filing of an accident report with the Public Employees’ Retirement System shall not be required for an accidental death benefit allowed pursuant to this subchapter.

(c) If a member dies during the public health emergency declared by the Governor in Executive Order No. 103 (2020) and the benefit has been approved pursuant to a provision other than this subchapter or section 14 at P.L. 1965, c. 89 (N.J.S.A. 53:5A-14) prior to the effective date of this act (March 9, 2020), P.L. 2020, c. 54, a beneficiary may apply for a benefit pursuant to this subchapter and, if approved, the benefit approved pursuant to this subchapter shall be made retroactive to the initial retirement date.

(d) This subchapter shall not apply to any member who has retired and subsequently returned to employment pursuant to Executive Order No. 115 (2020) or any other Executive Order similarly permitting a retired member to return to employment without reenrollment to assist during the public health emergency and state of emergency.

17:2-10.5 Filing requirements

(a) To apply for benefits under this subchapter, a member or retiree must file a COVID-19 Medical Questionnaire form (available on the Division’s website) in its entirety and provide all required documents.

(b) Required documents are:

1. A copy of positive COVID-19 test results; and
2. A certification from a licensed health care provider. If an accident report is available, it shall be provided to the Division.

(c) The required licensed health care provider’s certification, as required pursuant to (b)2 above, must document that:

1. The member or retiree is totally and permanently disabled as a result of his or her exposure to COVID-19 during work-related duties; and

2. The work-related duties required interaction with the public, or directly supervising other personnel so interacting with the public, during the public health emergency declared by the Governor in Executive Order 103 (2020).

i. That such interaction or supervision required pursuant to this paragraph occurred within the 14 days preceding the appearance of symptoms consistent with COVID-19.

(a)

**DIVISION OF PURCHASE AND PROPERTY
Procurement Bureau; Contract Compliance and
Audit Unit; and Distribution Support Services
Unit**

**Proposed Amendments: N.J.A.C. 17:12-1.5, 1A.2,
5.3, 5.4, and 5.5**

Proposed New Rule: N.J.A.C. 17:12-3.5

Authorized By: Elizabeth Maher Muoio, State Treasurer.

Authority: N.J.S.A. 10:5-36.k and o, 52:18A-30.d, 52:25-1 et seq., 52:25-16.1, 52:32-17 et seq., 52:34-6 et seq., 52:34-6.2.d, 52:34-10.4, 52:34-10.10, 52:34-12.a, and 52:34-13; and Executive Orders Nos. 34 (1976) and 189 (1988).

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

Proposal Number: PRN 2022-050.

Comments may be submitted through June 17, 2022, by email in Microsoft Word format, or in a format that can be easily converted to Word, to DPPRule.Comments@treas.nj.gov or on paper to:

Maurice A. Griffin, Acting Director
Division of Purchase and Property
33 West State Street, 8th Floor
PO Box 039
Trenton, NJ 08625-0039

The agency proposal follows: