

CHAPTER 2

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Authority

N.J.S.A. 43:15A-17.

Source and Effective Date

R.2005 d.75, effective January 24, 2005.
See: 36 N.J.R. 4682(a), 37 N.J.R. 619(b).

Chapter Expiration Date

Chapter 2, Public Employees' Retirement System, expires on January 24, 2010.

Chapter Historical Note

Chapter 2, Public Employees' Retirement System, was adopted and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 2, Public Employees' Retirement System, expired on October 9, 1984.

Chapter 2, Public Employees' Retirement System, was adopted as new rules by R.1984 d.562, effective December 17, 1984. See: 16 N.J.R. 2515(b), 16 N.J.R. 3479(a).

Pursuant to Executive Order No. 66(1978), Chapter 2, Public Employees' Retirement System, was readopted as R.1989 d.597, effective November 8, 1989. See: 21 N.J.R. 2439(a), 21 N.J.R. 3788(a). Pursuant to Executive Order No. 66(1978), Chapter 2, Public Employees' Retirement System, expired on November 8, 1994.

Chapter 2, Public Employees' Retirement System, was adopted as new rules by R.1995 d.91, effective February 21, 1995. See: 26 N.J.R. 4747(a), 27 N.J.R. 754(a).

Pursuant to Executive Order No. 66(1978), Chapter 2, Public Employees' Retirement System, was readopted as R.2000 d.26, effective December 17, 1999. See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a)

Subchapter 8, Prosecutors Part, was adopted as new rules by R.2004 d.227, effective June 21, 2004. See: 36 N.J.R.291(a), 36 N.J.R. 3068(a).

Chapter 2, Public Employees' Retirement System, was readopted as R.2005 d.75, effective January 24, 2005. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. ADMINISTRATION

17:2-1.1 Board meetings

(a) The Board of Trustees shall meet on the third Wednesday of each month or at such other time as may be deemed necessary by the Board.

(b) The chairperson may call for special meetings when necessary.

Amended by R.1977 d.148, effective April 27, 1977.

See: 9 N.J.R. 142(b), 9 N.J.R. 295(a).

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Deleted former (b); and recodified former (c) as (b), and substituted a reference to chairpersons for a reference to chairmen.

17:2-1.2 Fiscal year

The transaction of business and control of finance shall be conducted from a July 1 to June 30 fiscal year.

Amended by R.2000 d.430, effective November 6, 2000.

See: 32 N.J.R. 2660(a), 32 N.J.R. 3996(a).

Rewrote the section.

17:2-1.3 Officers and committees

(a) The members of the Board shall elect a chairperson and vice chairperson, and a representative to the State Investment Council from its membership for the forthcoming year at its regular meeting held in July. A representative to the Pension System Actuary Selection Committee, as provided for by N.J.S.A. 43:4b-1, shall be elected by the Board whenever the selection of a new actuary is needed.

(b) The chairperson of the Board shall preside at all of its meetings, or in the absence of the chairperson, the vice chairperson shall assume the chairperson's responsibilities. In the absence of the chairperson and vice chairperson, another member selected by the majority of the members in attendance will preside for that single meeting.

(c) The chairperson and the Secretary of the Board shall have the power to act for the Board in any matter which may be referred to them by the Board of Trustees.

(d) There shall be one standing committee which is the finance committee pursuant to N.J.S.A. 43:15A-32. The committee shall be appointed by the chairperson at the July meeting for the forthcoming fiscal year. The finance committee shall review all investment transactions and financial reports referred to it by the Secretary for presentation to the Board at its regular monthly meetings. The committee shall consist of five members three of whom shall be elected members of the Board.

As amended, R.1971 d.71, effective May 18, 1971.

See: 3 N.J.R. 50(a), 3 N.J.R. 117(b).

As amended, R.1976 d.383, effective December 6, 1976.

See: 8 N.J.R. 537(c), 8 N.J.R. 48(a).

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Substituted references to chairpersons for references to chairmen throughout; in (a), inserted a reference to a representative to the State Investment Council and the Pension System Actuary Committee; and in (e), substituted "five members, three of whom shall be elected members of the Board" for "three members" at the end.

Amended by R.2005 d.75, effective February 22, 2005.

See: 36 N.J.R. 4682(a), 37 N.J.R. 619(b).

Rewrote the section.

See: 36 N.J.R. 4682(a), 37 N.J.R. 619(b).
Added the N.J.S.A. reference.

17:2-5.13 Lump sum purchases

If a purchase is paid in a lump sum, the member shall receive full credit for the amount of service covered by the purchase upon receipt of the lump sum payment. The service may be used for any purchase for which it is authorized under the Public Employees' Retirement System Act (N.J.S.A. 43:15A-1 et seq.) and the rules of the Retirement System.

New Rule, R.1989 d.516, effective October 2, 1989.
See: 21 N.J.R. 1820(b), 21 N.J.R. 3176(b).
Amended by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).
Amended by R.2005 d.75, effective February 22, 2005.
See: 36 N.J.R. 4682(a), 37 N.J.R. 619(b).

SUBCHAPTER 6. RETIREMENT

17:2-6.1 Applications

(a) Applications for retirement must be made on forms required by the System. Such forms must be completed in all respects and filed with the Division of Pensions and Benefits (Division) on or before the requested date of retirement. A member's retirement application becomes effective on the first of the month following receipt of application unless a future date is requested. Members enrolled at multiple PERS locations must retire from employment in all covered positions before a retirement shall become effective.

(b) In the event a member files an incomplete application, the deficiencies shall be brought to the member's attention and the member shall be required to file a completed application with the Division to enable processing.

(c) A member shall, on the retirement application, select one of nine ways (options) to receive retirement benefits. Each option provides the member with a lifetime monthly retirement benefit. Once a retirement benefit becomes due and payable as defined by N.J.A.C. 17:2-6.2, the option cannot be changed. Except under the Maximum Option and Option 1, once a member designates a beneficiary, that beneficiary cannot be changed. P.L. 2001, c.120 provides for additional payment options that allow the member to choose an actuarially reduced retirement allowance in order to provide a beneficiary with an allowance equivalent to the full amount, three-quarters, one-half or one-quarter of the reduced allowance. If the beneficiary dies before the retiree, the retiree's allowance will increase to the maximum amount. These additional payment options shall be known as Options A, B, C, and D as defined below. The options, as established by N.J.S.A. 43:15A-50, include the following:

1. Maximum Option provides the largest allowance for the member but does not include a pension benefit paid to a beneficiary upon the member's death.

2. Option 1 provides a reducing retirement reserve to one or more beneficiaries. At retirement, a reserve amount is established to pay the member's lifetime retirement allowance. This reserve is reduced each month by the member's original monthly retirement allowance. Upon the member's death, the beneficiary or beneficiaries receive the balance of the reserve, if any.

3. Option 2 provides, upon the member's death, a lifetime monthly retirement allowance equal to 100 percent of the member's monthly retirement allowance to a beneficiary.

4. Option 3 provides, upon the member's death, a lifetime monthly retirement allowance equal to 50 percent of the member's monthly allowance to a beneficiary.

5. Option 4 provides, upon the member's death, a lifetime monthly retirement allowance to one or more beneficiaries. The member determines the retirement allowance which in the aggregate cannot be more than the Option 2 allowance.

6. Option A provides, upon the member's death, a lifetime monthly retirement allowance equal to 100 percent of the member's monthly retirement allowance to a beneficiary. If the member's beneficiary predeceases the member, the member's retirement allowance shall increase to the Maximum Option.

7. Option B provides, upon the member's death, a lifetime monthly retirement allowance equal to 75 percent of the member's monthly retirement allowance to a beneficiary. If the member's beneficiary predeceases the member, the member's retirement allowance shall increase to the Maximum Option.

8. Option C provides, upon the member's death, a lifetime monthly retirement allowance equal to 50 percent of the member's monthly retirement allowance to a beneficiary. If the member's beneficiary predeceases the member, the member's retirement allowance shall increase to the Maximum Option.

9. Option D provides, upon the member's death, a lifetime monthly retirement allowance equal to 25 percent of the member's monthly retirement allowance to a beneficiary. If the member's beneficiary predeceases the member, the member's retirement allowance shall increase to the Maximum Option.

(d) Before an application for retirement may be processed, the Division must receive proof of the member's age, if none is already in the member's record, proof of the beneficiary's age, if the member elected Option 2, 3, 4, A, B, C, or D, and a completed Certification of Service and Final Salary form from the employer setting forth the employment termination date, and the salaries reported for contributions in the member's final year of employment.

(e) In addition to the foregoing requirements, a member's application for disability retirement must be supported by at least two medical reports, one by the member's personal or attending physician and the other may be either hospital records supporting the disability or a report from a second physician.

(f) Retired members, who return to public employment, shall have their previous retirement allowances cancelled and be reenrolled in the System pursuant to N.J.S.A. 43:15A-44 for those who retired on disability retirements or N.J.S.A. 43:15A-57.2 for those who retired on early, service, veteran or deferred retirements. A member who ceases covered employment and retires again must file a new retirement application with the Division in accordance with (a) through (d) above in order to initiate payment of the retirement allowance. The previous retirement allowance shall then be reinstated, and the new retirement allowance, based on the member's subsequent covered employment, shall commence. The previous and subsequent retirement allowances shall then be combined and paid in one monthly benefit check. The retirement allowance shall become effective on the first of the month following receipt of the application unless a future date is requested.

(g) If the total amount of retirement allowances received by a member or beneficiary under the option selected is less than the value of the member's contributions and interest on those contributions, the balance of contributions and interest shall be paid in a lump sum to the member's designated beneficiary or estate.

Amended by R.1986 d.432, effective October 20, 1986.

See: 18 N.J.R. 1451(a), 18 N.J.R. 2135(b).

Deleted subsections (b) and (d) and recodified accordingly.

Administrative Correction to (a): Deleted text "at least one month".

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Rewrote the section.

Amended by R.2001 d.131, effective May 7, 2001.

See: 33 N.J.R. 372(a), 33 N.J.R. 1398(a).

In (d), substituted "a member's" for "an" and inserted "medical" preceding "reports"; and added (e).

Amended by R.2002 d.268, effective August 19, 2002.

See: 34 N.J.R. 1600(a), 34 N.J.R. 2971(a).

Added new (c); recodified former (c) as (d) and inserted "A, B, C, or D," following "4,"; recodified former (d) and (e) as (e) and (f).

Amended by R.2005 d.75, effective February 22, 2005.

See: 36 N.J.R. 4682(a), 37 N.J.R. 619(b).

Added (g).

Case Notes

Employee who sustained back injury which, at most, contributed to progression of arthritic condition by aggravation, held not to have disability which was a direct result of a traumatic event so as to entitle the employee to disability retirement benefits. *Gerba v. Bd. of Trustees, Public Employees' Retirement System*, 83 N.J. 174, 416 A.2d 314 (1980).

To be eligible for accidental disability retirement benefits where disability involved combined effect of traumatic event and underlying disease, traumatic source must constitute the essential significant or substantial contributing cause of resultant disability; employee's slip and fall against automobile tailgate held a traumatic event: remand to Appellate Division to determine whether traumatic event was of such

nature as to allow benefits eligibility under enunciated standard. *Korelnia v. Bd. of Trustees, Public Employees' Retirement System*, 83 N.J. 163, 416 A.2d 308 (1980).

Special education teacher who suffered from numerous and unrelated ailments which rendered her unable to perform duties associated with her job was entitled to ordinary disability retirement allowance. *Daniels v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 292.

Tick bite was not traumatic event for purpose of awarding accidental disability benefits. *Ackerman v. PERS*, 96 N.J.A.R.2d (TYP) 42.

Retirement application had to be executed and filed prior to effective date of the retirement. *Knabner v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 85.

Former member was without standing to refile application for accidental disability retirement allowance. *Coleman v. Retirement System*, 93 N.J.A.R.2d (TYP) 265.

Breach of duty by city employees did not qualify nurse for modification of retirement date. *Kuehner v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 190.

Retirement application; effectiveness; arrival at New Jersey Public Employees' Retirement System. N.J.S.A. 43:15A-47. *Phillips v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 163.

Employee with diminished mental capacity due to alcoholism not entitled to retroactive effective retirement date. *Young v. Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 53.

Agreement with employer did not entitle employee to retroactive requested effective date of retirement. *Epps v. Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 45.

Approval of tax assessor's application for service retirement rescinded where tax assessor's close corporation was awarded contracts for essentially the same tax assessment work. *Board of Trustees v. Atkinson*, 92 N.J.A.R.2d (TYP) 8.

Decedent's signing of application for retirement and filing of support documents prior to his death held to constitute substantial compliance with regulatory requirements, in light of Division's failure to act on documents' deficiency in a timely fashion; survivors held eligible for insurance benefits. *Giaconia v. Bd. of Trustees, Public Employees' Retirement System*, 2 N.J.A.R. 304 (1980).

17:2-6.2 Effective date

A member's retirement allowance shall not become due and payable until 30 days after the date the Board approved the application for retirement or 30 days after the date of the retirement, whichever is later.

New Rule, R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Former N.J.A.C. 17:2-6.2, Effective dates; change, recodified to N.J.A.C. 17:2-6.3.

17:2-6.3 Effective dates; change

(a) Except as provided by N.J.A.C. 17:3-6.7, a member shall have the right to withdraw, cancel or change an application for retirement at any time before the member's retirement allowance becomes due and payable by sending a written request signed by the member. Thereafter, the retirement shall stand as approved by the Board.