

CHAPTER 2

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Authority

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

Source and Effective Date

R.2000 d.26, effective December 17, 1999.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Executive Order No. 66(1978) Expiration Date

Chapter 2, Public Employees' Retirement System, expires on December 17, 2004.

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.

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 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: Source and Effective Date. See, also, section annotations.

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 Officer (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 (Reserved)
- 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 Enrollment eligibility of professors and instructors employed on a temporary, provisional or adjunct basis by public institutions of higher education
- 17:2-2.7 Enrollment following deferred retirement

- 17:2-2.8 Enrollment eligibility of provisional or temporary employees occupying full-time police and fire titles

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; life insurance coverage
- 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 Retired life insurance coverage
- 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
- 17:2-3.13 Benefits payable under P.L. 1984, c.96, as amended by P.L. 1995, c.221
- 17:2-3.14 Acceptable designations of beneficiaries

SUBCHAPTER 4. MEMBERSHIP

- 17:2-4.1 Creditable compensation
- 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 (Reserved)
- 17:2-4.6 Minimum adjustment
- 17:2-4.7 Part-time hourly, on-call or per diem salary
- 17:2-4.8 Military leave prior to August 1, 1974; employer contributions
- 17:2-4.9 Eligibility for loan
- 17:2-4.10 Waiver of retirement benefits upon withdrawal
- 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
- 17:2-4.15 Ineligible service
- 17:2-4.16 Creditable service; Law Enforcement Officers

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 contributions (back deductions)
- 17:2-5.5 Optional purchases of eligible service
- 17:2-5.6 Methods of payment
- 17:2-5.7 (Reserved)
- 17:2-5.8 Per diem credit
- 17:2-5.9 through 17:2-5.10 (Reserved)
- 17:2-5.11 Service ineligible for purchase
- 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 date
- 17:2-6.3 Effective dates; change
- 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 Involuntary disability application
- 17:2-6.11 Early retirement; reduction
- 17:2-6.12 Service retirement; eligibility
- 17:2-6.13 Disability retiree; annual medical examinations

- 17:2-6.14 Disability retireant; annual report (employment, earnings, test and adjustment)
- 17:2-6.15 Disability retirements; filing after more than two years' discontinuance of service
- 17:2-6.16 Compulsory retirement; Law Enforcement Officers (LEO)
- 17:2-6.17 Approved allowance
- 17:2-6.18 Option "1" benefit
- 17:2-6.19 (Reserved)
- 17:2-6.20 Final compensation; 10 and 12-month members reported monthly
- 17:2-6.21 Determination of last year's salary; veterans paid on a monthly basis
- 17:2-6.22 Waiver
- 17:2-6.23 (Reserved)
- 17:2-6.24 Final compensation; biweekly salary computation for employees reported on a biweekly basis
- 17:2-6.25 Determination of last year's salary; veterans reported on a biweekly basis
- 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 Honorable service; interfund transfers; State-administered retirement systems
- 17:2-7.2 Intrafund transfers; State-administered retirement systems

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 State Investment Council, and the Pension System Actuary Committee 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.

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

(d) There shall be three standing committees, which are the finance committee, the retirement committee, and the executive committee. The committees shall be appointed by the chairperson 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 five members, three of whom shall be elected members of the Board.

(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).

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

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

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

17:2-1.4 Election of member-trustee

(a) The procedures for the election of a State, municipal, or county trustee representative to the Public Employees' Retirement System (PERS) Board of Trustees are set forth in this section.

(b) Eligible candidates shall include any active or retired member of the PERS. Only State members may seek State seats, only municipal members may seek municipal seats, and only county members may seek county seats on the Board of Trustees. All candidates shall comply with any and all requirements as provided by law and these rules. Any candidate who fails to comply with the law and these rules is automatically disqualified as a candidate.

(c) The following apply to election notices:

1. At least nine months prior to the expiration of the term of each elected trustee or immediately upon a vacancy on the Board, a notice shall be prepared and distributed by the Secretary of the Board or a contracted vendor through the certifying officers to each member who is eligible to vote.

2. The election notice shall:

- i. Advise the member of the election;
- ii. State the position and term to be filled;
- iii. State that nominating petitions are required and that the petition forms are available from the Board Secretary at the Division of Pensions and Benefits;
- iv. State the date of the election;
- v. Identify all present members of the Board; and
- vi. Include any other information regarding a particular election as specified by the Board of Trustees.

3. Election notices shall be forwarded in bulk and in appropriate number to the certifying officer or other appropriate fiscal officer of each employing agency, together with instructions as to who is to receive the notices.

4. A confirmation form also shall be forwarded to each certifying officer or appropriate fiscal officer. Such form shall be returned to the Secretary or contracted vendor and shall include documentation of:

- i. Receipt of the notice by the certifying officer or other appropriate fiscal officer; and
- ii. The extent to which the certifying officer or other appropriate fiscal officer has distributed the notice to eligible members.

5. Election notices shall be distributed to each member who is eligible to vote, as shown on a master list of members that shall be recorded and stored at the Board Secretary's Office and made available for review to any candidate at the Division of Pensions and Benefits. Only active members of the PERS may vote in the election of member-trustees of the Board of Trustees of the PERS. Any challenges or questions concerning eligible voters shall be made prior to the close of the voting deadline. Failure to challenge the list or any part of it in writing prior to the voting deadline shall disallow any challenges or questions raised after the close of voting.

(d) The following apply to nominated petitions:

1. Nominating petition forms shall be available from the Secretary of the PERS.

2. Nominating petitions shall be forwarded to each active or retired member who requests them after the Division verifies the member's eligibility to run for such election.

3. The petition forms shall explain that:

- i. For State trustee, at least 500 active State members, who are eligible to vote for the position, are required to sign the petition for the candidate.
- ii. For municipal trustee, at least 500 active municipal members, who are eligible to vote for the position, are required to sign the petition for the candidate.

iii. For county trustee at least 500 active county members, who are eligible to vote for the position, are required to sign the petition for the candidate.

4. The petition form shall require the candidate's name and employer, and the pension membership or Social Security number of each petitioner.

5. The form shall explain that an active member shall sign only one petition, with State members petitioning for a State candidate, municipal members petitioning for a municipal candidate, and county members petitioning for a county candidate.

6. The dates for filing and returning the petitions shall be identified, as well as the approximate date that ballots shall be sent to employers for distribution to voters.

7. Candidates named on the petitions shall sign each petition in a designated space indicating their willingness to be a candidate.

8. If only one candidate is nominated for a position, the candidate shall be deemed elected to the position without balloting. A notice to the certifying officers shall be distributed for posting at the employing locations, indicating no contest since only one candidate was nominated by petition.

(e) The following applies to distribution of election packets:

1. The Board reserves the right to authorize a vendor to collect votes through one or more of the following election processes. All active eligible members shall have an opportunity to cast a ballot through one of the following:

- i. Telephone (voice retrieval system—electronic vote);
- ii. Internet access (electronic vote);
- iii. Fax server (electronic vote); or
- iv. Color-coded paper ballot (postage-paid, self-seal return mailer).

2. For each eligible voter, there shall be forwarded to the certifying officer individual member packets with instructions for balloting which shall include the following information:

- i. The eligible member's name, pension membership number, pension location number, ballot number and personal identification number (PIN);
- ii. The closing date of the election;
- iii. The name of each candidate nominated including a biographical sketch listing the candidate's background and employer;
- iv. Instructions on how to properly cast a paper ballot, including notification that shall advise the member that the vendor shall sever the envelope containing

the voter's signature from the ballot, thus assuring a secret ballot. Unsigned ballots, mutilated ballots, illegible ballots, ballots with write-in votes, ballots with multiple votes or ballots where it cannot be determined whom the member intended to vote for shall be declared invalid and not considered in the final election count;

v. Instruction on how to properly cast an electronic vote;

vi. Instruction on proper use of the PIN number;

vii. Information stating that the candidate receiving a plurality of all the legal votes cast shall be declared elected to the position subject to approval by the Board;

viii. Information on how the first vote cast shall be counted as the official vote and subsequent votes will be rejected; and

ix. A statement regarding the confidentiality and security used by the vendor to protect the election process against fraudulent and/or multiple voting.

3. The ballot positions shall be determined by a drawing conducted at a time and place determined by the Board Secretary. All candidates may attend such drawing by contacting the Board Secretary's Office.

4. A receipt shall be signed by each certifying officer or representative, acknowledging the receipt and distribution of the election packets.

(f) The Board shall assess the percentage of returned votes after the conclusion of each respective election and determine whether or not the paper ballot should continue to be incorporated in the election packet as denoted in (e) above. The Secretary shall notify the vendor handling the election of the Board's decision regarding continued inclusion of the paper ballot in the initial election packet. If members cannot cast an electronic ballot, they shall have an opportunity to cast a paper ballot. If the Board determines that paper ballots no longer need to be included in the initial election packet, then the following apply to the distribution of paper ballots upon member request:

1. Active members may contact the vendor handling the election to request a paper ballot if the voter is unable to cast a ballot through any of the other electronic methods mentioned in (e) above. Members shall provide the vendor with their proper ballot/pension number and home address.

2. Upon proper notification or request by an eligible voter, the vendor shall mail a paper ballot to the voter's home address, together with instructions for casting the ballot, biographical information about the candidates, and a postage-paid return envelope.

3. The instructions shall also advise that the vendor shall sever the envelope containing the voter's signature from the ballot, thus assuring a secret ballot.

4. Unsigned ballots, mutilated ballots, illegible ballots, ballots with write-in votes, ballots with multiple votes or ballots where it cannot be determined whom the member intended to vote for shall be declared invalid and not considered in the final election count.

(g) The following applies to biographical information:

1. An informational sheet of biographical information regarding each candidate shall be prepared by the candidate and submitted to the Secretary for approval.

2. The Secretary shall inform each candidate that the approved biographical information will be included with the ballot packet.

3. The biographical information shall be distributed to the certifying officer of each employing agency at the time of distribution of the election packets, or otherwise distributed as approved by the Board of Trustees. The employer should post this information at appropriate places throughout the workplace of each employing agency so that the members of the retirement system shall have a reasonable opportunity to read and consider the biographical information regarding the candidates.

(h) Vote tabulation shall be as follows:

1. Only a member's first vote shall be counted as the official electronic or paper ballot. All duplicate or subsequent votes shall be considered invalid and not included in the final election count.

2. The candidate receiving the highest number of all legal votes contained in (e), and (f) above shall be elected to the position.

3. The Secretary of the Board shall oversee the election process to ensure that the vendor complies with all of the requirements and to assure the validity of the final election count.

4. The eligible candidates for the election shall be informed as to the method and the date of counting the ballots and shall be invited to be present or to be represented at the counting of the ballots.

(i) The following applies to recount procedures:

1. Any candidate or member, who shall have reason to believe that an error has been made in counting or declaring the vote, may request, in writing, within 20 days of the certification of the results of the election, that the Board of Trustees, at its next regular meeting or at a special meeting, hold a hearing to consider the request and determine whether a recount shall be held. The Board shall notify all candidates of its decision within 10 days thereafter. At such hearing, any member of the Board who is a candidate on the contested ballot shall not vote in the Board's decision on the request. All candidates on the contested ballot shall be invited to attend the Board's meeting and may present evidence to support their beliefs.

2. If a candidate or other interested party requests a recount, in writing, within the prescribed time, this request shall be reviewed and granted by the Board of Trustees if a recount could possibly affect the results of the election. All ballots received then shall be recounted and the recount shall be supervised by the Board Secretary. The Secretary shall certify the results of the recount to the Board of Trustees. If a recount is not requested within 20 days, the ballots may be destroyed.

3. Upon election and the taking of an oath of office, the State, municipal or county member-trustees shall serve for a term of three years. In the event that no member is certified as the winner of an election, the incumbent trustee shall serve until a successor is certified by the Board of Trustees.

(j) If there are at least three candidates in an election for member-trustee and the victorious candidate dies or declines to serve as such member-trustee prior to the beginning of the candidate's term as trustee, the candidate who obtained the next highest number of votes in that election (that is, the first runner-up) shall be selected to fill the Board vacancy caused by the death or inability or unwillingness to serve of the successful candidate. If the Board selects the first runner-up in such election and that person is unable or unwilling to accept the position, then the Board shall select the candidate who obtained the next highest number of votes in that election. If there is no second runner-up, the Board shall conduct a new election to fill the Board vacancy. For purposes of this provision, a member-trustee's term begins upon the taking of the oath of office.

Amended by R.1973 d.118, effective April 30, 1973.

See: 5 N.J.R. 124(b), 5 N.J.R. 204(a).

Amended by R.1985 d.213, effective July 9, 1976.

See: 8 N.J.R. 260(a), 8 N.J.R. 407(c).

Amended by R.1985 d.590, effective November 18, 1985.

See: 17 N.J.R. 2238(a), 17 N.J.R. 2784(a).

(a)4 added text: "If only one . . . only one nominee.;" and added (b)9.

Amended by R.1987 d.157, effective April 6, 1987.

See: 19 N.J.R. 52(a), 19 N.J.R. 565(a).

Substantially amended.

Amended by R.1993, d.78, effective February 16, 1993.

See: 24 N.J.R. 3690(a), 25 N.J.R. 711(a).

Added new (i).

Amended by R.1994 d.259, effective June 6, 1994.

See: 25 N.J.R. 5113(a), 26 N.J.R. 2299(d).

Repeal and New Rule, R.2000 d.73, effective March 6, 2000.

See: 31 N.J.R. 3926(a), 32 N.J.R. 821(a).

Section was "Election of member-trustee".

Case Notes

Request for recount in election of trustees of Public Employees' Retirement System was properly denied where there was no evidence of miscalculations or serious errors in counting process. *McLaughlin v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 181.

Candidate was ineligible to run for reelection to PERS Board of Trustees; prior disciplinary suspension. *Buriani-DeSantis v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 63.

17:2-1.5 Certifying Officer (employer)

(a) The Chief Fiscal Officer or other officer duly designated via resolution of each county, municipality or public agency and the personnel officer of the Division, Bureau or Institution of the State locations shall serve as the Certifying Officer for that unit.