

2. The petition will indicate to the members that the member to be nominated by this petition must be a member of the Public Employee's Retirement System and either a State, county or municipal employee, according to the position being voted upon. (State employee members may petition only for State employee candidates; county employee members only for county employee candidates; and municipal employee members only for municipal employee candidates.

3. The instructions will indicate that at least 500 eligible State employee members, county members or municipal members, as the case may be, must sign the petition in order for a candidate's name to be placed on the ballot.

4. Petitioners must indicate their employing agencies, in addition to printing and signing their names on the petition.

5. A member may sign a petition for only one candidate.

6. The candidate named on a petition must sign the petition in a designated space indicating that he is willing to be a candidate.

7. The instructions will indicate the closing date for the filing of such petitions and also indicate the fact that a ballot bearing the names of all candidates so nominated will be forwarded for each eligible voter.

8. The names of all properly nominated candidates will appear on the ballot in the order drawn by lot. The employing agency will also be shown after the name of each candidate.

9. If only one candidate is nominated for a position, the candidate is deemed elected to the position without balloting.

(c) Rules concerning the ballot are as follows:

1. For each eligible voter there will be forwarded to the certifying agent, a ballot addressed by name.

2. The closing date of the election will be indicated.

3. The name of each candidate nominated by proper petition filed within the prescribed time will appear on the ballot.

4. Instructions supplied to the voter for the proper casting of the ballot (marking of the ballot, returning of such ballot through the postage paid return envelope and notice to sign such envelope) will be shown on the reverse side of the ballot or on a separate sheet.

5. The instructions will also indicate that the candidate receiving a plurality of the legal votes cast will be declared elected to the position.

(d) Rules concerning the election notice are as follows:

1. Election notices will be forwarded in bulk and in the appropriate number to the certifying agent or appro-

priate fiscal officer of such employing agency, together with instructions as to who are to receive the same.

2. A receipt and report will also be forwarded to each certifying agent or appropriate fiscal officer; such form is to be returned to this office and will indicate:

i. Receipt of the forwardings by the certifying agent or appropriate fiscal officer;

ii. The extent to which the certifying agent or appropriate fiscal officer has distributed the election notices.

(e) Rules concerning ballot distribution are as follows:

1. The ballots, each bearing the name and register number of an eligible voter, will be forwarded to the payroll agents, together with instructions governing distribution.

2. State, county and municipal employee members' ballots and return envelopes will be differentiated by colored forms or by some other symbol.

3. A receipt and report form will also be forwarded to each certifying agent or appropriate fiscal officer. Such form will indicate:

i. Receipt of the forwardings by the certifying agent or appropriate fiscal officer;

ii. The extent or distribution of election ballots;

iii. Return of undelivered ballots and reason for same.

4. The returned ballot-bearing envelopes are to be examined for validity. A record will be maintained to identifying the registered numbers of the members who have voted. The sealed ballots will be deposited in a locked container. Immediately prior to the counting of the ballots, the information identifying the individual voters will be separated from the still sealed ballots in the presence of the election judges.

(f) Rules concerning election judges are as follows:

1. An election board consisting of a judge and two tellers to examine the returned ballots and to tabulate the votes cast. The counting of these ballots will be accomplished by the use of a machine, the normal design of which is for the purpose of counting paper stock. The Board will have the power to eliminate any ballot which is not properly cast. The Board will report on the results of the election to the Board of Trustees.

2. The candidates whose names are printed on the ballots will be informed as to the method and the date of counting the ballots, and will be invited to be present or to be represented at the counting of the ballots.

(g) Rules concerning recount are as follows:

1. Any candidate who shall have reason to believe that an error has been made in counting the vote or declaring the vote of the election may within 20 days of the certification of the results of the election, request, in writing, that the Board of Trustees shall, at its next regular meeting or at a special meeting, consider the request and determine whether a recount shall be held. The Board shall notify all candidates of its decision within 10 days thereafter. At such meeting, any member of the Board who is a candidate on the contested ballot shall not participate in the Board's deliberation or decision on this request.

2. If a candidate for a position on the Board requests a recount within the prescribed time, this request may be granted if a recount could possibly affect the result of the election. All ballots received will then be recounted and the recount will be supervised by the Election Board. The Board will certify the result of the recount to the Board of Trustees. If a recount is not requested within 20 days the ballots may be destroyed.

(h) Rules concerning biographical information on candidates are as follows:

1. An informational sheet of biographical information on each candidate shall be prepared by the Division of Pensions. The information to be included on each candidate shall be approved by the candidate. The informational sheet shall be approved by the board.

2. Copies of the informational sheet shall be distributed to the certifying officer of each employing agency at the time of distribution of ballots or notices of election without balloting.

3. The informational sheets shall be posted at appropriate places throughout the workplace of each employing agency or be otherwise distributed so that the members of the retirement system will have reasonable opportunity to read and consider the biographical information on the candidates.

(i) If there are at least three candidates in an election for member-trustee and the victorious candidate dies or declines to serve as such member-trustee prior to the beginning of his or her term as trustee, the candidate who obtained the next highest number of votes in that election (that is, the first runner-up) may be selected, at the Board's discretion, to fill the Board vacancy caused by the death or inability or unwillingness to serve of the successful candidate. If the Board selects the first runner-up in such election and that person is unable or unwilling to accept the position, then the Board may, in its discretion, select the candidate who obtained the next highest number of votes in that election or may conduct a new election to fill the Board vacancy. For purposes of this provision, a member-trustee's term begins upon the taking of the oath of office.

(j) Only active members of the Public Employees' Retirement System may vote in the election of member-trustees of the Board of Trustees of the Public Employees' Retirement System.

Amended by R.1973 d.118, effective April 30, 1973.

See: 5 N.J.R. 124(b), 5 N.J.R. 204(a).

Amended by R.1985 d.213, effective July 9, 1976.

See: 8 N.J.R. 260(a), 8 N.J.R. 407(c).

Amended by R.1985 d.590, effective November 18, 1985.

See: 17 N.J.R. 2238(a), 17 N.J.R. 2784(a).

(a)4 added text: "If only one . . . only one nominee.;" and added (b)9.

Amended by R.1987 d.157, effective April 6, 1987.

See: 19 N.J.R. 52(a), 19 N.J.R. 565(a).

Substantially amended.

Amended by R.1993, d.78, effective February 16, 1993.

See: 24 N.J.R. 3690(a), 25 N.J.R. 711(a).

Added new (i).

Amended by R.1994 d.259, effective June 6, 1994.

See: 25 N.J.R. 5113(a), 26 N.J.R. 2299(d).

Case Notes

Request for recount in election of trustees of Public Employees' Retirement System was properly denied where there was no evidence of miscalculations or serious errors in counting process. *McLaughlin v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 181.

Candidate was ineligible to run for reelection to PERS Board of Trustees; prior disciplinary suspension. *Buriani-DeSantis v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 63.

17:2-1.5 Certifying agent (employer)

(a) The Chief Fiscal Officer or other officer duly designated via resolution of each county, municipality or public agency and the personnel officer of the Division, Bureau or Institution of the State locations shall serve as the certifying agent for that unit.

(b) The Certifying Agent shall be responsible for the duties described by N.J.S.A. 43:15A-67 and Section 80 and any other section which refers to the Department head.

(c) The Certifying Agent shall also be responsible for all other duties relating to matters concerning the System.

Case Notes

Petition to purchase pension credit for prior temporary service after expiration of statutory filing limitation denied: Public Employees' Retirement System held without statutory obligation to disseminate to certifying agents amendatory legislation concerning the retirement system at the time of enactment. *In re Krah*, 130 N.J.Super. 366, 327 A.2d 248 (App.Div.1974).

17:2-1.6 Records

(a) The minutes of the Board are a matter of public record and may be inspected during regular business hours in the Office of the Board Secretary.

(b) The mailing addresses of all active and retired members are considered to be a part of the member's confidential files and shall not be released for any purpose.