

CHAPTER 7
ALTERNATE BENEFIT PROGRAM

Authority

N.J.S.A. 18A:66-172.

Source and Effective Date

R.2006 d.360, effective September 8, 2006.
See: 38 N.J.R. 2032(a), 38 N.J.R. 4245(a).

Chapter Expiration Date

Chapter 7, Alternate Benefit Program, expires on September 8, 2011.

Chapter Historical Note

Chapter 7, Prison Officers' Pension Fund, was adopted and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 7, Prison Officers' Pension Fund, was readopted as R.1983 d.176, effective May 16, 1983. See: 15 N.J.R. 527(a), 15 N.J.R. 930(d).

Pursuant to Executive Order No. 66(1978), Chapter 7, Prison Officers' Pension Fund, expired on May 16, 1988.

Chapter 7, Prison Officers' Pension Fund, was adopted as new rules by R.1988 d.577, effective December 19, 1988. See: 20 N.J.R. 2375(a), 20 N.J.R. 3142(b). Pursuant to Executive Order No. 66(1978), Chapter 7, Prison Officers' Pension Fund, expired on December 19, 1993.

Chapter 7, Alternate Benefit Program, was readopted with extensive revisions and recodified from N.J.A.C. 17:1-2 by R.2001 d.159, with the readoption effective April 25, 2001, and the recodification effective May 21, 2001. See: 33 N.J.R. 988(a), 33 N.J.R. 1601(a).

Chapter 7, Alternate Benefit Program, was readopted as R.2006 d.360, effective September 8, 2006. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. ADMINISTRATION

17:7-1.1 Designated providers

(a) The providers approved by the Division of Pensions and Benefits to offer investment accounts for Alternate Benefit Program participants (investment providers) are designated to provide retirement and annuity contracts to participants of the Alternate Benefit Program.

(b) A designated provider shall provide group life coverage to participants of the Alternate Benefit Program.

(c) A designated provider shall provide disability insurance coverage to participants of the Alternate Benefit Program.

Amended by R.2006 d.360, effective October 2, 2006.
See: 38 N.J.R. 2032(a), 38 N.J.R. 4245(a).

In (a), deleted "annuity" preceding the first occurrence of "investment"; substituted "investment" for "annuity" preceding "providers" and inserted "and" following "retirement"; in (b), deleted "and disability insurance" following "group life"; and added (c).

17:7-1.2 Salary reduction agreements; authorization and termination

(a) The State and participating institutions are authorized to enter into agreements with Alternate Benefit Program participants for mandatory and voluntary salary reductions to the maximum limitations set forth in P.L. 93-406 (Employment Retirement Income Security Act of 1974 and the Internal

Revenue Code of 1954, 26 U.S.C. § 415(c), as amended for such year) of the employee's base salary and the regulations thereunder, in order to purchase from the selected investment providers retirement or annuity contracts which are tax deferred under section 403(b) of the Federal Internal Revenue Code as amended.

(b) The voluntary salary reduction contribution shall be computed on the participant's actual salary earned after adjusting for the participant's mandatory pension contribution in accordance with 26 U.S.C. § 414(h)(2).

(c) A participant electing to make such contributions shall enter into a salary reduction agreement with the employing institution in accordance with Internal Revenue Code of 1954, as amended and supplemented, 26 U.S.C § 402(g)(4).

(d) A participant shall be permitted to enter into more than one salary reduction agreement with the employer during a calendar year by replacing one salary reduction agreement with another agreement. The employer shall determine the number of times during the course of the calendar year that such a change is permitted.

(e) The salary reduction agreement between the participant and institution shall continue indefinitely until amended or terminated by due notice to the institution by the participant, subject to the following conditions:

1. If the participant terminates employment with the institution, the salary reduction agreement, or any amendments made thereon, shall automatically terminate.

2. If the Division of Pensions and Benefits terminates the Plan of the Alternate Benefit Program 26 U.S.C. § 403(b), the salary reduction agreement shall automatically terminate.

As amended, R.1977 d.32, effective February 8, 1977.

See: 9 N.J.R. 43(b), 9 N.J.R. 147(c).

As amended, R.1981 d.239, effective July 9, 1981.

See: 13 N.J.R. 308(b), 13 N.J.R. 458(a).

Substantially amended.

Amended by R.2006 d.360, effective October 2, 2006.

See: 38 N.J.R. 2032(a), 38 N.J.R. 4245(a).

In (a), substituted "investment" for "annuity"; in (b), substituted "salary earned" for "base salary" and deleted "and contributions made in accordance with 26 U.S.C. § 125" from the end.

17:7-1.3 Salary reduction agreements; salary deductions; limitations

(a) Limitations concerning 26 U.S.C. § 403(b) salary reduction agreements are:

1. The entry into a salary reduction agreement between an employee and the employing institution shall not be available to any participant during the period of time in which no employer contributions are made on the employee's behalf to any retirement or annuity contract.

2. If a participant earns less than 50 percent of full salary during a pay period, no salary reductions will be reported to the Division of Pensions and Benefits.

3. If a participant earns 50 percent or more of full salary during a pay period, the salary reduction will be calculated on the salary earned.

(b) Limitations concerning 26 U.S.C. § 414(h) salary deductions are:

1. Salary deductions will be calculated on the full base salary if the participant earns 50 percent or more of base salary during a pay period.

2. If a person earns less than 50 percent of full base salary during a pay period, no base salary deductions will be reported to the Division of Pensions and Benefits.

As amended, R.1982 d.438, effective December 20, 1982.

See: 14 N.J.R. 1149(a), 14 N.J.R. 1464(a).

Wording changed to clarify rule.

Amended by R.2006 d.360, effective October 2, 2006.

See: 38 N.J.R. 2032(a), 38 N.J.R. 4245(a).

In (a), inserted "26 U.S.C. § 403(b)"; in (a)1, inserted "or" following "retirement"; in (a)2 and (a)3, deleted "base" preceding "salary" throughout; and in the introductory paragraph of (b), inserted "26 U.S.C. § 414(h)".

17:7-1.4 Proof of age

Documentary proof of the age of a participant and designated beneficiary may be required by the Division of Pensions and Benefits or the insurers if the age of a participant or beneficiary is material in determining eligibility for benefits.

17:7-1.5 Certifying officer

The business manager or other official designated by the institution shall be the certifying officer for the Alternate Benefit Program and shall be responsible for all duties prescribed by statute and by rules and regulations of the Divisions of Pensions and Benefits.

As amended, R.1981 d.85, effective March 6, 1981.

See: 13 N.J.R. 109(a), 13 N.J.R. 247(c).

"certifying officer" was "certifying agent".

17:7-1.6 Appeal from Division decisions

(a) An Alternative Benefit Program participant may appeal a preliminary administrative determination from the Division to the Director of the Division of Pensions and Benefits. The Director of the Division of Pensions and Benefits shall reply to an appeal with an administrative determination.

(b) An Alternative Benefit Program participant may appeal the initial administrative determination of the Director of the Division of Pensions and Benefits within 45 days from the date of the Director's determination. If no such written statement is received within the 45-day period, then the Director's initial administrative determination shall be considered a final administrative determination.