

CHAPTER 7
ALTERNATE BENEFIT PROGRAM

Authority

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

Source and Effective Date

R.2001 d.159, effective April 25, 2001.
See: 33 N.J.R. 988(a), 33 N.J.R. 1601(a).

Executive Order No. 66(1978) Expiration Date

Chapter 7, Alternate Benefit Program, expires on April 25, 2006.

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: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. ADMINISTRATION

- 17:7-1.1 Designated providers
- 17:7-1.2 Salary reduction agreements; authorization and termination
- 17:7-1.3 Salary reduction agreements; salary deductions; limitations
- 17:7-1.4 Proof of age
- 17:7-1.5 Certifying officer
- 17:7-1.6 Appeal from Division decisions
- 17:7-1.7 Records
- 17:7-1.8 Reporting of employee and employer contributions
- 17:7-1.9 Travel
- 17:7-1.10 Fiscal year
- 17:7-1.11 Contributions; late payment
- 17:7-1.12 Additional investment products and default annuity provider
- 17:7-1.13 Transfers, direct rollovers
- 17:7-1.14 Domestic relations orders

SUBCHAPTER 2. ENROLLMENT

- 17:7-2.1 Enrollment eligibility; general provisions
- 17:7-2.2 Retention of contributions; compulsory enrollment; incomplete enrollment application
- 17:7-2.3 Part-time faculty members

SUBCHAPTER 3. MEMBERSHIP

- 17:7-3.1 Base or contractual salary
- 17:7-3.2 Delayed vested contribution
- 17:7-3.3 Leave without pay or change in status
- 17:7-3.4 Termination; withdrawal of delayed vested contributions
- 17:7-3.5 Leave of absence with pay

- 17:7-3.6 Military leave, withdrawal
- 17:7-3.7 Minimum adjustment
- 17:7-3.8 Hardship withdrawals
- 17:7-3.9 Awards of back pay

SUBCHAPTER 4. INSURANCE, DEATH BENEFITS AND RETIREMENT

- 17:7-4.1 Death or retirement of participant; notice
- 17:7-4.2 Assignments; group life insurance
- 17:7-4.3 Death before payment to insurer
- 17:7-4.4 Base monthly salary for disability benefits
- 17:7-4.5 Life insurance
- 17:7-4.6 Long term disability insurance
- 17:7-4.7 Life insurance coverage during leave for illness

SUBCHAPTER 5. TRANSFERS

- 17:7-5.1 Interprogram transfers; transfer to the Alternate Benefit Program from another State retirement system by employees of the Commission of Higher Education or Higher Education Student Assistance Authority
- 17:7-5.2 Transfers, interest

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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 annuity investment accounts for Alternate Benefit Program participants (annuity providers) are designated to provide retirement annuity contracts to participants of the Alternate Benefit Program.

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

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 annuity 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 base salary after adjusting for the participant's mandatory pension contribution in accordance with 26 U.S.C. § 414(h)(2) and contributions made in accordance with 26 U.S.C. § 125.

(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.

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

(a) Limitations concerning 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 annuity contract.

2. If a participant earns less than 50 percent of full base 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 base salary during a pay period, the salary reduction will be calculated on the base salary earned.

(b) Limitations concerning 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.

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.

(c) The following statement shall be incorporated in every written notice setting forth the Division of Pensions and Benefits' determination in a matter where such determination is contrary to the claim made by the claimant or his or her legal representative:

"If you disagree with the determination of the Division of Pensions and Benefits in this matter, you may appeal by sending a written statement to the Division within 45 days from the date of this letter, informing the Division of your disagreement and all of the reasons therefor. If no such written statement is received within the 45-day period, this determination shall be considered final."

17:7-1.7 Records

(a) The records of the Alternate Benefit Programs are public record, and may be inspected during regular business hours at the Division of Pensions and Benefits under supervision of the assistant director or other representatives of the office.