

**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.

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. ADMINISTRATION**

- 17:2-1.1 Board meetings
- 17:2-1.2 Fiscal year
- 17:2-1.3 Officers and committees
- 17:2-1.4 Election of member-trustee
- 17:2-1.5 Certifying agent (employer)
- 17:2-1.6 Records
- 17:2-1.7 Appeal from Board decisions
- 17:2-1.8 Suspension of pension checks
- 17:2-1.9 Verified discrepancy in member's age
- 17:2-1.10 Travel
- 17:2-1.11 Proof of age
- 17:2-1.12 State employees; biweekly salaries
- 17:2-1.13 Nearest attained age; enrollment; retirement

**SUBCHAPTER 2. ENROLLMENT**

- 17:2-2.1 Social Security coverage
- 17:2-2.2 Multiple employments
- 17:2-2.3 Ineligible persons
- 17:2-2.4 Enrollment date
- 17:2-2.5 Optional enrollment
- 17:2-2.6 (Reserved)
- 17:2-2.7 Enrollment following deferred retirement

**SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS**

- 17:2-3.1 Compulsory and optional enrollment
- 17:2-3.2 Computation of insurance benefits
- 17:2-3.3 Contributory insurance rate
- 17:2-3.4 New enrollments and transfers; contributory insurance premiums
- 17:2-3.5 Leave for illness
- 17:2-3.6 Survivor benefits
- 17:2-3.7 Withdrawal application; contributory insurance
- 17:2-3.8 Withdrawal and return; contributory insurance

- 17:2-3.9 (Reserved)
- 17:2-3.10 Contributory insurance premiums; leave of absence
- 17:2-3.11 Ten-month members
- 17:2-3.12 Beneficiary designation; pension contributions

**SUBCHAPTER 4. MEMBERSHIP**

- 17:2-4.1 Creditable salary
- 17:2-4.2 Leave with pay
- 17:2-4.3 School year members; 10 and 12 months
- 17:2-4.4 Loan tolerance
- 17:2-4.5 Approved leave
- 17:2-4.6 Minimum adjustment
- 17:2-4.7 Hourly or per diem salary
- 17:2-4.8 Military leave
- 17:2-4.9 Eligibility for loan
- 17:2-4.10 Waiver required
- 17:2-4.11 Termination; withdrawal
- 17:2-4.12 Deductions
- 17:2-4.13 Active employment; membership requirement
- 17:2-4.14 Continuance of membership; transfer

**SUBCHAPTER 5. PURCHASES AND ELIGIBLE SERVICE**

- 17:2-5.1 Eligibility for purchase
- 17:2-5.2 New enrollment purchase or rate adjustment
- 17:2-5.3 Reestablishing military leave credit
- 17:2-5.4 Compulsory purchase
- 17:2-5.5 Optional purchases of eligible service
- 17:2-5.6 Methods of payment
- 17:2-5.7 Military leave
- 17:2-5.8 Per diem credit
- 17:2-5.9 Ineligible service
- 17:2-5.10 Creditable service; law enforcement officers
- 17:2-5.11 Eligible credit
- 17:2-5.12 Correction of errors
- 17:2-5.13 Lump-sum purchases

**SUBCHAPTER 6. RETIREMENT**

- 17:2-6.1 Applications
- 17:2-6.2 Effective dates; changes
- 17:2-6.3 Effective date; death prior thereto
- 17:2-6.4 Outstanding loan
- 17:2-6.5 Willful negligence
- 17:2-6.6 Retirement credit
- 17:2-6.7 Disability determination
- 17:2-6.8 Option selection
- 17:2-6.9 Employer and employee notices
- 17:2-6.10 Employer application; employee notice
- 17:2-6.11 Early retirement benefits
- 17:2-6.12 Service retirement; eligibility
- 17:2-6.13 Disability retiree; annual medical examinations
- 17:2-6.14 Disability retiree; annual report (employment, earnings, test and adjustment)
- 17:2-6.15 (Reserved)
- 17:2-6.16 Compulsory retirement; law enforcement officers
- 17:2-6.17 Approved allowance
- 17:2-6.18 Option "I" benefit
- 17:2-6.19 Maximum allowance prescribed
- 17:2-6.20 Final compensation; 10 and 12-month members
- 17:2-6.21 Determination of last year's salary; veterans (veteran one-half pay retirement)
- 17:2-6.22 Waiver
- 17:2-6.23 Additional contributions
- 17:2-6.24 Final compensation; biweekly salary computation for State employees reported by centralized payroll
- 17:2-6.25 Determination of last year's salary; State employee veterans reported by centralized payroll
- 17:2-6.26 Medical examination; physician

17:2-6.27 Work-related travel; accidental disability retirement and accidental death benefit coverage

## SUBCHAPTER 7. TRANSFERS

17:2-7.1 Interfund transfers; State-administered retirement systems

17:2-7.2 (Reserved)

## 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.

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  $\frac{6}{10}$  to  $\frac{55}{100}$  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.

## 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.