

CHAPTER 4**POLICE AND FIREMEN'S RETIREMENT SYSTEM****Authority**

N.J.S.A. 43:16A-13(7) et seq.

Source and Effective Date

R.1996 d.166, effective April 1, 1996.
See: 27 N.J.R. 4270(a), 28 N.J.R. 1873(a).

Executive Order No. 66(1978) Expiration Date

Chapter 4, Police and Firemen's Retirement System, expires on April 1, 2001.

Chapter Historical Note

Chapter 4, Police and Firemen's Retirement System, was filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 4 was readopted as R.1990 d.329, effective June 8, 1990. See: 22 N.J.R. 908(a), 22 N.J.R. 2032(b). Chapter 4, Police and Firemen's Retirement System, expired on June 8, 1995 pursuant to Executive Order No. 66(1978).

A new Chapter 4, Police and Firemen's Retirement System, was adopted as R.1996 d.166, effective April 1, 1996. See: Source and Effective Date.

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SUBCHAPTER 1. ADMINISTRATION**17:4-1.1 Board meetings**

The Board of Trustees shall meet on the third Monday of each month, unless a change is declared in order by the chairman at an appropriate time.

17:4-1.2 Fiscal year

(a) Fiscal year shall mean the 12-month period of fiscal transactions commencing July 1 and running until June 30 following.

(b) All reports and statements will consider such a fiscal year except special reports not having direct relationship to the financial transactions of the retirement system.

17:4-1.3 Officers and committees

(a) The chairman and vice chairman of the Board will be elected by a majority vote of the members in attendance at the first meeting of each fiscal year, not less than five members to be present at such a meeting.

(b) The chairman of the Board shall preside at all meetings that he or she attends and in his or her absence the vice chairman or, if absent, another member selected by the majority of the members in attendance will preside for that single meeting.

(c) The secretary of the Board will be the Chief of the Bureau of Police and Fire Funds, Division of Pensions.

(d) Upon recommendation of the Chief, the Board will also select from the staff of such Bureau, an assistant secretary who will serve in the absence of the secretary.

(e) The chairman will appoint such committees from the Board members as he deems necessary to facilitate the Board's operations. Such committee appointments will be for a one year period, commencing each July 1.

17:4-1.4 Election of member-trustee

(a) The procedures for the election of a police or fire trustee representative to the Board of Trustees are set forth in this section.

(b) Eligible candidates shall include any active or retired member of the Police and Firemen's Retirement System. Only police members may seek police seats and only fire members may seek firemen seats on the Board of Trustees. All candidates shall comply with any and all requirements as provided by law and these rules. Any candidate who fails to comply with the law and these rules is automatically disqualified as a candidate.

(c) The following apply to election notices:

1. At least four months prior to the expiration of the term of each elected trustee or immediately upon a vacancy on the Board, a notice shall be prepared and distributed by the Secretary of the Board through the certifying officers to each member who is eligible to vote. The notice shall also inform the members that petition forms are available at the office of the retirement system.

2. The election notice shall also:

- i. Advise the member of the election;
- ii. State the position and term to be filled;
- iii. State that nominating petitions are required;
- iv. State the dates of the election;
- v. Identify all present members of the Board; and
- vi. Contain other information specified by the Board of Trustees.

3. Election notices shall be forwarded in bulk and in appropriate number to the certifying officer or other appropriate fiscal officer of each employing agency, together with instructions as to who is to receive the notices.

4. A receipt and report shall also be forwarded to each certifying officer or appropriate fiscal officer. Such form shall be returned to the Secretary and shall include documentation of:
 - i. Receipt of the notice by the certifying officer or other appropriate fiscal officer; and
 - ii. The extent to which the certifying officer or other appropriate fiscal officer has distributed the notice to eligible members.

5. Election notices shall be distributed to each member who is eligible to vote, as shown on a master list of members that shall be compiled by the Secretary and made available for review to any candidate at the office of the Division of Pensions and Benefits. Any challenge or questions concerning eligible voters shall be made prior to the close of the voting deadline. Failure to challenge the list or any part of it prior to this deadline shall disallow any challenge or question raised after the close of voting.

(d) The following apply to nominating petitions:

1. Nominating petition forms shall be available at the office of the Secretary of the Police and Firemen's Retirement System.

2. Nominating petitions shall be forwarded to each active or retired member requesting them.

3. The petition forms shall explain that:
 - i. For police trustee, at least 500 active police members, who are eligible to vote for the position, are required to sign the petition for the candidate.
 - ii. For fire trustee, at least 300 active fire members, who are eligible to vote for the position, are required to sign the petition for the candidate.

4. The petition form shall require the candidate's name and employer, and the membership number or Social Security of each petitioner.

5. The form shall explain that a member shall sign only one petition, with police members petitioning for a police candidate and fire members petitioning for a fire candidate.

6. The dates for filing and returning the petitions shall be identified, as well as the approximate date that ballots shall be sent to employers for distribution to voters.

7. A candidate named on a petition shall sign the petition in a designated space indicating that he or she is willing to be a candidate.

3. Any active military service terminating in dishonorable discharge is not creditable.

17:4-2.6 Enrollment date

(a) An employee who is appointed to a permanent position from a Civil Service list shall be considered as having begun his or her eligibility for enrollment on the date of his or her regular appointment. The compulsory enrollment date shall be fixed as the first of the month for an appointee whose regular appointment date falls between the first through the 16th of the month and the compulsory enrollment date shall be fixed as the first of the following month for an appointee whose regular appointment date falls between the 17th and the end of the month.

(b) An employee in the unclassified service shall be considered as beginning service on the date his or her employment began. The compulsory enrollment date shall be fixed as the first of the month for an appointee whose beginning employment date falls between the first through the 16th of the month and the compulsory enrollment date shall be fixed as the first of the following month for an appointee whose beginning employment date falls between the 17th and the end of the month.

(c) The regular appointment of an employee appointed by a local employer not covered by Civil Service shall constitute the date the employee originally accepted employment in a regular budgeted position. The date of compulsory enrollment shall be fixed as the first of the month for an appointee whose beginning date of employment falls between the first through the 16th of the month and the compulsory enrollment date shall be fixed as the first of the following month for an appointee whose beginning employment date falls between the 17th and the end of the month.

(d) An employee who does not meet the requirements for enrollment cited in (a), (b) and (c) above may be considered a temporary employee by his employer for as long as a one year period following the employee's date of hire, but if his employment continues into his second year, he will be required to enroll immediately; his compulsory enrollment date will be the first of the month following the end of the one year (12-month) period.

SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS

17:4-3.1 Computation of insurance benefits

(a) Full salary credit will be given for the month or biweekly pay period in which a member dies, if he was paid salary to date of death and the salary paid was sufficient to permit a full normal month's or biweekly pension and

insurance contribution deduction, provided such deduction was made by the employer.

(b) Death benefits shall be based on the base salary upon which contributions to the Annuity Savings Fund were actually made during the 12 months or 26 biweekly pay periods immediately preceding the member's death. The salary, in the month in which no salary was paid, shall be counted as zero.

(c) If a member dies during the first year following his date of enrollment the insurance benefit shall be $3\frac{1}{2}$ times the member's base salary on which he contributed or would have contributed immediately prior to his death.

(d) For a member dying after the first year following the date of his enrollment, the noncontributory insurance benefits shall be determined on the base salary on which contributions to the Annuity Savings Fund were made or would have been made during the 12 months or 26 biweekly pay periods preceding death.

(e) If a member has contributed pension contributions for less than a year but his enrollment has been in effect for more than a year, only those wages upon which pension contributions were based can be used as salary to determine the value of the noncontributory insurance benefit.

(f) Where a post-audit of insurance claim payments indicate the pension contributions reported by an employer were incorrect and resulted in the overpayment of an insurance claim to a member's designated beneficiary or estate, the employer will be billed for the value of the overpayment of the insurance benefits. Where post-audits establish the insurance benefits were underpaid, an additional check would be sent to the beneficiary for the value of the underpayment.

(g) Refunds of a deceased member's pension contributions will be made to the member's designated beneficiary or the employer after written confirmation is received from the employer setting forth the reason for the refund of pension contributions to either the beneficiary or to the employer.

(h) Members who prove their insurability for the group life insurance benefits shall have their insurance benefit calculated on the basis of the salary they received or salary upon which pension contributions were based during their last year (12 months) of service prior to death, regardless of their effective date of insurance coverage.

(i) In computing the salary upon which pension contributions were based during a member's last year of service, in the case of a 12-month State employee reported on a biweekly basis, a total of 26 biweekly pays will be used, including any retroactive salary payments made within the prescribed period. The total salary will be adjusted by multiplying the total by the factors supplied by the actuary;

such adjustment will compensate for State biweekly payroll schedules.

(j) In computing (i) above in the case of State employees reported on a 10-month basis, the total biweekly pays will include those pay periods in the third quarter of each year in which the member does not receive salary. The adjustment as specified in (i) above shall not be made.

(k) If a member was reported on a biweekly basis on any combination of 10 and 12-month contract years, the last year's salary prior to death or retirement shall be determined on a proportional basis. The biweekly pay periods for which no contributions were made shall be counted as zero.

17:4-3.2 Leave for illness

Coverage during a leave of absence without pay due to illness shall apply only to the personal illness of the member. A leave of absence on account of another person's illness will not entitle the member to continued insurance coverage.

17:4-3.3 Proof of insurability

When proof of insurability is required, the member's opportunity to prove such insurability shall expire one year (12 months) from the date the initial written notice is sent advising him that he must prove insurability by taking a medical examination.

17:4-3.4 Survivor benefits

(a) Payment of benefits to eligible survivors shall become effective on the first of the month of the member's death and shall terminate as of the month in which the survivor no longer qualifies for such benefits.

(b) In the instance of an active member who died in the performance of duty (accidental death), the initial pension payment will be for the month following the month in which the member died and the last payment will cover the month immediately preceding the month the survivor dies or ceases to qualify for the continuance of benefits.

17:4-3.5 Beneficiary designation; pension contributions

Only a primary and a contingent designation of beneficiary may be made by the member for the payment of his accumulated pension contributions.

17:4-3.6 (Reserved)

SUBCHAPTER 4. MEMBERSHIP

17:4-4.1 Creditable salary

(a) Only a member's base salary shall be subject to pension contributions and creditable for retirement and death benefits in the system.

(b) The board shall reserve the right to question any salary to determine its credibility where it is evident from the record that a salary reported for benefits includes extra compensation.

(c) Such extra compensation shall not be considered creditable for benefits and all contributions made thereon shall be returned.

(d) Some of the forms of compensation that have been defined as extra compensation include overtime; bonuses; longevity lump sum payments; individual retroactive salary adjustments or individual adjustments to place a member at the maximum of his or her salary range in the final year of service; increments granted for retirement credit or in recognition of the member's forthcoming retirement or in recognition of the member's years of service in the community.

(e) All claims involving an increase in compensation of more than 15 percent over that of the previous year, as reported to the retirement system, shall be investigated. Those cases where a violation of the statute is suspect shall be referred to the board.

Case Notes

Regulation defining creditable salary was not intended to be an exhaustive list of the forms of extra compensation to be excluded from public employee's pensionable salary. *Wilson v. Board of Trustees of Police and Firemen's Retirement System*, 322 N.J.Super. 477, 731 A.2d 513 (N.J.Super.A.D. 1998).

Denial of lump sum longevity and accumulated sick time for inclusion in base pay affirmed. *Napoleone v. Police and Firemen's Retirement System*, 97 N.J.A.R.2d (TYP) 102.

Firefighter's clothing allowance was not creditable as salary in retirement benefits calculation. *Cox v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 192.

Retroactive increase in police chief's salary could not be considered in calculating his retirement benefits. *Letts v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 110.

Longevity and college allowance may not be added to retiring police officer's base pay for purpose of calculating final compensation. *Lowry v. PFRS*, 96 N.J.A.R.2d (TYP) 63.

17:4-4.2 Prior service

(a) Any period of prior service credit paid for by an employer at the adoption of the system will reflect identical credit when calculating membership credit.

(b) Prior service credits are limited to service rendered on a full-time basis.

17:4-4.3 Continuance of membership; transfer

Once an employee establishes membership in the retirement system, he is eligible to continue such membership should he be temporarily employed in a position covered by the system.

17:4-4.4 Loan tolerance

Interest will be calculated on a periodic basis on the unpaid loan balance. If scheduled payments are not paid timely, interest will be accrued and added to the remaining

outstanding loan balance. If, at the end of the loan schedule, there is a balance of less than \$10.00, it will be written off. If the balance is equal to or greater than \$10.00, the member will be assessed.