

CHAPTER 2

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Authority

N.J.S.A. 43:15A-1 et seq.

Source and Effective Date

R.2010 d.149, effective June 16, 2010.
See: 41 N.J.R. 4667(a), 42 N.J.R. 1612(b).

Chapter Expiration Date

Chapter 2, Public Employees' Retirement System, expires on June 16, 2015.

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

Chapter 2, Public Employees' Retirement System, was readopted as R.2010 d.149, effective June 16, 2010. As a part of R.2010 d.149, Subchapter 1A, Definitions, was adopted as new rules, effective July 19, 2010. 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. 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. A representative to the State Investment Council shall be elected pursuant to N.J.S.A. 52:18A-83 and N.J.A.C. 17:1-1.1A, from its membership for the forthcoming year at its regular meeting held in July.

(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.

(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 Secretary shall provide all investment transactions and financial reports 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).

the following month for an employee whose regular appointment date falls between the 17th and the end of the month.

2. For employers who report on a biweekly basis, the compulsory enrollment date shall be fixed as the first day of the pay period for an employee whose appointment date falls on the first through seventh day of the biweekly pay period. The compulsory enrollment date shall be fixed as the first day of the following biweekly pay period for an employee whose appointment date falls on any subsequent date within that pay period.

(b) If an employee is an optional enrollee the employee shall be enrolled as of the first of the month for those whose employers report on a monthly basis or the first day of the next biweekly pay period for those whose employers report on a biweekly basis following the receipt of the enrollment application.

(c) An employee in the unclassified service or an elected position shall be considered as beginning service on the date of the original appointment, or the date when the employee 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. For employers who report on a monthly basis, the compulsory enrollment date shall be fixed as the first of the month for an employee 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 employee whose beginning employment date falls between the 17th and the end of the month.

3. For employers who report on a biweekly basis, the compulsory enrollment date shall be fixed as the first day of the pay period for an employee whose date of hire falls on the first through seventh day of the biweekly pay period. The compulsory enrollment date shall be fixed as the first day of the following biweekly pay period for an employee whose date of hire falls on any subsequent date within that pay period.

(d) 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 the employer for the 12-month period following the employee's date of hire, but if the employment continues into a second year, the employee will be required to enroll immediately, as follows:

1. For employees whose employers report on a monthly basis, the compulsory enrollment date will be the first of the month following the end of the 12-month period.

2. For employees whose employers report on a bi-weekly basis, the compulsory enrollment date will be the first day of the pay period following the end of the 12-month period.

(e) An employee cannot receive credit in the retirement system for the initial pay period or month of employment if that employment began after the seventh day of the pay period or after the 16th day of the month.

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).

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.2005 d.75, effective February 22, 2005.

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

In (d), substituted references to the 12-month period for references to the one-year period; added (e).

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. This section shall not apply to elected officials upon the expiration of the term of office held as of June 30, 2007.

(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).

Amended by R.2010 d.149, effective July 19, 2010.

See: 41 N.J.R. 4667(a), 42 N.J.R. 1612(b).

In (a), inserted the last sentence.

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) Prior to November 2, 2008, 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, were eligible for enrollment if they:

1. Earned more than the minimum threshold salary required for enrollment;
2. Worked for the entire normal school year; and
3. Had 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 on the basis of any course they teach, which:

1. Provides less than three academic credits; or
2. Varies in length from the normal academic term.

New Rule, R.1999 d.61, effective March 1, 1999.

See: 30 N.J.R. 4146(b), 31 N.J.R. 668(b).

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

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

In (b), deleted "or salary or service credit" preceding "on the basis" in the introductory paragraph, substituted "or" for "and" in 1 and substituted "term" for "semester" in 2.

Amended by R.2010 d.149, effective July 19, 2010.

See: 41 N.J.R. 4667(a), 42 N.J.R. 1612(b).

In the introductory paragraph of (a), substituted "Prior to November 2, 2008, professors" for "Professors" and substituted "were" for "shall be"; in (a)1, substituted "Earned" for "Earn"; in (a)2, substituted "Worked" for "Work"; in (a)3, substituted "Had" for "Have"; in the introductory paragraph of (b), inserted a comma following "teach"; and in (b)1, substituted "less than three" for "no" and "credits" for "credit".

17:2-2.7 Enrollment following deferred retirement

(a) For a member who has enrolled in the retirement system prior to November 2, 2008, the membership account under which a member elected deferred retirement who resumes regular service prior to age 60 shall be continued provided the member returns to service within the two-year period stipulated by N.J.S.A. 43:15A-7(e), or the longer period provided by N.J.S.A. 43:15A-8(a).

(b) Should a member who has enrolled in the retirement system prior to November 2, 2008, who elected a deferred retirement, resume regular service prior to age 60 after the period for continued membership stipulated by N.J.S.A. 43:15A-7(e) or 8(a) has expired, then such member shall be enrolled in the retirement system under a new membership account and shall be subject to such benefits and requirements as shall apply to new members of the retirement system as of the date of such new enrollment.

(c) For a member who has enrolled in the retirement system on or after November 2, 2008, the membership account under which a member elected deferred retirement who resumes regular service prior to age 62 shall be continued

provided the member returns to service within the two-year period stipulated by N.J.S.A. 43:15A-7(e), or the longer period provided by N.J.S.A. 43:15A-8(a).

(d) Should a member who has enrolled in the retirement system on or after November 2, 2008, and who elected a deferred retirement, resume regular service prior to age 62 after the period for continued membership stipulated by N.J.S.A. 43:15A-7(e) or 8(a) has expired, then such member shall be enrolled in the retirement system under a new membership account and shall be subject to such benefits and requirements as shall apply to new members of the retirement system as of the date of such new enrollment.

(e) In the event that (b) or (d) above applies, the member may elect to transfer all service credit associated with the previously vested membership to the new membership account and such service credit will be subject to the benefits and requirements as shall apply to new members of the retirement system as of the date of such new enrollment. Should the member elect not to transfer the service credit associated with the vested membership to the new membership account, no benefits shall be payable from the previous application for deferred retirement until such time as the member has terminated all PERS eligible employment.

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

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

In (a), neutralized gender references throughout, and added 3.

Repeal and New Rule, R.2010 d.149, effective July 19, 2010.

See: 41 N.J.R. 4667(a), 42 N.J.R. 1612(b).

Section was "Enrollment following deferred retirement".

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.

17:2-2.8 (Reserved)

New Rule, R.2000 d.159, effective April 17, 2000.

See: 32 N.J.R. 392(a), 32 N.J.R. 1415(a).

Amended by R.2008 d.372, effective December 15, 2008.

See: 40 N.J.R. 4677(a), 40 N.J.R. 6991(a).

Deleted (d).

Repealed by R.2010 d.149, effective July 19, 2010.

See: 41 N.J.R. 4667(a), 42 N.J.R. 1612(b).

Section was "Enrollment eligibility of provisional or temporary employees occupying full-time police and fire titles".

17:2-2.9 Eligibility and enrollment of employees of bi-state and multi-state agencies pursuant to P.L. 2003, c. 263 (N.J.S.A. 43:15A-73)

(a) For the purposes of the resolution to adopt the provisions of the PERS for a bi-state or multi-state agency, the "category of officers or employees who may enroll in the retirement system" shall be defined as those employees:

1. Initially appointed or employed by the bi-state or multi-state agency on or after January 1, 2002;