

HVACR contractor or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;

6. Pending proceedings against a professional or occupational license issued to the applicant by a professional or occupational board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and

7. Civil litigation related to practice as a master HVACR contractor or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

#### 13:32A-3.3 License reinstatement

(a) A person who has had his or her license suspended pursuant to N.J.A.C. 13:32A-3.1(f) may apply to the Board for reinstatement. A person applying for reinstatement shall submit:

1. A reinstatement application;
2. A certification of employment listing each job held during the period of suspended license which includes the names, addresses, and telephone number of each employer;
3. The renewal fee set forth in N.J.A.C. 13:32A-6.1 for the biennial period for which reinstatement is sought;
4. The past due renewal fee for the biennial period immediately preceding the renewal period for which reinstatement is sought;
5. The reinstatement fee set forth in N.J.A.C. 13:32A-6.1; and
6. Evidence of having completed all continuing education credits for the current biennial registration period, consistent with the requirements set forth in N.J.A.C. 13:32A-4.1.

(b) An applicant who holds a valid, current license in good standing issued by another state to practice as a master HVACR contractor and submits proof of having satisfied that state's continuing education requirements, shall be deemed to have satisfied the requirements of (a)6 above. If the other state does not have any continuing education requirements, the requirements of (a)6 above shall apply.

(c) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Board prior to reinstatement of the license. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant as a condition of reinstatement of licensure to take and successfully complete education or training, or to submit to supervision, monitoring, or limitations, as the Board determines necessary to assure that the applicant practices with reasonable skill and safety. The Board may restore the license subject to the applicant's completion of training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following non-exhaustive issues:

1. Length of time the license was suspended;
2. Employment history;
3. Professional history;
4. Disciplinary history and any action taken against the applicant's license by any licensing or occupational board;
5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to practice as a master HVACR contractor or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
6. Pending proceedings against a professional or occupational license issued to the licensee by a professional or occupational board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
7. Civil litigation related to practice as a master HVACR contractor or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

## TREASURY — GENERAL

(a)

### DIVISION OF PENSIONS AND BENEFITS

#### General Administration

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

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

Authorized By: Florence J. Sheppard, Acting Director, Division of Pensions and Benefits.

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

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

Proposal Number: PRN 2016-016.

Submit comments by March 19, 2016, to:

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The agency proposal follows:

#### Summary

The Division is responsible for reviewing the general administration rules at N.J.A.C. 17:1. 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, to bring about conformity to the new statute or court decision. Additionally, the rules are periodically reviewed to determine if current rules are necessary, cost efficient, and reflect current procedures and practices followed by the Division. Finally, when they are due to expire, the Division is required to review and repromulgate the rules. Pursuant to N.J.S.A. 52:14B-5.1.c, N.J.A.C. 17:1 is scheduled to expire on December 10, 2015. As the Department has filed this notice of re-adoption with the Office of Administrative Law prior to that date, the expiration date is extended 180 days to June 7, 2016, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Division proposes to adopt several new rules and amend a number of existing rules, in order to bring N.J.A.C. 17:1 in line with current statutes and recent applicable court decisions, while also reflecting current operating procedures and policies for New Jersey's State-administered retirement systems. Unless otherwise specified, the rules proposed with amendments and new rules address the administrative practices that generally apply to the State-administered retirement systems and benefit plans of New Jersey.

#### Subchapter 1. Administrative Practices

Subsection (e) of N.J.A.C. 17:1-1.1, Description of the Division of Pensions and Benefits, is proposed to be revised to include the Commuter Tax\$ave (Tax\$ave) program, an IRC Section 132 program that is also administered by the Division of Pensions and Benefits. In addition, revision of N.J.A.C. 17:1.1A is necessary, as the procedures for the election of representatives to the State Investment Council have changed, pursuant to N.J.S.A. 52:18A-83. Instead of holding open elections to elect an Investment Council Representative from among candidates who are members of each retirement system, the Boards of the Public Employees' Retirement System (PERS), Teachers' Pension and Annuity Fund (TPAF), and Police and Firemen's Retirement System (PFRS) each elect an Investment Council Representative from among current members of their specific Board, to serve in this capacity. In addition, the Board of Trustees of the State Police Retirement System no longer elects a representative to the State Investment Council. Instead, a representative now serves from the State Troopers Fraternal Association.

The Division proposes to amend N.J.A.C. 17:1-1.5, Annual statements; retirement system, because with few exceptions, statements of member

accounts are no longer mailed to the employers of members once each calendar year, as in the past. Under current procedures, member account information is now made available over the Internet to active members who open a secure online account through the Member Benefits Online System (MBOS). The member account information provided through MBOS is updated after each quarterly posting in each calendar year, so active members can access information that is generally more current than the information that was mailed annually to employers in the past. Furthermore, statements of member accounts will continue to be mailed to those retirement systems and benefit plans that are not yet available over MBOS, as stipulated in proposed subsections (b) and (c). In addition, 17:1-1.6, Quarterly statements; supplemental annuity, is proposed for amendment to be corrected to state that statements are to be mailed quarterly to participants of the tax-sheltered and “regular, after-tax” sheltered Supplemental Annuity Collective Trust (SACT). The designation of “non-tax” sheltered SACT was incorrect.

Finally, since a majority of retired members and beneficiaries currently receive their pension payment via direct deposit, rather than receiving a paper check by mail, the Division proposes to amend the heading of N.J.A.C. 17:1-1.13 to “suspension of pension payments,” to reflect this continuing trend. In fact, current Division policy requires members who retire on or after July 1, 2011, to receive their pension payment by direct deposit, although the Director may waive this requirement upon demonstration of good cause (see Subchapter 2 below, as well as N.J.A.C. 17:1-2.12). N.J.A.C. 17:1-1.13(a)5 is also proposed to be amended, to specify that it applies specifically to retirees or beneficiaries who still receive their pension payment by paper check.

#### Subchapter 2. Accounting

N.J.A.C. 17:1-2.12, Lost pension checks, is proposed to be amended to include rules governing the direct deposit of a pension payments, as members retiring on or after July 1, 2011, are required to receive their pension payment by direct deposit/electronic funds transfer (EFT). Specifically, the section heading is proposed to be amended to “Lost pension checks; direct deposit of pension payments,” and new subsection (c) is proposed to include this direct deposit requirement for pension payments. Paragraphs (c)1 and 2 are proposed to provide procedures for signing up for direct deposit and updating information related to the direct deposit/EFT of pension payments. In addition, new paragraph (c)3 is proposed, to allow the Director to waive the direct deposit requirement if a member is able to demonstrate good cause. Finally, in N.J.A.C. 17:1-2.18(a), “contributory insurance” is to be added, to clarify the intent of this subsection.

#### Subchapter 3. Enrollment, Membership, Transfers, and Withdrawals

For most State-administered retirement systems, employers are now required to enroll employees using the available online enrollment applications provided through the Employer Pensions and Benefits Information Connection (EPIC). N.J.A.C. 17:1-3.1 is proposed for amendment to incorporate the requirement of enrolling through EPIC, while at the same time providing the conditions under which a paper application may still be accepted; notably, since the EPIC system cannot process transfers between different funds at this time, a paper enrollment application will be accepted simultaneously with the Interfund Transfer form, in order to promote more timely interfund transfers and prevent delays. Furthermore, a reference to the required employer contributions that an employer shall pay as a result of a delayed enrollment is proposed, in accordance with N.J.A.C. 17:1-3.1(b) and (c), to emphasize the statutory responsibility of public employers to enroll their employees on a timely basis. At N.J.A.C. 17:1-3.1(b), the phrase, “for payment of the employee contribution” is proposed, to specify how the employer liability applies, and the phrase, “plus an additional two months to allow for administrative processing” is proposed for deletion, as this provision is contrary to law. Further, at N.J.A.C. 17:1-3.2, the reference to multiple enrollments is proposed for amendment, as multiple enrollments are no longer permitted after May 21, 2010.

Subsection (a) of N.J.A.C. 17:1-3.3, Enrollment schedules, is to be amended to reflect current operating practices regarding the time frame for enrollment of members. Employees who are appointed after the third day of the biweekly pay period are enrolled the next pay period, not the

seventh day. In addition, subsection (b) is proposed for deletion, as optional enrollments are no longer permitted under P.L. 2010, c. 1. Further, N.J.A.C. 17:1-3.5, Intrafund transfers, is proposed for amendment to state that all eligibility criteria based on date of enrollment (membership tier) must be met in cases where members transfer within the same retirement system (intrafund transfer). Finally, N.J.A.C. 17:1-3.9 is proposed for amendment to state that in order to determine whether to apply for retirement benefits or for a withdrawal of contributions, members may now use MBOS to obtain a retirement estimate.

N.J.A.C. 17:1-3.13, Proof of age, is proposed to be added, as it applies to all of the State-administered defined benefit and defined contribution plans. The Division is also including a list of documents it will accept from members of the State-administered retirement systems in order to establish proof of age. Since proof of age is required for disbursement of retirement benefits and death claim settlements for the State defined benefit plans and defined contribution plans administered by the Division, the proposed new rule is necessary to expedite processing and payment of retirement benefits and death claims for the members of the State-administered retirement systems and their beneficiaries.

The existing rules at N.J.A.C. 17:2-1.11 (PERS), 17:3-1.11 (TPAF), 17:4-1.11 (PFRS), 17:5-1.9 (SPRS), and 17:10-1.9 (JRS) allow members of the defined benefit plans administered by the Division to submit any of the following documents to establish proof of age: birth or baptismal certificates, passports, naturalization papers, Biblical records, affidavits of older members of the immediate family, or primary school records. The proposed new rule would modify the list of acceptable proof-of-age documents to include birth certificates with visible seal, passports, U.S. Passport Cards, naturalization and immigration papers, digital non-driver identification cards from the New Jersey Motor Vehicle Commission (MVC), and valid New Jersey, Pennsylvania, or New York digital driver licenses. Affidavits of older members of a member’s immediate family, Biblical records, baptismal certificates, and school records would no longer be accepted as proof-of-age evidence for members and beneficiaries. Expanding the list of documents allowable as proof-of-age evidence for plan members will help to expedite retirement processing and death claim settlements for plan members and their beneficiaries, and will also help to minimize the resources used to mail deficiency letters to members who have not submitted proof-of-age evidence by their date of retirement.

#### Subchapter 4. Purchases and Eligible Service

A technical amendment is proposed at N.J.A.C. 17:1-4.1(c).

#### Subchapter 5. Insurance and Death Benefits

N.J.A.C. 17:1-5.3, Accrued increase; limitations, is proposed to be amended to state that when a retired member or beneficiary dies, payments that were due the deceased retiree or beneficiary will be reduced by any monies that the retired member or beneficiary owed at the time of death, before distribution. Furthermore, N.J.A.C. 17:1-5.4, Group life insurance and pension benefits, is proposed for amendment by adding new subsection (c), which will permit special needs trusts as beneficiary designations, as long as they are created pursuant to 42 U.S.C. § 1396p(d)(4)(A); however, the Division will not discern whether the trust complies with statutory requirements at the time of filing, so it is up to the member to ensure that special needs trusts are prepared in accordance with 42 U.S.C. § 1396p(d)(4)(A) upon submittal.

N.J.A.C. 17:1-5.6, Domestic partners, is proposed to be modified, as domestic partnerships between same-sex couples were only accepted for pension and health benefits purposes through February 19, 2007. After February 19, 2007, same-sex couples were allowed to establish a civil union in New Jersey, under P.L. 2007, c. 103. Same sex marriages were recognized for pension purposes in New Jersey as of 2013, and for all benefit purposes effective June 26, 2015, when same-sex marriages became legal at the Federal level.

Proposed new N.J.A.C. 17:1-5.8, Reimbursement of funeral expenses for public safety personnel, is proposed in order to establish specific procedures for the clear and effective implementation of P.L. 2014, c. 177. N.J.A.C. 17:1-5.8 will require the use of group affiliation to identify the public safety personnel defined in P.L. 2014, c. 177, whose family members are eligible to receive a funeral reimbursement in the event they

are killed in the line of duty. It will also specify the maximum reimbursement that can be paid, in accordance with P.L. 2014, c. 177, and the family members who qualify to receive the reimbursement. Furthermore, the proposed new rule will establish the documentation that eligible family members must submit in order to receive a reimbursement for funeral expenses from the State Treasurer; specifically, the family member(s) must submit an itemized bill with proof of payment from the funeral home. Finally, it will clearly restate the effect that workers' compensation payments will have on reducing the reimbursement for funeral expenses in accordance with P.L. 2014, c. 177. The maximum reimbursement to be paid is \$10,000; however, if workers' compensation covers any part of the funeral expenses paid, the reimbursement will be reduced by that amount.

#### Subchapter 6. Honorable Service

N.J.A.C. 17:1-6.1, Honorable service, is proposed for amendment through the addition of new paragraphs (a)1 and 2. Paragraph (a)1 indicates the specific documentation that an employer must submit to the Division and to the employee regarding charges brought against the employee that render all or a part of the member's service dishonorable; paragraph (a)2 specifies that benefits claims will be held in abeyance until the Division receives all documentation related to the charges against the member. In addition, proposed new subsection (d) provides specific procedures for dependents who seek to file a dependency claim for benefits, based on an incarcerated member's monthly pension allowance. At subsection (c) of N.J.A.C. 17:1-6.2, Indictments, dismissals, litigation or appeals, the phrase, "and the return of contributions" is proposed for deletion, as it is not current policy to withhold the contributions that the member has paid into the member's own retirement system account.

Similarly, at N.J.A.C. 17:1-6.3, Settlement agreements; employer responsibility for reimbursement to the pension fund or retirement system for associated costs, proposed new subparagraphs (a)1i and ii require that the employer submit all documentation related to the settlement agreement with the member to the Division and to the member, and that a member's benefit claims will be held in abeyance until the Division receives all documentation related to the settlement agreement.

Finally, proposed new N.J.A.C. 17:1-6.4, Disability retirement applications and termination of service, contains the procedures for disability retirements. N.J.A.C. 17:1-6.4 specifies that the member's disability must be the reason the member left employment, as opposed to reasons such as removal for cause or total forfeiture of public service, a settlement agreement, loss of licensure or certification needed to perform the member's duties, voluntary separation from service, or job abolishment or reduction in force. Subsection (c) also allows the Division to review all disability retirement applications submitted to determine if they are eligible for processing.

#### Subchapter 7. Retirements

N.J.A.C. 17:1-7.4, Biweekly salary computation; retirement and death benefits, is proposed for amendment because the number of biweekly pays used to compute a member's final compensation now depends on a member's date of enrollment (membership tier) and the system in which the member is enrolled.

The Division also proposes to amend N.J.A.C. 17:1-7.5, Disability applications; priorities, to add new paragraphs (c)1 through 4. Paragraph (c)1 will outline the procedures for scheduling a medical examination if more information is needed to make a determination about a disability retirement application. Paragraph (c)2 specifies that a member will have to pay for subsequent appointments when failing to attend or cancel the initial independent medical examination (IME) scheduled by the Disability Review Section, and paragraph (c)3 proposes that a disability retirement case be dismissed when a member fails to provide payment for a rescheduled IME within 90 days of the missed appointment date. Finally, paragraph (c)4 states that members be responsible for payment of any subsequent IME required when additional medical documentation is submitted after the initial medical examination, as well as for the cost for review of medical reports submitted subsequent to the initial medical examination.

At N.J.A.C. 17:1-7.6, Medical examinations; out-of-State, subsection (b) is proposed for deletion, as the Board cannot "contemplate" the denial of a disability claim. Furthermore, at N.J.A.C. 17:1-7.7, Post-retirement employment; employer certification; break-in-service-10-month members, subsection (b) is proposed for amendment to clarify that 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, have not achieved a bona fide retirement, since they have not maintained a valid break-in-service for retirement purposes. In addition, N.J.A.C. 17:1-7.8, Employer resolution; involuntary disability application, is proposed to be amended to include a required procedure for employers who submit an involuntary disability application for a member. Since statute requires that the member select the member's pension option and beneficiary designation at retirement, not the employer, the employer must select the maximum option and list the member's beneficiary as "estate" at the time of submittal. If the involuntary disability retirement is subsequently granted, the member will be given a 30-day window to select a different option and beneficiary for the pension benefit. The member may also designate a specific beneficiary of his or her own choosing to receive the life insurance benefit, by submitting a completed Designation of Beneficiary form.

At N.J.A.C. 17:1-7.10, Ordinary disability applications; medical examinations, subsection (a) is proposed to be amended through the addition of paragraphs (a)1 and 2. Paragraph (a)1 states that a disability retirement will be cancelled if member does not submit all required documentation within six months of the initial application submission. Paragraph (a)2 proposes that the applicant be charged for the cost of an addendum to the disability retirement application, if documentation existing at the time of the IME is submitted after the IME. Propose new subsection (d) states that all accidental disability retirement applicants be required to undergo an IME after all medical documentation has been submitted, while proposed new subsection (e) allows the Division to require a member to sign a sworn certification stating that no underlying condition existed related to the disability and all available medical reports related to the disability have been disclosed to the IME examiner before the exam. Proposed new subsection (h) specifies that a member's disability retirement application will be processed on the basis of the medical conditions listed on the member's application; if denied, the member will have 45 days to reapply. When a member decides to reapply after a Board denial, proposed new subsection (i) requires that the member submit a new application on the basis of another medical condition and with a new retirement date. Proposed new subsections (h) and (i) are intended to help reserve the disability retirement application process for those who are truly disabled, while also limiting delays. Finally proposed new subsection (j) specifies that members who are granted an accidental disability retirement benefit will receive certification of the award and are responsible for notifying the Division if the disabling condition improves or if they become employed again. It also states that they must sign and return the certification they receive before any retirement benefits will be paid. The above amendments are intended to make the disability retirement application process more stringent, promote member responsibility where needed, and hinder disability retirement approvals for members who are not disabled.

#### Subchapter 8. Pension Adjustment Program

N.J.A.C. 17:1-8.1, Employer payments; multiple enrollees, is proposed for amendment to indicate that multiple enrollments are not permitted for enrollments after May 21, 2010, while N.J.A.C. 17:1-8.3, is proposed to be amended to indicate that pension adjustment benefits will only be received if any such benefits are in effect. Furthermore, N.J.A.C. 17:1-8.5, Calculation of cost-of-living adjustment, is proposed for amendment to add new subsection (a), which states that cost-of-living adjustments were temporarily suspended for retirees and benefit recipients of all retirement systems, as of June 28, 2011, under P.L. 2011, c. 78. In addition, proposed new subsection (b) specifies that pension committees were formed for the Public Employees' Retirement System, Teachers' Pension and Annuity Fund, and Police and Firemen's Retirement, to monitor the "funded ratio" for each (the ratio of the value of a plan's assets to the value of a plan's accrued liabilities), until a targeted funded ratio of 75 percent is reached, with subsequent increases over seven fiscal

years to a funded ratio of 80 percent. At that time, proposed new subsection (c) specifies that each fund will have the authority to reactivate the cost-of-living adjustment, as long as the impact of such action does not cause the funded ratio to drop below the target funded ratio in any one year out of a 30-year projection period. For the JRS, the State House Commission is designated to perform the pension committee functions specified in subsections (b) and (c). If COLAs are reinstated, it will be necessary to amend Subchapter 8 pursuant to the conditions of the reinstatement.

#### **Subchapter 9. Unemployment Insurance**

There are no changes proposed to this subchapter.

#### **Subchapter 10. Social Security**

There are no changes proposed to this subchapter.

#### **Subchapter 11. Volunteer Emergency-Workers Survivors Pension**

Throughout Subchapter 11, “emergency-worker” is proposed to be replaced with “emergency worker.” Further, since same-sex marriages are now legal under Federal law, the Division proposes that the definitions of “widow” and “widower” be amended to replace “his” and “her” with “the volunteer emergency worker’s.”

#### **Subchapter 12. Central Pension Fund**

There are no changes proposed to this subchapter.

#### **Subchapter 13. New Jersey State Employees Tax Savings Program (TaxSave)**

There are only technical changes proposed at N.J.A.C. 17:1-13.7.

#### **Subchapter 14. The New Jersey State Employees Commuter Tax Savings Program (Commuter TaxSave Program)**

There are only technical changes proposed to this subchapter.

#### **Subchapter 15. The New Jersey School Employees’ Health Benefits Program**

There are no changes proposed to this subchapter.

#### **Subchapter 16. (Reserved)**

#### **Subchapter 17. Compliance with Internal Revenue Code**

There are only technical changes proposed to this subchapter.

As the Division 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**

Members, retirees, and beneficiaries of the existing State-administered pension systems rely on the efficient operation of their pension systems to provide them with monthly retirement benefits, proper crediting of service, any death benefits for which they may be eligible, and all other information related to their individual accounts. They rely upon the presence and predictability of rules that guide the effective and efficient administration of their benefits. Likewise, participating employers rely on the existence of efficient enrollment, purchase, retirement, and death claims procedures that are based on current statute and law. The taxpaying public is also affected by these rules, since public monies are used to fund the benefits. Therefore, taxpayers also benefit from the proper and efficient administration of the pension systems that the rules require.

A number of changes in current administrative practices will bring greater efficiency to the State-administered retirement systems, plans, and funds. More effective procedures for establishing a member’s age at N.J.A.C. 17:1-3.13 will bring greater efficiency to the processing of retirements and death claims, while the transition to an Internet-based system for distribution of member account information will get account information to members in a timelier manner. The changes in the areas of honorable service (N.J.A.C. 17:1-6.1), indictments (N.J.A.C. 17:1-6.2), settlement agreements (N.J.A.C. 17:1-6.3), and disability retirements (N.J.A.C. 17:1-7.5) are needed to help thwart common abuses in these areas. Finally, the new rule at N.J.A.C. 17:1-5.8, which provides a reimbursement of funeral expenses for public safety personnel, allows the

loved ones of public safety officers who are killed in the line of duty to receive a small financial reimbursement for that loss of life.

The protections and guarantees that these rules afford the members, retirees, beneficiaries, and employers of the State-administered retirement systems mandate their continued existence.

#### **Economic Impact**

The efficient operation of the pension systems administered by the State of New Jersey allows member services and benefits and processing of employer reporting to be delivered in a timely manner, thereby providing an invaluable benefit to members, retirees, and public employers alike. The rules proposed for readoption with amendments and new rules will continue existing, longstanding regulatory requirements, while also upholding newly passed laws that impact the State-administered retirement systems and plans and improving current policies and procedures to bring greater economic efficiency. In addition, the proposed amendments will provide for the more effective and efficient delivery of retirement benefits and the proper accounting of members’ service credit and contributions to the pension systems, while also meeting new and existing statutory requirements. Without the administrative rules to provide for the efficient operation of the pension systems, members, retirees, employers, and New Jersey’s taxpayers could be adversely affected.

The proposed new rule at N.J.A.C. 17:1-3.13 will bring about greater accuracy and efficiency in determining member and beneficiary ages, which will allow for more effective processing of retirement and death claims benefits under existing retirement systems. In addition, the proposed new rule at N.J.A.C. 17:1-5.8 will allow for the efficient reimbursement of funeral expenses to the loved ones of public safety personnel who are killed in active service.

The proposed readoption of the rules at N.J.A.C. 17:1, with amendments and new rules, will not have any negative economic effects on the public in general, except for the burden on taxpayers for the reimbursement of funeral expenses provided through N.J.A.C. 17:1-5.8; however, this benefit is given to the loved ones of public safety personnel who have sacrificed their lives to protect the public. The Division will continue to research and review any new legislation, to monitor its impact on the general administration rules (N.J.A.C. 17:1). Other than the costs associated with the reimbursement of funeral expenses for public safety personnel, the Division is not aware of any hardship or costs imposed by the rules on the members of the State-administered pension systems in New Jersey or on the public in general, other than as required by statute.

#### **Federal Standards Statement**

The rules proposed for readoption 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.

#### **Jobs Impact**

The operation of the rules proposed for readoption with amendments and new rules will not result in the generation or loss of jobs. The current rules have been in effect for a number of years, and have served to guide the Division effectively and efficiently in the operation and administration of the retirement systems.

The Division invites any interested parties to submit any data or studies concerning the jobs impact of these rules with their written comments.

#### **Agriculture Industry Impact**

The rules proposed for readoption with amendments and new rules will not have an impact on the agriculture industry.

#### **Regulatory Flexibility Statement**

The rules proposed for readoption with amendments and new rules affect members, retirees, and survivors of the State-administered retirement systems. Thus, the rules proposed for readoption with amendments and new rules do not impose any reporting, recordkeeping, or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

**Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments and new rules will have no impact on the affordability of housing in New Jersey, nor will they evoke a change in the average costs associated with housing, because the rules pertain to the general administration of the State-administered retirement systems for members, retirees, and survivors of members and retirees.

**Smart Growth Development Impact Analysis**

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

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:1.

**Full text** of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicate in brackets [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 Tax\$ave, for State employees, **as well as the IRC Section 132 program known as Commuter Tax\$ave.**

(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-[83a.(1)]**83.a(1)**, the Board of Trustees of the Public Employees' Retirement System (PERS), [the Board of Trustees of the State Police Retirement System (SPRS), the Board of Trustees of] the Teachers' Pension and Annuity Fund (TPAF), and [the Board of Trustees of] the Police and Firemen's Retirement System (PFRS) of New Jersey shall **each** elect one of [the active] **its board** members [of its retirement system, or one of the retirees of its retirement system who is receiving a retirement allowance] **for a three-year term commencing on July 1**, to serve as a member of the State Investment Council at its regular meetings [for a three-year term commencing on July 1]. **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.**

[(b)] 1. [Pursuant to N.J.S.A. 52:18A-83b., an] **Each** active or retired member of the PERS, [SPRS,] TPAF, and PFRS [may apply] **Board of Trustees who is elected by his or her Board** to serve as a member of the State Investment Council [provided that the applicant does] **may** not hold any office, position, or employment in any political party and [does] **may** not benefit directly or indirectly from any transaction made by the Director of the Division of Investment.

[(c)] The Division will be required to provide a timely general notice of vacancy of a State Investment Council position to the active and retired members of the PERS, SPRS, TPAF, and PFRS prior to the expiration of the term. Such notice shall provide information regarding the term of office, description and/or requirements for the position, and the application process.

1. The notice to active members of the PERS, SPRS, TPAF, and PFRS, will be prepared by the Secretary of the Board and forwarded to the certifying officers of the employing locations. It will be the responsibility of each certifying officer to post the notice in a public area at the workplace.

2. A timely notice to the retired members of the PERS, SPRS, TPAF, and PFRS will be prepared by the Secretary of the Board and published in

the Division's semiannual newsletter to retired members, prior to the expiration of the term.

3. Such notice will also be posted on the Division's public website during the election period.

(d) Any active or retired member of the system who is interested in applying for the position of State Investment Council representative will be required to submit a letter of interest, which shall include a resume of the member's education and experience, directly to the attention of the Secretary of the Board at the Division of Pensions and Benefits within the requisite time frame provided in the notice.

(e) As stipulated in N.J.S.A. 52:18A-83a.(1), the Board of Trustees of the PERS, SPRS, TPAF and PFRS will elect one of the active members of its retirement system, or one of the retirees of its retirement system who is receiving a retirement allowance, to serve as a member of the State Investment Council. However, depending on the number of responses submitted, the Board of Trustees may seek assistance from individuals outside the Division of Pensions and Benefits in the review and recommendation process, or may elect to form a subcommittee to assist the Board of Trustees in reviewing the candidates applications.]

[1.] **2.** Any active or retired member elected by the Board of Trustees of the PERS, [SPRS,] TPAF, and PFRS to serve as the State Investment Council representative shall be required to comply with [the] **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.

[2.] **(b)** (No change in text.)

## 17:1-1.5 Annual statements; retirement system

(a) [Statements] **Updated online statements** of member[s'] accounts are [mailed annually to employers after the fourth quarter of the calendar year is complete for the following] **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 [employers] **members;**

2. Teachers' Pension and Annuity Fund - State [employers] **and local members;**

3. Police and Firemen's Retirement System - State and local [employers] **members;**

4. State Police Retirement System **members;** [and]

[5. Alternate Benefit Program.]

**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.**

[(c)] **(d)** (No change in text.)

[(d)] **(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 [nontax] **regular, after-tax** sheltered Supplemental Annuity Collective Trust.

17:1-1.13 Suspension of pension [checks] **payments**

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

1.-4. (No change.)

5. [If] **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[, which] **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] **clearing account** overages [which] **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] **retirement system or fund** calculated on the number of transactions processed for the respective [Systems] **systems**.

(b) To the extent that there are costs [which] **that** are attributable to the Division as a whole, as distinguished from costs attributable to each separate program administered by the Division, all [Systems] **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) [A] **When a member [who] appeals the suspension or termination of the member's employment and [who, by] 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, [provided] 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.**

(a) **2. When an [employee] employer fails to file an application for enrollment even though the employee and employer have been advised of the compulsory nature of enrollment, [the certifying officer is obligated to complete the employee's section of the enrollment application, as well as such other information required on the enrollment application] 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 [plus an additional two months to allow for administrative processing,] 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

[In] **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 [be] 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 [shall be] was required to enroll [from] for each position.**

## 17:1-3.3 Enrollment schedules

(a) Employees appointed after the [seventh] **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.

[(b) An optional enrollee is enrolled as of the first of the month following the date the enrollment application is received.]

#### 17:1-3.5 Intrafund transfers

An active member of the [Teacher's] **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 [with a different employer] 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 [Division shall inform the] member [how to] **may** obtain the estimated amount of the retirement allowance [and] **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, [or] 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 [and returns] **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] §§ 4301 et seq.), may obtain service credit in the State-administered retirement system as provided in this section].

(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 [but] 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)[, reemploying] **and reemploys** a person under this section, [with respect to] **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. [of that person, shall be liable to the employee pension plan for funding any obligation of that plan to provide benefits under that plan, and] **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 [rule] **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[, which] **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

[As the statutes provide that death] **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 [which] **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.**

[(c)] (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, [cannot take effect prior to the date of the resolution. If the employer decides] **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, [the employer must] had to adopt the provisions for all its employees and retirees in all of the retirement systems in which it [participates] participated and not just members of a specific retirement system.**

1. An employer [may] **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 [a resolution is] adopted, [it] **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 [as] 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 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) [All] No claims for retirement[,] or death benefits [and the return of contributions cannot] 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[; and].

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 [which] 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, [in addition to the maximum allowance,] 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, [a total of 78] **the number of biweekly pays [will be] used[, including] 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) In the event the Board or Commission contemplates the denial of a disability claim based on an out-of-State physician's medical report, the employee will be required to be examined by a physician selected by the Division.]

[(c)] (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 [the same, or] another [10-month] 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. [Ten-month members who retire effective July 1st and return to 10-month employment the following September shall be deemed not to have a valid break-in-service for retirement purposes.]

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 [ordinary] 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[, which] 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.

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

[(e)] (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 application for retirement for that benefit. If the applicant submits 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) [under P.L. 2002, c. 109]

(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.

[(a)] (d) [The] 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, [shall be] 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.

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

[(c)] (f) [The] Prior to June 28, 2011, the calendar year used to calculate the above increases for beneficiaries [will be] 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 [effective] between January 1, 2001 [or thereafter] and June 28, 2011, the provisions of (b) above would apply.

[(d)] (g) [On or before November 15th of each year] Prior to June 28, 2011, the Division [shall] 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] 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] 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] Emergency Workers Survivors Pension.

...

“Dependent parent(s)” means the parent of the volunteer [emergency-worker] emergency worker who is receiving at least one-half of his or her support from the volunteer [emergency-worker] emergency worker in the 12-month period immediately preceding the volunteer [emergency-worker’s] 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] emergency worker.

...

“Widow” means the woman to whom the volunteer [emergency-worker] emergency worker was married on the date of [his] the volunteer emergency worker’s death and who has not remarried.

“Widower” means the man to whom the volunteer [emergency-worker] emergency worker was married on the date of [her] 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 [their] 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] emergency worker split equally among the children.

(b) If the volunteer [emergency-worker’s] 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] 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] 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] 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] emergency worker is sponsored by a county, the governing body of the municipality being served by the volunteer [emergency-worker] emergency worker at the time of the incident resulting in the volunteer [emergency-worker’s] 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] 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] 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] 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 [another] a State-administered retirement system cannot receive a [survivor’s pension through the] Volunteer [Emergency-Workers] 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 [eligible] 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), [and eligible for payment from the plan account,] 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 [during the] **a schedule of deductions to occur each** month prior to the benefit month[, when deductions will be taken].

(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, [but] 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] **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, [and] 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.