

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CONSUMER AFFAIRS OFFICE OF WEIGHTS AND MEASURES Notice of Readoption Scales, Instruments, and Devices; Weights and Measures

Readoption: N.J.A.C. 13:47B

Authority: N.J.S.A. 51:1-61.

Authorized By: David Freed, Acting State Superintendent, Office of Weights and Measures.

Effective Date: October 16, 2023.

New Expiration Date: October 16, 2030.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:47B were scheduled to expire on November 30, 2023. The rules establish standards for weighing and measuring devices.

Subchapter 1 imposes inspection and operational requirements on commercial weighing and measuring devices. The rules in the subchapter also impose measuring standards for gasoline and similar liquid fuels; require length measures to conform to national standards; ban the use of household-type scales for commercial purposes; require Certificates of Inspection to be retained by the owner or operator of commercial weighing and measuring devices; and provide repair standards that protect the adjustable elements of weighing and measuring devices. Subchapter 3 sets forth the penalties for violating the rules in the chapter. Subchapter 4 sets forth training requirements for State, county, or municipal weights and measures officers.

The Office of Weights and Measures has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required pursuant to Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 45:914B-13, and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

TREASURY—GENERAL

(b)

DIVISION OF PENSIONS AND BENEFITS STATE POLICE RETIREMENT SYSTEM Disability Rules, COVID-19 Accidental Disability, and Accidental Death Rules

Adopted Amendments: N.J.A.C. 17:5-4.2, 5.4, 5.6, 5.13, and 6.1

Adopted New Rules: N.J.A.C. 17:5-5.12 and 8

Proposed: November 21, 2022, at 54 N.J.R. 2139(a).

Adopted: July 25, 2023, by William Tedder, Secretary, State Police Retirement System Board of Trustees.

Filed: October 24, 2023, as R.2023 d.133, with **non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3), and with **proposed amendments at N.J.A.C. 17:5-5.1 and proposed new N.J.A.C. 17:5-5.8 not adopted but still pending.**

Authority: N.J.S.A. 53:5A-3 et seq., specifically, 53:5A-30.h.

Effective Date: November 20, 2023.

Expiration Date: May 21, 2026.

Summary of Public Comments and Agency Responses:

The official comment period ended January 20, 2023. The following is a summary of the comments received from members of the public and the State Police Retirement System (SPRS) Board's (Board) responses. The

Board received comments from the following six individuals for their respective organizations/districts:

1. Wayne Blanchard, President, State Troopers Fraternal Association (STFA); Daniel Oliveira, President, State Troopers Non-Commissioned Officers Association (STNCOA); and Frank Serratore, President, State Troopers Superior Officers Association (STSOA)

2. Patrick J. Callahan, Colonel, Superintendent of the State Police

3. Hon. Patrick J. Diegnan, Jr., Senator, 18th Legislative District

4. Hon. Wayne P. DeAngelo, Assemblyman, 14th Legislative District

COMMENT: Commenter 1 requests that the last sentence at N.J.A.C. 17:5-4.2(a)2, which states: "This service shall be included in the computation of a retirement allowance on the basis of one percent of final compensation for each year of service," be removed. The commenter requests that the referenced language be replaced with language at P.L. 2019, c. 251, which states: "This service shall be the same as creditable service as a full-time commissioned officer, noncommissioned trooper, or trooper rendered as a member."

RESPONSE: The Board appreciates the commenter's suggestion and acknowledges that the wording should reflect the language at P.L. 2019, c. 251. The Board finds that the commenter's change is necessary as it will provide administrative clarity and accuracy. Furthermore, there is no burdensome impact to the State Police Retirement System Fund (Fund), any Fund members, or the public. The overall impact of this change is beneficial and necessary. The change puts the rule in compliance with the change in the law pursuant to P.L. 2019, c. 251, by removing the statement that transferred service into the SPRS will count differently at retirement than service earned in the system. Leaving the rule as is would be burdensome to members of the system and the public, as it would be an inaccurate statement of the law and an inaccurate statement of system operations. Therefore, the Board is changing N.J.A.C. 17:5-4.2(a)2 upon adoption to replace the last sentence with: "This service shall be the same as creditable service as a full-time commissioned officer, noncommissioned trooper, or trooper rendered as a member."

COMMENT: Commenters 1 and 2 both object to the amendment at N.J.A.C. 17:5-5.1(d), which requires a member to request a reasonable accommodation prior to applying for a disability retirement benefit. Both commenters expressed that New Jersey State Troopers must successfully complete bi-annual firearms qualifications, an annual physical fitness test, and must be available for recall to any state of emergency that may arise. Commenter 2 notes that the State Police is bound by the laws set forth by both the Americans with Disabilities Act and the New Jersey Law Against Discrimination. In addition, Commenter 2 noted that while accommodation can exist on a temporary basis, "the State Police works diligently and litigiously with in-house medical staff and outside experts to make a determination if disabilities in permanent form may necessitate retirement when fitness for duty has been compromised."

RESPONSE: The Board thanks the commenters for their recommendations, but the Board is not adopting N.J.A.C. 17:5-5.1(d) at this point in time, while it determines how to proceed.

COMMENT: Commenters 1 and 2 both object to the proposed amendments at N.J.A.C. 17:5-5.8, which gives the Division of Pensions and Benefits (Division) the authority to cancel a retirement application if any outstanding arrears or shortages due to delinquent enrollment, back deductions, purchases of service credit, or audits are not paid within 90 days of the Division's notification to the applicant. Both commenters express that there is no statutory basis for altering this regulation and assert that the proposed language violates past precedence and N.J.A.C. 17:5-5.5, regarding outstanding loan balances at retirement.

RESPONSE: The Board thanks the commenters for their recommendations, but the Board is not adopting N.J.A.C. 17:5-5.8 at this point in time, while it determines how to proceed.

COMMENT: All of the commenters object to the proposed amendment at N.J.A.C. 17:5-6.1(d), which specifies that SPRS members who wish to transfer service credit in accordance with P.L. 2019, c. 251, will be required to pay a cost differential from the non-SPRS credit to full SPRS credit. Commenter 1 asserts that the proposed amendment violates N.J.S.A. 53:5A-6(a), which includes no cost to the member to interfund transfer prior service credit from another State-administered retirement system. Commenter 1 also claims the proposed language is in violation of N.J.A.C. 17:5-6.1(e), which states that the comparison between the

creditable service in the former system will be compared to the system and that there is no cost associated with an interfund transfer, regardless of the member's contribution rate in the prior system. As prime sponsors of the legislation, Commenters 3 and 4 assert that the proposed amendment that requires members to pay a cost differential was not the intent of the legislation. Commenters 3 and 4 both claim that since the law's enactment, "membership has maintained an expectation of a cost-free transfer with the exception of those members who had to purchase previous time, again maintaining an expectation of a zero-cost differential."

RESPONSE: The Board thanks the commenters for their recommendations, but the Board is not adopting N.J.A.C. 17:5-6.1(d) at this point in time, while it determines how to proceed.

Federal Standards Statement

The adopted amendments and new rules meet the applicable Federal standards set forth at 26 U.S.C. § 403(b). The Board ensures the adopted amendments and new rules are in compliance with both Federal regulations and State statutes.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisk *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 4. PURCHASES AND ELIGIBLE SERVICE

17:5-4.2 Optional purchases of eligible service

(a) Notwithstanding the provisions at (a)5 and 6 below, 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 the member's current salary:

1. (No change.)

2. Former membership service established in another State-supported retirement system: In accordance with P.L. 2019, c. 251, for all retirements effective on November 1, 2019, and thereafter, such service can be used to qualify for retirement under the minimum service requirements. All or a portion of the service from a former membership may be included in the purchase of such service. This service shall be *[included in the computation of a retirement allowance on the basis of one percent of final compensation for each year of such service credit.]* ***the same as creditable service as a full-time commissioned officer, noncommissioned trooper, or trooper rendered as a member.***

i. Any active member shall be permitted to purchase such credits by paying, into the annuity savings fund, the amount required by applying the factor, supplied by the actuary, as being applicable to the member's age at the time of the purchase, to the member's salary at that time.

3.-4. (No change.)

5. Public employment in another state: In accordance with P.L. 2021, c. 399, for all retirements effective February 1, 2022, and thereafter, such service credit purchased will be equivalent to service credit acquired in the service in the State Police, as of the date of the purchase. A member may purchase service credit for all, or a portion of, such service up to the nearest number of years and months, but not to exceed five years. However, this service is only eligible for purchase if a member does not have a vested right to retirement benefits in another retirement system based in whole, or in part, upon that service. A member may purchase service credit for the service by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase, to the member's salary at the time, or to the highest annual compensation for service in this State for which contributions were made during any higher fiscal year, whichever is greater.

6. United States Government: In accordance with P.L. 2021, c. 399, for all retirements effective February 1, 2022, and thereafter, such service credit purchased will be equivalent to service in the service in the State Police, as of the date of the purchase. A member may purchase service credit for all or a portion of such service, up to five years. However, this service is only eligible for purchase if a member does not have a vested right to retirement benefits in another retirement system based in whole, or in part, upon that service. A member may purchase service credit for the service by paying, into the annuity savings fund, the amount required

by applying the factor, supplied by the actuary, as being applicable to the member's age at the time of the purchase, to the member's salary at the time, or to the highest annual compensation for service in this State for which contributions were made during any higher fiscal year, whichever is greater.

SUBCHAPTER 5. RETIREMENT

17:5-5.4 Willful negligence

(a) For purposes of determining an accidental disability, willful negligence is defined as follows:

1. Deliberate act or deliberate failure to act; or

2.-3. (No change.)

17:5-5.6 Disability retirement application and termination of service

(a) (No change.)

(b) Members who have involuntarily or voluntarily terminated service for any of the reasons listed below will not be permitted to apply for a disability retirement:

1.-2. (No change.)

3. Loss of licensure or certification required for the performance of the member's specific job duties; or

4. Voluntary separation from service for reasons other than a disability.

(c) (No change.)

17:5-5.12 Extension of service during a declared public health emergency or state of emergency

(a) A member of the SPRS may extend his or her service up to 90 days beyond his or her mandatory retirement date during a declared public health emergency or state of emergency, pursuant to P.L. 2021, c. 428.

(b) The Superintendent of the Division of the State Police shall have discretion in permitting and terminating extensions of service pursuant to (a) above, based on the need to supplement available staffing or in consideration of the member's specific assignment or expertise.

(c) This section applies to any request already made, as well as future requests. A member may make only one request for an extension, including any request made prior to February 17, 2022, the effective date of P.L. 2021, c. 428.

(d) This section is effective as of February 17, 2022, and shall apply to any declaration of a public health emergency or state of emergency declared, or in effect, on or after February 17, 2022.

17:5-5.13 Compulsory retirement

(a) Except as provided for at P.L. 2021, c. 428, compulsory retirement at age 55 is applicable to all members.

(b) (No change.)

SUBCHAPTER 6. TRANSFERS

17:5-6.1 Honorable service; interfund transfers; other State systems

(a)-(b) (No change.)

(c) Membership credit transferred pursuant to this section shall be included in the computation of a retirement allowance. In accordance with P.L. 2019, c. 251, for all retirements effective on November 1, 2019, and thereafter, such credits can be used to satisfy the statutory requirements of those benefits which specifically require a minimum number of years of creditable service as a State police employee. Any active member shall be permitted to transfer such previously purchased credit by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase, to the member's salary at that time. Such purchase may be made in regular installments equal to at least half of the normal contribution to the retirement system, over a maximum period of 10 years.

(d) The system will transfer membership to any State-administered system as follows:

1. A member, desiring to transfer service credit and contributions from one State-administered retirement system to another shall file an Application of Interfund Transfer and an "Enrollment Application" in place of the customary "Application for Withdrawal." This application will void all possible claims against the former system and all rights and benefits under the former system, when approved, and the new

membership is commenced in the new system. The member will be required to pay a cost differential from the non-SPRS credit to full SPRS credit. The actuary will calculate the cost differential and the member will have 30 days to decide whether they want to interfund transfer to SPRS. A waiver must be signed by the member if they wish to decline their interfund transfer rights.

- 2.-4. (No change.)
- (e)-(g) (No change.)

SUBCHAPTER 8. COVID-19 ACCIDENTAL DISABILITY AND ACCIDENTAL DEATH

17:5-8.1 Purpose

P.L. 2020, c. 54, extends accidental disability and accidental death benefits to active eligible law enforcement officers enrolled in the State Police Retirement System who are totally and permanently disabled as a result of contracting COVID-19 during the public health emergency in the State declared by the Governor in Executive Order No. 103 (2020). The purpose of this subchapter is to establish the rules necessary to implement the provisions of this law.

17:5-8.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

- “COVID-19” means a highly contagious respiratory disease caused by the SARS-CoV-2 virus.
- “Public health emergency” means the health emergency in the State of New Jersey, as defined by the Governor in Executive Order No. 103 (2020).
- “SARS-CoV-2” means severe acute respiratory syndrome coronavirus 2. It is the virus that causes COVID-19 (the disease).

17:5-8.3 Eligibility

(a) For purposes of subsection a of section 10 at P.L. 1965, c. 89 (N.J.S.A. 53:5A-10), permanent and total disability shall be deemed to have occurred as a direct result of a traumatic event occurring during, and as a result of, the performance of regular or assigned duties if:

- 1. The member contracts COVID-19 during the public health emergency;
- 2. The member is permanently and totally disabled as a result of COVID-19;
- 3. The member’s regular or assigned duties required the member to interact with the public, or to directly supervise other personnel so interacting with the public, on any date during the public health emergency; and
- 4. The member interacted with the public or directly supervised personnel that interacted with the public within 14 calendar days prior to the appearance of symptoms consistent with COVID-19, confirmed, in writing, by a licensed health care provider on a form approved by the Board of Trustees and also confirmed by a positive test result for SARS-CoV-2.

(b) A member who retired during the public health emergency shall be eligible to apply for a retirement allowance, and, if approved, the retirement allowance, pursuant to this subchapter, shall be made retroactive to the date of the initial retirement date.

(c) This section shall not apply to any member who had retired and subsequently returned to employment pursuant to P.L. 2020, c. 115, Executive Order No. 115 (2020), or any other executive order similarly permitting a retired member to return to employment without reenrollment, to assist during the public health emergency and state of emergency.

(d) New onset diseases and chronic psychological diseases resulting from prior exposure to, and recovery from, COVID-19 shall not be deemed a permanent and total disability resulting from COVID-19.

17:5-8.4 Accidental death in the line of duty attributable to COVID-19

(a) For purposes of subsection a of section 14 at P.L. 1965, c. 89 (N.J.S.A. 53:5A-14), a member whose death is attributable to COVID-19, complications therefrom, or the aggravation or acceleration of a

preexisting condition caused thereby, shall be deemed to have occurred as the result of an accident met in the actual performance of duty at some definite time and place if:

1. The member contracted COVID-19 and the member’s death occurs after receiving a positive test result for SARS-CoV-2 during the public health emergency in this State declared by the Governor in Executive Order No. 103 (2020);

2. The member dies as a result of COVID-19; and

3. The member’s regular or assigned duties required the member to interact with the public or directly supervise personnel who interact with the public, and the member so interacted with the public or directly supervised such personnel, on any date during the public health emergency in this State declared by the Governor in Executive Order No. 103 (2020), and as extended, and within 14 calendar days prior to the appearance of symptoms consistent with COVID-19, which diagnosis has been confirmed, in writing, by a licensed health care provider on a form approved by the Board and by a positive test result for SARS-CoV-2.

(b) The filing of an accident report with the State Police Retirement System shall not be required for an accidental death benefit allowed pursuant to this subchapter.

(c) If a member dies during the public health emergency declared by the Governor in Executive Order No. 103 (2020) and the benefit has been approved, pursuant to a provision other than this subchapter or section 14 at P.L. 1965, c. 89 (N.J.S.A. 53:5A-14) prior to the effective date of this act (March 9, 2020), P.L. 2020, c. 54, a beneficiary may apply for a benefit pursuant to this subchapter and, if approved, the benefit approved pursuant to this subchapter shall be made retroactive to the initial retirement date.

(d) This subchapter shall not apply to any member who has retired and subsequently returned to employment, pursuant to P.L. 2020, c. 115, Executive Order No. 115 (2020), or any other executive order similarly permitting a retired member to return to employment without reenrollment to assist during the public health emergency and state of emergency.

17:5-8.5 Filing requirements

(a) To apply for benefits pursuant to this subchapter, a member or retiree must file a COVID-19 Medical Questionnaire form (available on the Division’s website) in its entirety and provide all requested documents.

(b) Required documents are:

- 1. A copy of positive COVID-19 test results; and
- 2. A certification from a licensed health care provider. If an accident report is available, it shall be provided to the Division.

(c) The required licensed health care provider’s certification, as required pursuant to (b)2 above, must document that:

- 1. The member or retiree is totally and permanently disabled as a result of his or her exposure to COVID-19 during work-related duties; and
- 2. The work-related duties required interaction with the public, or directly supervising other personnel so interacting with the public, during the public health emergency declared by the Governor in Executive Order 103 (2020).

i. The interaction or supervision required pursuant to (c)2 above occurred within the 14 days preceding the appearance of symptoms consistent with COVID-19.

(a)

DIVISION OF STATE LOTTERY

**Notice of Readoption
Offset of State Lottery Prizes to Satisfy Defaulted
Federal and State Student Loans
Readoption: N.J.A.C. 17:43**

Authority: N.J.S.A. 5:9-13.10 through 13.16.

Authorized By: Elizabeth Maher Muoio, State Treasurer.

Effective Date: October 16, 2023.

New Expiration Date: October 16, 2030.