

CHAPTER 2

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Authority

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

Source and Effective Date

R.1995 d.91, effective February 21, 1995.
See: 26 N.J.R. 4747(a), 27 N.J.R. 754(a).

Executive Order No. 66(1978) Expiration Date

Chapter 2, Public Employees' Retirement System, expires on February 21, 2000.

Chapter Historical Note

Chapter 2, Public Employees' Retirement System was filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 2 expired on October 9, 1984, and subsequently 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 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 expired on November 8, 1994, and subsequently was adopted as new rules by R.1995 d.91. See: Source and Effective Date.

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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) No meeting will be held in the month of August unless it is deemed necessary by the chairman or the secretary.

(c) The chairman 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).

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, with the exception of the actuarial valuation, which shall be prepared on the basis of the membership payroll status of all account results as of March 31 of each year.

17:2-1.3 Officers and committees

(a) The members of the board shall elect a chairman and vice chairman from its membership for the forthcoming year at its regular meeting held in July.

(b) The chairman of the board shall preside at all of its meetings, or in the absence of the chairman, the vice chairman shall assume the chairman's responsibilities.

(c) The chairman 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 three standing committees, which are the finance committee, the retirement committee, and the executive committee. The committees shall be appointed by the chairman at the July meeting for the forthcoming fiscal year.

(e) 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 three members.

(f) The retirement committee shall consider all cases referred to it by the secretary and submit its recommendations to the board at its next meeting. The committee shall consist of three members.

(g) The executive committee shall consider all cases referred to it by the secretary and submit its recommendations to the board at its next meeting. The committee shall consist of three members.

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).

17:2-1.4 Election of member-trustee

(a) The election of the Board of Trustee members will include the use of nominating petitions.

1. This will entail the separate distribution of at least two forms for all active member employees of the State or of the counties or municipalities, as the case may be.

2. Public agencies will vote on the basis of whether they are State, county or municipal instrumentalities.

3. The first will be an election notice setting forth the rules for filing nominating petitions and other pertinent data.

4. The second will be ballot, containing the names of the candidates who have been properly nominated as well as the rules governing the balloting. If only one candidate is nominated, the second form will be a notice containing the name of the candidate and an indication that the candidate is deemed elected to the position without balloting because there was only one nominee.

5. Petition forms will be available at the office of the Public Employees' Retirement System.

6. Biographical information on the candidates will be distributed to the certifying officer of each employing agency at the time of distribution of ballots or notices of election without balloting.

(b) Rules concerning election notice and petition are as follows:

1. At least four months prior to the expiration of the term of each elected trustee, a notice will be prepared and distributed to the certifying agents of the State or of the counties or municipalities, as the case may be, advising them of the position to be voted upon (position and term), as well as the name and expiration of term of office of the present trustee. The names of all present trustee members of the Board of Trustees and the expiration of their terms will also be shown. The notice will also inform the members that petition forms are available at the office of the retirement system. The election notice will specify the time and place of the drawing by lot for position on the ballot. All petitioners will be invited to attend on the given date.

(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.

(c) All medical testimony obtained in connection with an application for disability retirement shall be restricted for the confidential use of the Board of Trustees.

17:2-1.7 Appeal from Board decisions

The following statement shall be incorporated in every written notice setting forth the Board's determination in a matter where such determination is contrary to the claim made by the claimant or his legal representative:

"If you disagree with the determination of the Board of Trustees in this matter, you may appeal by sending a written statement to the Board within 45 days from the date of this letter informing the Board 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."

As amended, R.1971 d.71, effective May 18, 1971.
See: 3 N.J.R. 50(a), 3 N.J.R. 117(b).

Case Notes

State agency's failure to give employee required notice of right to appeal adverse determination concerning substitution of survivor's benefits beneficiary necessitated court's transfer of issue back to agency for final determination. *Rienzi v. Rienzi*, 300 N.J.Super. 355, 693 A.2d 129 (A.D.1997).

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).

Legislative positions held by employee as Assistant to Speaker of General Assembly, Assistant Secretary of Senate and Secretary of Senate held not within explicit exclusions for temporary or seasonal employees or employees whose salary was less than \$500, but were regular State employment positions qualifying employee for PERS benefits, notwithstanding twice yearly rather than quarterly salary payments. *Gladden v. Bd. of Trustees, Public Employees' Retirement System*, 171 N.J.Super. 363, 409 A.2d 294 (App.Div.1979).

17:2-1.8 Suspension of pension checks

(a) The disbursement of pension checks shall be suspended under the following circumstances and such suspensions shall continue during the period in default:

1. If a disability retirant fails to appear for a medical examination;
2. If a disability retirant under age 60 fails to timely file a report with the system of his annual earned income;
3. If a widow, widower, parent or guardian of a minor child(ren) fails to file a certificate of eligibility which is normally mailed to such beneficiaries on an annual basis;
4. If a retirant or beneficiary becomes mentally or physically incompetent. The disbursement of pension checks in this instance shall be suspended until a proper legal representative has been appointed.

As amended, R.1979 d.399, effective October 9, 1979.
See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).

17:2-1.9 Verified discrepancy in member's age

The member's account, active or retired, shall be reconstructed and all benefit entitlements and contributions shall be determined on the basis of the member's correct date of birth.

17:2-1.10 Travel

Travel to and from work when it is to and from the regular place of employment is not considered duty rendered in the course of employment for the purpose of determining eligibility for accidental disability or accidental death benefits.

17:2-1.11 Proof of age

(a) All members may be required to establish proof of their age with the System. A person enrolling at age 45 or older may be required to submit evidence at time of enrollment; under age 45, before a period of five years has elapsed from date of employment.

(b) In the event a member dies before satisfactory evidence of his date of birth has been filed with the System, appropriate evidence may be required before any death claim is processed for settlement.

(c) In the event proof of age has not been filed with the System before retirement, such proof must be filed before any retirement benefits may be disbursed.

17:2-1.12 State employees; biweekly salaries

(a) Retirement and death benefits as well as service credit will be determined on the basis of biweekly pay period for State employees paid by centralized payroll.

(b) In the event a member is reported on a combination of monthly and biweekly pay periods, his last year's salary or final compensation as well as his service credit will be computed on a proportional basis.

R.1974 d.230, effective August 19, 1974.
See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

17:2-1.13 Nearest attained age; enrollment; retirement

(a) An individual who is six months or more past his or her most recent birthdate at the time of his or her enrollment will have his or her pension contribution rate and retirement factor based upon the age on his or her next birthday.

(b) Retired members and survivors will have their benefits calculated upon the basis of the factors applicable to their age as set forth in (a) above.

New Rule, R.1991 d.115, effective March 4, 1991.
See: 22 N.J.R. 3707(a), 23 N.J.R. 712(a).

Case Notes

No early retirement incentive benefits for employee who did not turn 50 until two months after retirement date specified in special retirement legislation. *Ryan v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 217.

SUBCHAPTER 2. ENROLLMENT**17:2-2.1 Social Security coverage**

(a) Social Security coverage as a public employee is a prerequisite for membership in the system.

(b) In the case of multiple employments (dual enrollments), Social Security coverage is prescribed in each position or employment for each to be qualified for membership.

Amended by R.1981 d.58, effective February 20, 1981.
See: 12 N.J.R. 554(b), 13 N.J.R. 247(b).
(c) deleted.

17:2-2.2 Multiple employments

(a) Any employee who has enrolled in a covered position must also enroll in any other position regardless of his or her employment status in such other position if he or she meets the salary and Social Security qualifications for enrollment. However, if an employee who is ineligible for membership later accepts an additional position which makes him or her eligible for membership in that second position, his or her ineligibility for membership in the earlier position is not altered by his or her enrollment in the Public Employees' Retirement System.

(b) An elected official must also enroll on the basis of such office if he or she is enrolled or is enrolling on the basis of other public employment.

(c) A LEO member who is also enrolled on the basis of a non-LEO position will contribute at the LEO rate of pension contribution on the base wages he or she receives from all positions.

Amended by R.1974 d.230, effective August 19, 1974.
See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).
Amended by R.1979 d.399, effective October 9, 1979.
See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).
Amended by R.1988 d.351, effective August 1, 1988.
See: 20 N.J.R. 969(b), 20 N.J.R. 1953(c).

Deleted requirement that PERS employees be paid in four calendar quarters to be eligible for PERS membership.

17:2-2.3 Ineligible persons

(a) The following classes of persons are ineligible for membership in the system:

1. Motor vehicle agents and their employees;
2. Licensing agents of the Fish and Game Division and their employees;

3. Any person paid from State, county, local public, or Federal funds who is a member of or required to join the Federal Civil Service Retirement System on total salary;

4. Any employee who is provisionally appointed to a Civil Service position is considered as an employee with temporary employment status and is ineligible to establish membership until he or she receives a regular Civil Service appointment, or has one year of continuous service. This does not apply to anyone who is already enrolled as a member.

5. Seasonal employment is a category of occasional employment which the employer, consistent with past practices, does not expect to lead to permanent employment and is not a temporary position as defined under N.J.A.C. 17:2-2.4(c).

6. Any person not in the career, senior executive and unclassified service, or a regular budgeted position, who is employed on an on-call basis and works on average less than 10 days a month throughout the regular work year of the employer. This type of employment is temporary employment which is not continuous.

7. Any retired member who returns to a PERS-eligible position for which the annual compensation is less than the compensation limit for exclusion from membership pursuant to N.J.S.A. 43:15A-57.2b. To determine if the compensation for employment received by a retired member is below the compensation limit, all of the compensation received from employment with the same employer shall be combined, and all of the compensation from employment with more than one employer shall be considered separately. For the purposes of this paragraph, a "retired member" is a former member who has terminated all employment covered by the retirement system, who has not received compensation from employment covered by the retirement system for at least 30 consecutive days and whose retirement benefit has become due and payable as provided in N.J.A.C. 17:2-6.3.

Amended by R.1981 d.58, effective February 20, 1981.
See: 12 N.J.R. 554(b), 13 N.J.R. 247(b).

(a)4: delete "is not paid"; add "does not earn wages", "of a year", and "is considered . . . community".

Amended by R.1983 d.7, effective February 7, 1983.
See: 14 N.J.R. 1150(a), 15 N.J.R. 162(d).

Treatment of provisional appointments and seasonal/occasional employment.

Amended by R.1989 d.312, effective June 19, 1989.
See: 21 N.J.R. 437(b), 21 N.J.R. 1743(a).

Added eligibility to establish membership in PERS with one year of continuous service, without regular Civil Service appointment, to (a)4. Temporary employment defined and excluded, at (a)6.

Amended by R.1998 d.321, effective July 6, 1998.

See: 30 N.J.R. 1025(a), 30 N.J.R. 2513(c).

In (a), added 7.

Case Notes

Legislative positions held by employees as Assistant to Speaker of General Assembly, Assistant Secretary of Senate and Secretary of Senate held not within explicit exclusions for temporary or seasonal employees or employees whose salary was less than \$500, but were regular State employment positions qualifying employee for PERS benefits, notwithstanding twice yearly rather than quarterly salary payments. *Gladden v. Bd. of Trustees, Public Employees' Retirement System*, 171 N.J.Super 363, 409 A.2d 294 (App.Div.1979).

Seasonal continuing education college instructors not eligible for PERS enrollment as seasonal employees. *Josephs v. Board of Trustees, Public Employees' Retirement System*, 97 N.J.A.R.2d (TYP) 87.

Regulation excluding teacher from purchase of prior service credit, on grounds that her sporadic substitute teaching during period in question constituted break in service, was inconsistent with N.J.S.A. 18A:66-14, and thus would not be applied to deny teacher eligibility for purchase. *Walling v. Teachers' Pension and Annuity Fund*, 96 N.J.A.R.2d (TYP) 107.

Retiree's temporary reemployment in public service rendered him ineligible for retirement benefits. *Bedell v. PERS*, 96 N.J.A.R.2d (TYP) 39.

Substitute teacher was temporary employee within meaning of statutory amendment including temporary public employees in retirement system. *Schulaner v. Board of Trustees*, 92 N.J.A.R.2d (TYP) 55.

17:2-2.4 Enrollment date

(a) A new appointee in the classified service shall be considered as beginning his or her service 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. If an applicant, an optional enrollee, fails to give the date of his or her enrollment application that he or she desires to enroll in the system, the applicant shall be enrolled as of the first of the month following the receipt of the enrollment application.

(b) An employee in the unclassified service or an elected position shall be considered as beginning service on the date of his original appointment, or the date when he assumed duties of the elective office, as the case may be.

1. For local employers not covered by Civil Service, a regular appointment shall constitute the date the employee originally accepted employment in a regular budgeted position.

2. The date of compulsory enrollment shall be fixed as the first of the month for an appointee whose beginning employment date falls between the first through 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) An employee of a Civil Service employer who is not in a classified or unclassified position or an employee of a non-Civil Service employer who is not in a regular budgeted position may be considered a temporary employee by his employer for 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.

Amended by R.1979 d.399, effective October 9, 1979.
See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).

Amended by R.1987 d.144, effective April 6, 1987.
See: 18 N.J.R. 2320(b), 19 N.J.R. 565(a).

Case Notes

Rule held a valid exercise of rulemaking authority, both reasonably and rationally related to purpose of enabling legislation: denial of death benefits to survivor of decedent public employee held proper where decedent died before his elected delay in pension enrollment expired and made no pension contributions. *Frew v. Bd. of Trustees, Public Employees' Retirement System*, 8 N.J.A.R. 16 (1984), affirmed per curiam Docket No. A-4071-83T6 (App.Div.1984).

Determination of non-temporary employee status requiring enrollment in PERS: equitable determination of monies to be repaid PERS for pension benefits received. *Vliet v. Bd. of Trustees, Public Employees' Retirement System*, 156 N.J.Super. 83, 383 A.2d 463 (App.Div. 1978).

17:2-2.5 Optional enrollment

(a) Any employee, other than a veteran, who was considered an optional enrollee prior to July 1, 1966, under the previous rules of the board, shall continue to retain the option to enroll or not enroll if his employer does not change.

(b) Part-time employees who cannot be classified as veterans and who were hired prior to July 1, 1966, are considered optional enrollees.

Amended by R.1971 d.71, effective May 18, 1971.
See: 3 N.J.R. 50(a), 3 N.J.R. 117(b).

17:2-2.6 Enrollment eligibility of professors and instructors employed on a temporary, provisional or adjunct basis by public institutions of higher education

(a) Professors and instructors, employed on a temporary, provisional or adjunct basis by public institutions of higher education, who are not in regularly appointed teaching or administrative staff positions, in classified or unclassified positions with a Civil Service employer, or in regularly budgeted positions with a non-Civil Service employer, shall be eligible for enrollment if they:

1. Earn more than the minimum threshold salary required for enrollment;
2. Work for the entire normal school year; and
3. Have their services renewed for the succeeding school year.

(b) Professors and instructors employed on a temporary, provisional or adjunct basis by public institutions of higher education who are not in regularly appointed teaching or administrative staff positions, in classified or unclassified positions with a Civil Service employer, or in regularly budgeted positions with a non-Civil Service employer, shall not be eligible for enrollment or salary or service credit on the basis of any course they teach which:

1. Provides no academic credit; and
2. Varies in length from the normal academic semester.

New Rule, R.1999 d.61, effective March 1, 1999.
See: 30 N.J.R. 4146(b), 31 N.J.R. 668(b).

17:2-2.7 Enrollment following deferred retirement

(a) The membership account under which a member elected deferred retirement who resumes regular service prior to age 60 shall be reinstated.

1. He shall be assigned his original rate of contribution if he resumes service before a period of two years has elapsed since he last made a contribution to his account.

2. If there has been a lapse of more than two years, a commuted rate shall be assigned. Such commuted rate of contribution shall be determined by adding the lapsed period to his age as of the date of his original enrollment.

Case Notes

Retired city employee who accepted city manager position with another city would be required to re-enroll in PERS and cancel his retirement benefits, even though employee and city which hired him considered employee to be independent contractor. *Murphy v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 235.

SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS

17:2-3.1 Compulsory and optional enrollment

(a) For the purpose of contributory insurance, all compulsory enrollees, including veterans, under age 60 at the time their enrollment application is filed, shall be required to participate in the contributory insurance program for one year (12 calendar months) from the date of enrollment, or the effective date of insurance premium deduction, whichever is later. Proof of insurability shall be required for all compulsory and optional enrollees, age 60 or older, in order to qualify for noncontributory and contributory insurance coverage.

(b) Optional enrollees under age 60 may qualify for noncontributory and contributory insurance coverage only if they were actively at work performing all of the duties that the position requires at the time they made application for enrollment, and such application was filed within one year from the date they first became eligible for enrollment in the system. If an application for an optional enrollee is not received within one year after he became eligible for enrollment, evidence of insurability will be required for the noncontributory and contributory coverage.

(c) 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 or her that he or she must prove insurability by taking a medical examination.

As amended, R.1979 d.399, effective October 9, 1979.

See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).
Amended by R.1987 d.144, effective April 6, 1987.
See: 18 N.J.R. 2320(b), 19 N.J.R. 565(a).
Deleted (a) and renumbered (d) to (c).

Case Notes

Life insurance benefits were properly denied where deceased was not public employee at time of his death. *Bossinger v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 170.

Member's estate not entitled to noncontributory death benefits where member resigned, chose deferred retirement, but died before reaching age 60. *Estate of Sant' Angelo v. Board of Trustees, Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 116.

Request to permit petitioner to prove insurability for life insurance purposes granted: statute and rule found to set no time limit for furnishing such proof. *Watson v. Bd. of Trustees, Public Employees' Retirement System*, 4 N.J.A.R. 380 (1980).

17:2-3.2 Computation of insurance benefits

(a) Any member who is reported on a 10-months basis and who has not resigned or been discharged, shall be covered by his or her insurance benefits for the month or months he or she is on his regular seasonal layoff.

1. The death benefit shall be based upon the base salary upon which contributions to the annuity savings fund were made that are attributable to the 12 months or 26 biweekly pay periods immediately preceding his or her death.

2. The salary, in the month or biweekly pay period in which no salary was paid, shall be counted as zero.

(b) 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.

(c) If a member dies during the first year following his date of enrollment, the contributory insurance benefit shall be $1\frac{1}{2}$ times the member's annual base salary on which he contributed or would have contributed immediately prior to his death. The noncontributory insurance benefit shall be $1\frac{1}{2}$ times the actual base salary upon which contributions to the annuity savings fund were due from the date of enrollment to the date of death.

(d) For a member dying after the first year following his or her date of compulsory enrollment, both the noncontributory and contributory insurance benefit shall be determined upon the base salary upon which contributions to the annuity savings fund were made, that are attributable to 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, whereas the contributory insurance benefit will be based on the member's annual salary on which he last contributed.

(f) Where a post-audit of insurance claim payments indicates 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 basis of salary they received or salary upon which pension contributions were based during their last year (10 and 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 a member does not receive salary. The adjustment as specified in (i) shall not be made.

(k) If a member was reported on a biweekly basis or 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.

As amended, R.1974 d.230, effective August 19, 1974.

See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

As amended, R.1978 d.138, effective May 1, 1978.

See: 10 N.J.R. 38(a), 10 N.J.R. 265(c).

Amended by R.1990 d.377, effective August 6, 1990.

See: 22 N.J.R. 1348(a), 22 N.J.R. 2342(c).

Stylistic changes; benefits based on contributions attributable to 12 months preceding death of member.

17:2-3.3 Contributory insurance rate

All participating members' contribution rate for contributory group insurance shall be fifty-five one-hundredths of one percent (.0055) of the member's base or contractual salary, effective as of January 1, 1988.

As amended, R.1970 d.133, effective November 2, 1970.

See: 2 N.J.R. 86(d), 2 N.J.R. 102(b).

As amended R.1978 d.139, effective May 1, 1978.

See: 10 N.J.R. 127(b), 10 N.J.R. 265(d).

As amended, R.1982 d.343, effective October 18, 1982.

See: 14 N.J.R. 200(b), 14 N.J.R. 1164(b).

As amended, R.1983 d.7, effective February 7, 1983.

See: 14 N.J.R. 1150(a), 15 N.J.R. 162(d).

Rate change from one-half to three-quarters July 1, 1981.

As amended, R.1984 d.190, effective May 21, 1984.

See: 16 N.J.R. 358(a), 16 N.J.R. 1284(a).

Contribution rate changed from $\frac{3}{4}$ to $\frac{5}{10}$ of one percent, effective April 1, 1984.

Amended by R.1987 d.510, effective December 7, 1987.

See: 19 N.J.R. 1636(a), 19 N.J.R. 2373(c).

Contribution rate changed from 6/10 to 55/100 of one percent, effective January 1, 1988.

17:2-3.4 New enrollments and transfers; contributory insurance premiums

For new enrollees and transferees, contributory insurance premiums will be due from the date insurance is effective as shown on the certification, to the date payroll deductions are certified to begin. In no case will the retroactive premiums for more than 15 months be charged.

17:2-3.5 Leave for illness

(a) Coverage during a leave of absence due to illness shall apply only to the personal illness of the member.

(b) A leave of absence on account of another person's illness will not entitle the member to continued insurance coverage.

Case Notes

Beneficiary's claim for death benefit coverage denied; deceased not on approved leave of absence at time of death. *Davis v. Public Employees' Retirement System*, 95 N.J.A.R.2d (TYP) 1.

17:2-3.6 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 dies 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.

Amended by R.1979 d.399, effective October 9, 1979.

See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).

17:2-3.7 Withdrawal application; contributory insurance

A properly executed contributory insurance withdrawal application must be in the possession of the Retirement System before termination of the contributory coverage can be effected. Such withdrawal application cannot be retroactive.

Correction: The words "Retirement System" were inadvertently omitted from text.

See: 18 N.J.R. 2391(c).

17:2-3.8 Withdrawal and return; contributory insurance

Withdrawal from contributory insurance coverage shall apply only to the membership account under which the cancellation was exercised. Any person, who has cancelled his contributory insurance coverage and withdraws from membership in the system, shall, upon his subsequent re-enrollment in the system, be subject to the provisions of N.J.A.C. 17:2-3.1.

17:2-3.9 (Reserved)

Amended by R.1971 d.71, effective May 18, 1971.

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

Amended by R.1983 d.76, effective March 21, 1983.

See: 15 N.J.R. 16(a), 15 N.J.R. 449(a).

The section formerly contained rules on insurance liability for unenrolled members.

17:2-3.10 Contributory insurance premiums; leave of absence

(a) Contributory insurance coverage will be in effect while a member is on an official leave of absence without pay for the following reasons:

1. To fulfill a residency requirement for an advanced degree;
2. As a full-time student at an institution of higher education; and
3. Up to 93 days on an official leave for any other reason, provided insurance premiums were paid in advance of the date the leave was granted.

17:2-3.11 Ten month members

A member employed on other than a 12-month contract year will continue to be insured during the summer vacation period provided a bona fide employee-employer relationship exists during this period.

Case Notes

Part-time adjunct professor who died during summer hiatus was still active member of Public Employees' Retirement System. *Estate of Hagel v. Board of Trustees, Public Employees' Retirement System*, 226 N.J.Super. 182, 543 A.2d 1010 (A.D.1988).

17:2-3.12 Beneficiary designation; pension contributions

(a) Only a primary and a contingent designation of beneficiary may be made by the member for the payment of such member's accumulated pension contributions.

(b) Multiple members of a retirement system are required to file new beneficiary forms when the beneficiary nomination on the multiple enrollment forms do not agree.

(c) All beneficiaries must be specifically named. The designation "children," unless otherwise qualified by the member shall mean all individuals, including natural or adopted children, entitled to take from the member by the New Jersey laws of intestate succession, N.J.S.A. 3A:2A-1 et seq., and excludes all persons who are only stepchildren, foster children, grandchildren or anymore remote descendants.

R.1974 d.230, effective August 19, 1974.

See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

Amended by R.1983 d.6, effective February 7, 1983.

See: 14 N.J.R. 1151(a), 15 N.J.R. 163(a).

Clarification of "children" as beneficiaries.

Case Notes

Failure to fill out correct change of beneficiary form did not prevent payment of accumulated pension funds to decedent's intended beneficiary. *Estate of Phyllis Braginton v. Board of Trustees of the Public Employees' Retirement System*. 92 N.J.A.R.2d (TYP) 135.

17:2-3.13 Benefits payable under P.L. 1984, c.96, as amended by P.L. 1995, c.221

(a) For the purposes of P.L. 1984, c.96, section 1, as amended by P.L. 1995, c.221, section 2, (N.J.S.A. 43:15A-50), the person designated as the beneficiary of an optional settlement on the retirement application may request that a retirement become effective and that a selection of an optional settlement be made as authorized by the law. If there is no designated beneficiary for an optional settlement, the person designated as the beneficiary to receive the return of contributions or unpaid benefits due to a retiree at the date of death may make this request. If a beneficiary requests that an optional settlement be made, the death benefits payable on behalf of the member shall be the death benefits payable on behalf of a member who dies after retirement as otherwise provided in the Public Employees' Retirement System Act, N.J.S.A. 43:15A-1 through 141 as amended and supplemented.

(b) Where a beneficiary of a member requests that a retirement take effect and that a selection of an optional settlement be made as authorized under P.L. 1984, c.96, section 2, as amended by P.L. 1995, c.221, section 1 (N.J.S.A. 18A:66-47), an additional amount of insurance, not to exceed the amount of insurance that could be converted under the group policies for noncontributory and contributory death benefits, shall be paid as claims under the group policies only if the member files an application for conversion of the insurance upon retirement as provided under N.J.S.A. 43:15A-93 and pays the initial premium for the converted insurance. The premiums paid for the converted insurance shall be retained by the carrier and be applied to the premiums payable by the State and the retirement system for benefits provided under the group policies.

New Rule, R.1998 d.501, effective November 2, 1998.

See: 30 N.J.R. 1917(a), 30 N.J.R. 3970(a).

SUBCHAPTER 4. MEMBERSHIP

17:2-4.1 Creditable salary

(a) Only a member's base or contractual salary, plus the value of maintenance, if applicable, shall be subject to pension and group life insurance 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 creditability where it is evident from the record that a salary reported for benefits includes extra compensation.

(c) Such extra compensation shall be considered not creditable for benefits and all contributions made thereon shall be returned without interest.

(d) Some of the forms of compensation that have been defined as extra compensation are as follows: overtime, bonus, longevity lump sum payments, individual retroactive salary adjustments or individual adjustments to place a member at maximum in his 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.

Amended by R.1971 d.71, effective May 18, 1971.

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

Case Notes

Income received by school employee for duties as clerk was pension creditable. *Chapel v. Board of Trustees of Public Employees' Retirement System*, Div. of Pensions, 258 N.J.Super. 389, 609 A.2d 1294 (A.D.1992).

Municipal court judge's salary paid for service as presiding judge was creditable compensation. *Rokos v. State*, Dept. of Treasury, Div. of Pensions, Public Employees' Retirement System, 236 N.J.Super. 174, 564 A.2d 1217 (A.D.1989).

Municipal court judge serving as presiding judge was employee, not independent contractor. *Rokos v. State*, Dept. of Treasury, Div. of Pensions, Public Employees' Retirement System, 236 N.J.Super. 174, 564 A.2d 1217 (A.D.1989).

Municipal court judge's duties as presiding judge were neither temporary nor extracurricular. *Rokos v. State*, Dept. of Treasury, Div. of Pensions, Public Employees' Retirement System, 236 N.J.Super. 174, 564 A.2d 1217 (A.D.1989).

Municipal court judge's position as presiding judge even if temporary was not disqualification from pension creditability for presiding judge salary. *Rokos v. State, Dept. of Treasury, Div. of Pensions, Public Employees' Retirement System*, 236 N.J.Super. 174, 564 A.2d 1217 (A.D.1989).

Action of utilities authority and borough in creating positions, respectively, of general counsel and municipal prosecutor, and in appointing person to those positions, held not to constitute salary adjustments within the meaning of public employees' pension law excluding salary adjustments from compensation to be used as the basis for computing retirement pay. *Hiering v. Bd. of Trustees, Public Employees' Retirement System*, 197 N.J.Super. 14, 484 A.2d 20 (App.Div.1984).

Salary creditable; pension and veteran retirement benefits. *Berger v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 187.

Termination of fixed term position does not constitute discontinuation from service through no fault of employee within meaning of statute providing for extension of membership in retirement system. *D'Alessio v. board of Trustees of the Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 100.

Salary paid township counsel during three years before retirement was paid primarily in anticipation of retirement, and thus ineligible compensation for pension purposes. *Mangini v. Trustees of Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 43.

Petitioner's claim for inclusion for pension calculation of salary received as town sewer attorney denied as services rendered were of the type usually rendered by an independent contractor rather than an employee: claim for inclusion for pension calculation of vouchered fees received as town sewer attorney denied as such fees are outside the statutory definition of compensation (Board's Final Decision). *Fasolo v. Bd. of Trustees, Public Employees' Retirement System*, 6 N.J.A.R. 4

(1980), affirmed in part and reversed in part and remanded 181 N.J.Super. 434, 438 A.2d 328 (App.Div.1981).

17:2-4.2 Leave with pay

(a) If a member is granted a leave of absence with sufficient salary to cover a full normal contribution, including any arrears or loan payments, the privilege of the member to obtain credit on the basis of such salary shall not extend beyond six months from the date of the leave.

(b) If the leave with pay extends beyond six months, the member will be required to make contributions only if he is receiving 50 percent or more of his regular base salary.

Case Notes

Salary paid township counsel during three years before retirement was paid primarily in anticipation of retirement, and thus ineligible compensation for pension purposes. *Mangini v. Trustees of Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 43.

17:2-4.3 School year members; 10 and 12 months

(a) Ten month members who are employed and are compensated for employment for the full normal school year by the board of education are entitled to receive 12 months of service credit. Members will not receive service credit for months during the normal school year when they are not actively employed and did not receive salary.

(b) A 12 month member is presumed to work each month of the fiscal year.

(c) Not more than one year's service credit will be given during any period of 12 consecutive months.

(d) If a member terminates a position that requires less than 12 months to constitute one full year of service at the end of the normal academic school year and accepts a 12 month position with the same employer or another employer that participates in the Public Employees' Retirement System and begins employment on or before the date that was established by the previous year's contract position, such member will receive service credit within the Public Employees' Retirement System for the period between the end of the previous contract and the new 12 month position.

Amended by R.1989 d.423, effective August 7, 1989.
See: 21 N.J.R. 979(a), 21 N.J.R. 2300(a).

Reference to 10-month employment as a minimum deleted.
Amended by R.1993 d.296, effective June 21, 1993.
See: 25 N.J.R. 908(a), 25 N.J.R. 2701(a).
Amended by R.1994 d.162, effective April 4, 1994.
See: 26 N.J.R. 108(a), 26 N.J.R. 1537(c).
Amended by R.1995 d.61, effective February 21, 1995.
See: 26 N.J.R. 3823(a), 27 N.J.R. 754(b).

17:2-4.4 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.

New Rule, R.1987 d.511, effective December 7, 1987.
See: 19 N.J.R. 194(a), 19 N.J.R. 2303(d).
Old rule was loan revaluation.

17:2-4.5 Approved leave

When benefits are payable involving approved leaves of absence or when a purchase of credit is to be processed involving such leaves, a certified copy of the employer's resolution, or approved CS-21 form, granting such approved leave must be available in the file or must be confirmed before processing can be completed.

17:2-4.6 Minimum adjustment

In order to facilitate the reconciliation of a member's account no rebates or additional contributions shall be made where an adjustment involves an amount of \$3.00 or less.

17:2-4.7 Hourly or per diem salary

Deductions from the salary of a member who is paid on an hourly or per diem basis shall be calculated on an average monthly or biweekly salary, which shall be certified to the system. This salary will continue for deduction purposes but will be subject to annual revision.

As amended by R.1974 d.230, effective August 19, 1974.
See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

17:2-4.8 Military leave

(a) Military leave contributions remitted by an employer on behalf of an employee, who does not return to the payroll for the minimum 90-day period required by N.J.S.A. 43:15A-41a, shall be retained by the System. Such contributions shall be transferred from the annuity savings fund to the contingent reserve fund.

(b) Military leave contributions remitted by an employer shall be based on the employee's salary at the time he entered military service.

(c) Payroll as referred to above shall be interpreted to mean any public payroll in New Jersey, not necessarily the payroll of the employer where the member was employed when he entered military service.

17:2-4.9 Eligibility for loan

Only active contributing members of the System may exercise the privilege of obtaining a loan and the maximum loan shall be 50 per cent of the accumulated deductions posted to the member's account.

17:2-4.10 Waiver required

Any member, who makes application for withdrawal from the system, who may otherwise be eligible to make application for a retirement benefit, shall be required to execute and file a statement with the System setting forth the benefits he is waiving in favor of withdrawal, before his application for withdrawal may be processed.

17:2-4.11 Termination; withdrawal

(a) Under the terms of the statutes a member may withdraw from the system only if he terminates all employment.

(b) No application shall be approved, if:

1. The member is on official leave of absence.
2. The member certifies that his employment has not ended or that he has taken another position subject to coverage.
3. The member has been dismissed or suspended from employment. In this event, such a member will be eligible to withdraw if he has formally resigned from his position or there is no legal action contemplated or pending and the dismissal has been adjudged final.
4. A multiple member has not terminated employment in all covered positions.
5. The member has a claim pending for Workers' Compensation benefits.

As amended by R.1979 d.399, effective October 9, 1979.

See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).

Case Notes

Division of Unemployment and Disability Insurance Director held not to have surrendered his position in classified service when he was granted an unpaid leave of absence to serve an unclassified appointment as assistant commissioner, income security; demotion and layoff rules found not to adequately recognize rights inherent in a leave of absence; doctrine of incompatible offices held not to mandate loss of classified position, since there was no dual office holding. In re Viviani, 184 N.J.Super. 582, 446 A.2d 1239 (App.Div.1982), certification denied 91 N.J. 533, 453 A.2d 854 (1982).

Held that where State employee did not discontinue employment or terminate service until her resignation, which coincided with terminal date of her leave of absence, and where she was reemployed by State less than two consecutive years following her resignation, her membership in the State pension system never ceased. Blinn v. Bd. of Trustees, Public Employees' Retirement System, 173 N.J.Super. 277, 414 A.2d 263 (App.Div.1980).

Proceeds of group life insurance; deceased not active member of retirement system on date of death. Johnson v. Public Employees' Retirement System, 94 N.J.A.R.2d (TYP) 204.

Employee with two years of consecutive discontinued service was not a member of system entitled to ordinary disability retirement. Zakarias v. Retirement System, 93 N.J.A.R.2d (TYP) 308.

Reactivation of retirement account not warranted once membership expired two years after cessation of covered employment. Smartt v. Retirement System, 93 N.J.A.R.2d (TYP) 260.

No public employee retirement system life insurance benefits for widower of employee terminated from employment four months earlier. Estate of Stanton v. Board of Trustees, Public Employees' Retirement System, 93 N.J.A.R.2d (TYP) 220.

Former public employee voluntarily resigned from employment, and thus not entitled to extension of inactive membership in public employees' retirement system. Perlmutter v. Board of Trustees of the Public Employees' Retirement System, 93 N.J.A.R.2d (TYP) 140.

Application for veteran retirement benefits invalid as result of continued employment as municipal attorney, despite change in method of compensation. Mastro v. Board of Trustees, Public Employees' Retirement System, 92 N.J.A.R.2d (TYP) 123.

Former member of retirement system not eligible for ordinary disability retirement benefits more than two years after he discontinued his employment. Cartagena v. Public Employees' Retirement System, 92 N.J.A.R.2d (TYP) 12.

17:2-4.12 Deductions

(a) A full deduction shall be taken for the Public Employees' Retirement System in any payroll period in which the member is paid a sufficient amount to make a full normal deduction, plus any other arrears or loan deductions then in effect.

(b) No deduction shall be taken in any pay period in which the employee's salary is not sufficient to cover the required deductions for the Public Employees' Retirement System.

Case Notes

Held that where State employee did not discontinue employment or terminate service until her resignation, which coincided with terminal date of her leave of absence, and where she was reemployed by State less than two consecutive years following her resignation, her membership in the State pension system never ceased. Blinn v. Bd. of Trustees, Public Employees' Retirement System, 173 N.J.Super. 277, 414 A.2d 263 (App.Div.1980).

17:2-4.13 Active employment; membership requirement

All employees, otherwise eligible, who are not actively employed on the date of their enrollment will not be covered by the group life insurance program until they return to service.

R.1974 d.230, effective August 19, 1974.

See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

Case Notes

Held that no group life insurance death benefits were payable to deceased county employee's beneficiaries where employee was on leave without pay when PERS enrollment was to commence and employee died before going back on payroll. Burns v. Div. of Pensions, Public Employees' Retirement System, 180 N.J.Super. 1, 433 A.2d 778 (App. Div.1981).

17:2-4.14 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.

R.1979 d.399, effective October 9, 1979.

See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).

SUBCHAPTER 5. PURCHASES AND ELIGIBLE SERVICE

17:2-5.1 Eligibility for purchase

(a) Only active contributing members of the system shall be eligible to make application for purchase of credit.

(b) In order to be eligible to purchase temporary service, a member must submit a written request to purchase service within one year from the date his or her initial pension contributions are certified to begin and such purchase must be authorized by the member before the expiration date indicated on the quotation letter.

Case Notes

Employee's request for information regarding purchase of temporary service credit made within one year period following commencement of pension contributions, which resulted in receipt of requested information by employee and timely submission of purchase request denied by Trustees, held to provide Trustees with the opportunity to exercise discretion as to whether to permit purchase of credit. Handelson v. Bd. of Trustees, Public Employees' Retirement System, 193 N.J.Super. 223, 473 A.2d 104 (App.Div.1984).

Sewage plant operator who was convicted of multiple counts of unlawful discharge of a pollutant was subject to partial forfeiture of his years of service. Angelo v. Public Employees' Retirement System, 96 N.J.A.R.2d (TYP) 287.

Hospital cook was denied his request to purchase an additional year of service credit. Long v. Employees' Retirement System, 94 N.J.A.R.2d (TYP) 184.

Employee was not eligible to purchase any portion of his former PERS membership service that arose with his employment at vocational school. *Smolok v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 340.

Retiree was not entitled to purchase additional months of temporary service in order to qualify for health care coverage. *Donofrio v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 336.

Res judicata blocked employee's later attempt to purchase pension credits for temporary service. *Lord v. Retirement System*, 93 N.J.A.R.2d (TYP) 252.

Employee with military pension not entitled to purchase prior military service credit. *Woodward v. Board of Trustees, Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 124.

Teacher not entitled to reverse withdrawal from pension fund in order to obtain interfund transfer of service time. *Long v. Public Employees' Retirement System Board of Trustees*, 93 N.J.A.R.2d (TYP) 112.

No right to purchase prior service credit for temporary employment with postal service where employee had already received full credit for those years through full time city employment. *Fornaro v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 105.

Public employee entitled to purchase temporary service credit after one year enrollment period, but price based on salary at purchase date. *Coyle v. Division of Pensions*, 93 N.J.A.R.2d (TYP) 72.

Employee not entitled to purchase prior service credit for on-call work for postal service despite alleged sex discrimination preventing her full-time employment. *Horzempa v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 32.

Doctrine of substantial compliance with statutory and regulatory requirements invoked to allow petitioner to purchase pension credits for time served out-of-state even though purchase not completed prior to retirement date. *White v. Bd. of Trustees, Public Employees' Retirement System*, 1 N.J.A.R. 334 (1980).

17:2-5.2 New enrollment purchase or rate adjustment

Upon enrollment or reenrollment, a veteran shall contribute at the percent rate applicable to the age resulting from the subtraction of his or her years of prior service (pre-1955) from the date he or she began his or her present employment or the date of enrollment, whichever is later, provided that the member submits satisfactory evidence of prior public employment in New Jersey.

Amended by R.1987 d.144, effective April 6, 1987.
See: 18 N.J.R. 2320(b), 19 N.J.R. 565(a).

Deleted (a).

17:2-5.3 Reestablishing military leave credit

Any veteran who terminated membership before January 1, 1955, and whose withdrawal of contributions included contributions paid by his or her employer during a period of military leave, shall receive veteran prior service credit for only the period during which he or she actually contributed. He or she can receive additional membership credit for the period of military leave if he or she redeposits the amount of employer contributions, plus regular interest to the date of his or her authorization of such purchase.

17:2-5.4 Compulsory purchase

(a) An employee who was required to enroll and whose application was filed beyond his or her compulsory date of

enrollment, will be required to purchase membership credit retroactive to the date of compulsory enrollment. Purchases will be calculated on the basis of the member's current salary at the full pension rate of contribution assigned as of his or her compulsory date of enrollment with regular interest.

(b) Veterans, who were ineligible to establish membership in a local contributory pension fund and who elect to enroll in accordance with the provisions of Chapter 71, P.L. 1966, must agree, prior to their enrollment, to purchase all continuous public employment with the same employer since January 1, 1955, or the date of their regular appointment. The purchase of service will be calculated on the basis of their current salary multiplied by the actuarial factor established for the member's age at the time of purchases.

Case Notes

Waiver of interest payment assessments on petitioner's purchase of retroactive compulsory service credit was properly denied. *Montagna v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 119.

17:2-5.5 Optional purchases of eligible service

(a) Members, who purchase temporary service, must purchase all such service immediately preceding enrollment. The purchase will be calculated on the basis of the member's current salary times the full percentage rate of contribution assigned at enrollment.

(b) The types of purchases indicated below will be calculated on the basis of the actuarial factor established for the member's age at the time of the purchase times his or her current salary:

1. All former membership credit with another State-administered retirement system;
2. All former service with any other employer which was not certified for membership but which would have qualified on a compulsory basis at the time the service was rendered;
3. Leaves of absence:
 - i. All of the period of the leave for personal reasons which does not exceed two months;
 - ii. All of the period of the leave up to two years for personal illness or maternity.
4. Non-veterans may purchase all continuous service subsequent to the date their employer adopted the retirement system, provided the service was with the same employer to the date of enrollment;
5. Non-veterans, hired prior to July 1, 1966, whose employers have not adopted the retirement system, may enroll any time and purchase all continuous service retroactive to July 1, 1966, provided the service was with the same employer to the date of enrollment;

6. Members who purchase all or a portion of their eligible out-of-state service.

(c) Rules concerning the purchase and/or conversion of Class A credit include the following:

1. The cost of Class B service credit is based on the actuarial factors and such factors provide a retirement benefit which is one-sixth greater than service credited as Class A. If Class A credit is purchased, the cost will be six-sevenths of the amount computed for a Class B purchase. The computation is based on the member's present salary multiplied by the actuarial factor for the member's age at the time of purchase with regular interest.

2. If a Class A member converts to Class B, he or she will contribute an additional one-sixth of the total contributions that would have been payable based on his or her full Class A contribution rate with regular interest.

Case Notes

Denial of application to purchase additional service credit due to insufficient evidence affirmed. *Webb v. Public Employees' Retirement System*, 97 N.J.A.R.2d (TYP) 83.

Retiree's request to cancel and obtain refund of previously purchased prior service credit in the retirement system denied. *Chmieloweic v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 73.

17:2-5.6 Methods of payment

(a) Methods of payment include the following:

1. Lump sum;
2. Partial lump sum of \$250.00 or more; balance by extra payroll deductions;
3. Extra deductions equal to at least one-half of the full regular pension deduction for a maximum period of 10 years;
4. Extra payroll deductions will include regular interest for the term of the installment.

Amended by R.1991 d.281, effective June 3, 1991.

See: 23 N.J.R. 685(b), 23 N.J.R. 1800(a).

Mandatory age requirement eliminated.

17:2-5.7 Military leave

Any active member purchasing credit for out-of-state public employment, may include in the maximum of 10 years credit to be purchased, his or her leave of absence for military service, provided he or she received credit for such leave in the State or local public retirement system, in which he or she was participating at the time he or she was in military service.

Case Notes

Denial to purchase peacetime military service after eligibility expired confirmed. *Pagliarulo v. Public Employee's Retirement System*, 97 N.J.A.R.2d (TYP) 39.

17:2-5.8 Per diem credit

For the purpose of granting prior service credit for service performed on a per diem basis, credit shall be prorated and granted on the basis of 20 days equal one month of credit.

17:2-5.9 Ineligible service

(a) Members will not be granted prior service or membership credit for the following employment:

1. Honorary positions, without salary;
2. Leaves of absence without pay, except military leave;
3. Motor Vehicle Agents or as employees of the agent;
4. Licensing Agent of the Division of Fish, Game and Shellfisheries or as employee of the agent.

17:2-5.10 Creditable service; law enforcement officers

Two percent service credit for Law Enforcement Officer members is that service rendered in the capacity of a Law Enforcement Officer, for which the member has paid at the Law Enforcement Officer rate of contribution unless as otherwise provided by the statute.

17:2-5.11 Eligible credit

(a) An active, contributing member may purchase credit for up to 10 years of out-of-state public employment provided the member is not receiving nor is entitled to receive a retirement allowance for such service from any other public retirement system and proof is received that he or she has withdrawn from such other system.

(b) Federal service and service rendered outside of the United States, with the exception of eligible service rendered in certain instances in territories or possessions of the United States, Washington, D.C. and the Canal Zone, is not creditable.

17:2-5.12 Correction of errors

Credit for all previous service established under the provisions of Chapter 104, P.L. 1974, shall be calculated on the basis of salaries received during the period of such service. The pension rate of contribution will be determined as of the member's compulsory date of enrollment. The members shall pay on the basis of his or her current salary at the full pension rate of contribution with regular interest.

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 purpose 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).

SUBCHAPTER 6. RETIREMENT**17:2-6.1 Applications**

(a) Applications for retirement must be made on forms prescribed by the system. Such forms must be completed in all respects and filed with the system before the requested date of retirement.