

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.

17:2-6.11 Early retirement benefits

(a) The statutory reduction of one quarter of one percent applies to each month prior to the month in which the member attains age 55 and for the month in which the member attains age 55 if his 55th birthday occurs on or after the 15th day of the month.

(b) Retirement on the first of the month in which a member attains age 55 shall be classed as "early" retire-

ment, although a reduction is not applied if his 55th birthday occurs before the middle of such month.

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

Case Notes

Suspended employee who retired after completing court-ordered pretrial intervention program was not entitled to early retirement benefits. *Gulics & Simeone v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 228.

17:2-6.12 Service retirement; eligibility

A member becomes eligible for "Service" retirement on the 1st of the month following his 60th birthday.

Case Notes

Denial of petitioner's request for additional four years of creditable service was appropriate. *Alcaro v. Division of Pensions, the Alternate Benefit Program*, 94 N.J.A.R.2d (TYP) 124.

17:2-6.13 Disability retiree; annual medical examinations

(a) All disability retirees may be required to undergo a medical examination each year for at least five years or for good cause thereafter by a physician designated by the System as of the anniversary date of their retirement, unless such examination requirement has been waived by the Board. Good cause means the receipt by the Board of creditable information that a member who is receiving a disability retirement allowance is no longer disabled.

(b) Failure on the part of a retiree to submit to the required medical examination shall result in the automatic suspension of his retirement allowance until he submits to a medical examination.

Amended by R.1998 d.322, effective July 6, 1998.
See: 30 N.J.R. 1026(a), 30 N.J.R. 2514(a).

In (a), deleted "under age 60," following "retirees" and substituted "at least five years or for good cause thereafter" for "a maximum period of five years" in the first sentence, and added a second sentence.

Case Notes

Township not required to reinstate formerly disabled employee who resigned before applying for disability benefits. *Township of Dover v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 83.

17:2-6.14 Disability retiree; annual report (employment, earnings, test and adjustment)

(a) All disability retirees shall be required to file a report with the System which shall include copies of the retiree's IRS 1040 forms and W-2 forms and any other proofs of employment requested of a specific retiree indicating the type of employment they are engaged in, if any, and the gross earned income realized therefrom as of December 31 of each year.

1. Such report shall be filed with the System before the following April 30.

2. Failure on the part of the retiree to file a completed report with the System before April 30 shall result in the presentation of the retiree's case to the PERS Board of Trustees, who may impose penalties or suspend the retiree's entire retirement allowance for the period the report is in default.

(b) If a retiree reports employment and earnings, then the following tests shall be made by the System to ascertain:

1. If the retiree is engaged in a position subject to coverage by the System, the retirement allowance shall be canceled and the retiree shall be reenrolled in the System pursuant to N.J.S.A. 43:15A-44, effective as of the date of the retiree's appointment to such position. Any disability retirement benefits received after this date of appointment shall be refunded to the System.

2. If the retiree is engaged in employment and the gross earned income for the preceding calendar year exceeds the difference between the pension and the salary the retiree would have been receiving had the retiree continued to work for the former employer (normal increment steps and salary range revisions will be considered but no promotional assumptions will be made) an appropriate adjustment to the pension for the period will be made by such difference.

3. If it is found, on or after April 30, that gross earned income for the calendar year exceeded the difference between the pension and the salary of the retiree's former position and if the retiree does not refund the excess pension to the System within 30 days of notification of the difference, the pension for the succeeding 12-month period shall be reduced by the excess pension received in the preceding calendar year.

Amended by R.1998 d.323, effective July 6, 1998.
See: 30 N.J.R. 1026(b), 30 N.J.R. 2514(b).

Rewrote the section.

17:2-6.15 (Reserved)

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.1977 d.148, effective April 27, 1977.
See: 9 N.J.R. 142(b), 9 N.J.R. 295(a).
Repealed by R.1989 d.597, effective December 4, 1989.
See: 21 N.J.R. 3265(a), 21 N.J.R. 3929(c).

Case Notes

Presiding judge of county district court held the appointing authority for the district court clerk; clerk, upon reaching retirement age, and being notified by appointing authority that he may no longer continue in position, must retire. In re *Brennan*, 126 N.J.Super. 368, 314 A.2d 610 (App.Div.1974).

17:2-6.16 Compulsory retirement; law enforcement officers

(a) Members classified as "law enforcement officers" shall be retired automatically by the board as of the compulsory retirement date established pursuant to N.J.S.A. 43:15A-99.

(b) Should a member classified as law enforcement officer fail to file application with the system before his compulsory retirement date, he shall be granted the maximum allowance payable on his account; however, no retirement checks will be disbursed until he files the required application.

(c) If an application is not filed with the system before a period of 30 days has elapsed after the board has acted on his retirement, he shall not be eligible to exercise any of the available retirement survivorship options and his retirement on maximum allowance shall stand as approved.

(d) When such a member files his application with the system, he shall be eligible to receive retirement benefits for the months that have elapsed since the date of his compulsory retirement, provided satisfactory evidence is received to show that he terminated employment as of his compulsory retirement date.

(e) No retirement benefits shall be paid for any period the member continued in service beyond his compulsory retirement date, nor shall he receive any credit for retirement purposes for salary received or service rendered beyond his compulsory retirement date.

(f) An LEO member who is also enrolled as a non-LEO member cannot continue his LEO membership or employment in his LEO capacity beyond age 65 should he continue his membership on the basis of his non-LEO position.

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

17:2-6.17 Approved allowance

When a retirement allowance becomes effective, the type of allowance (maximum or option) elected shall stand as approved.

17:2-6.18 Option "1" benefit

The reserve established under the provisions of Option "1" shall be a form of reducing term insurance, as the reserve shall reduce in value by the amount of the retiree's monthly allowance, whether received or not, for each month that he survives after the effective date of his retirement.

17:2-6.19 Maximum allowance prescribed

Where someone, other than a legal guardian, acting in behalf of a member makes application for a retirement allowance, such individual may not elect other than the maximum allowance for the member and the member's estate must be designated as the beneficiary for all death benefits payable on the member's account.

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

17:2-6.20 Final compensation; 10 and 12-month members

(a) In order to determine the final compensation (three-year average) for benefits on a:

1. Member reported on a monthly basis under a ten-month contract, use the creditable salaries upon which contributions were made to the system for his final 30 months of service.

2. Member reported on a monthly basis under a 12-month contract, use the creditable salaries upon which contributions were made to the system for his last 36 months of service.

(b) If a member was reported on any combination of ten and 12-month contract years in such three-year period, the final average compensation shall be determined on a proportional basis.

(c) The months for which no contributions were made shall be counted as zero.

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

Case Notes

Full amount of pension; requiring former employer to submit retroactive payment into retirement system reserve fund. *Muzzarelli v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 214.

17:2-6.21 Determination of last year's salary; veterans (veteran one-half pay retirement)

For a member reported on a monthly basis under a ten-month contract, use the creditable salaries upon which contributions were made in the member's final 10 months of service preceding retirement; on a 12-month contract basis, his final 12 months of service; combination of 10 and 12-month contracts, on a proportional basis. The months for which no contributions were made shall be counted as zero.

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

17:2-6.22 Waiver

(a) If for any reason a retirement allowance or portion thereof has been waived by a retired member or beneficiary, the benefit waived shall remain in the retirement reserve fund.

(b) Such person may cancel the waiver effective as of the first day of any month subsequent to the receipt of the notice of cancellation; however, he may not make a claim for payment of any benefits waived prior thereto.

17:2-6.23 Additional contributions

The additional contributions made under N.J.S.A. 43:14-17 as elected by the member, shall be credited for the purpose of retirement, with interest in the same manner as employed in the calculation of the regular retirement allowance.

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

17:2-6.24 Final compensation; biweekly salary computation for State employees reported by centralized payroll

(a) In computing "final compensation" upon which pension contributions were based, in the case of a 12-month State employee reported on a biweekly basis, a total of 78 biweekly pays will be used, including any retroactive salary payments that are attributable to the prescribed period.

(b) In computing (a) above, the total salary will be adjusted by the factors supplied by the actuary to convert biweekly salaries to compensate for State biweekly payroll schedules. Application of the factors to the salaries reported for pension purposes will develop "final compensation".

(c) In computing (a) 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 the member does not receive a salary. The adjustment as specified in (b) above shall not be made.

(d) If a member was reported on a biweekly basis on any combination of 10 and 12-month contract years, the final

average compensation prior to retirement shall be determined on a proportional basis. The biweekly pay periods for which no contributions were made shall be counted as zero.

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

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

Amended by 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).

Benefits based on salary attributable to the prescribed period.

17:2-6.25 Determination of last year's salary; State employee veterans reported by centralized payroll

(a) 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 factors supplied by the actuary to compensate for State biweekly payroll schedules.