- (b) Requests for exceptions or extensions shall be made to the Chief of the Bureau of Rooming and Boarding House Standards, who shall have the authority to approve or deny such requests in accordance with the standards set forth in N.J.S.A. 26:2H-1 et seq. Requests shall be made upon forms to be supplied by the Bureau.
- (c) A request for an exception shall be submitted within 30 days of the receipt by the owner of notice of the ruling, action, or decision at issue. No request thereafter shall be considered, unless the owner advises the Bureau by mail or e-mail of his or her desire to file an exception request within 15 days of his or her receipt of notice of filing, action, or decision at issue and was unable to submit the application within the 30-day period allowed. The Chief of the Bureau shall have authority to waive these time requirements when the interests of justice so require.
- (d) If the licensee finds an extension of time necessary to abate any violation, a letter shall be submitted not fewer than two weeks prior to the date of compliance. This letter shall include:
 - 1. The violations abated to date;
- 2. The reason why each unabated violation cannot be corrected prior to the date of penalty; and
 - 3. The date by which all violations can be abated.

SUBCHAPTER 18. ENFORCEMENT REMEDIES

5:27A-18.2 Notice of violations and enforcement actions

The Commissioner shall serve notice to a residential health care facility of the proposed assessment of civil monetary penalties, suspension or revocation of a license, or placement on a provisional license, setting forth the specific violations, charges, or reasons for the action. Such notice shall be served on a licensee or its registered agent or a bona fide employee of the licensee, corporation, or company, or a person above the age of 14 at the licensee's dwelling in person or by certified mail.

5:27A-18.4 Civil monetary penalties

- (a) Pursuant to N.J.S.A. 26:2H-13 and 14, the Commissioner may assess a penalty for violation of licensure rules in accordance with the following standards:
 - 1.-5. (No change.)
- 6. For maintaining or admitting more patients or residents to a residential health care facility than the maximum capacity permitted under the license, [except in an emergency as documented by the residential health care facility in a contemporaneous notice to the Department,] \$25.00 per patient per day plus an amount equal to the average daily charge collected from such patient or patients;
- 7. For all violations of licensure regulations related to patient care or physical plant standards, [that represent a risk to the health, safety, or welfare of patients or residents of a residential health care facility or the general public, \$500.00 per violation where such deficiencies are isolated or occasional and do not represent a pattern or widespread practice throughout the residential health care facility] a penalty up to the statutory maximum of \$5,000 may be assessed.
- [8. Where there are multiple deficiencies related to patient care or physical plant standards throughout a residential health care facility, and/or such violations represent a direct risk that a patient's physical or mental health will be compromised, or where an actual violation of a resident's or patient's rights is found, a penalty of \$ 1,000 per violation may be assessed for each day noncompliance is found;
- 9. For repeated violations of any licensing regulation within a 12-month period or on successive annual inspections, or failure to implement an approved plan of correction, where such violation was not the subject of a previous penalty assessment, \$ 500.00 per violation, which may be assessed for each day noncompliance is found. If the initial violation resulted in the assessment of a penalty, within a 12-month period or on successive annual inspections, the second violation shall result in a doubling of the original fine, and the third and successive violations shall result in a tripling of the original fine;
- 10. For violations resulting in either actual harm to a patient or resident, or in an immediate and serious risk of harm, \$ 2,500 per violation, which may be assessed for each day noncompliance is found;] Recodify existing 11.-12. as 8.-9. (No change in text.)

(b)-(c) (No change.)

- 5:27A-18.6 Curtailment of admissions
- (a) The Department may issue an order curtailing all new admissions and readmissions to a residential health care facility in the following circumstances:
 - 1. (No change.)
- 2. Where the Department has issued a Notice of Proposed Revocation or Suspension of a residential health care facility license, for the purpose of limiting the census of a facility if patients or residents must be relocated upon closure; **or**
- 3. Where the admission or readmission of new patients or residents to a residential health care facility would impair the facility's ability to correct serious or widespread violations of licensing regulations related to direct patient care and cause a diminution in the quality of care[; or].
- [4. For exceeding the licensed or authorized bed or service capacity of a residential health care facility, except in those instances where exceeding the licensed or authorized capacity was necessitated by emergency conditions and where immediate and satisfactory notice was provided to the Department.]
 - (b) (No change.)
- 5:27A-18.10 Provisional license
 - (a)-(c) (No change.)
- (d) A residential health care facility placed on provisional license status shall **conspicuously** post the provisional license [in a location] within the facility [which is conspicuous].

SUBCHAPTER 19. CARBON MONOXIDE ALARMS

5:27A-19.1 Carbon monoxide alarms

- (a) Carbon monoxide alarms shall be installed and maintained in full operating condition in the following locations:
- 1. Single station carbon monoxide alarms shall be installed and maintained in the immediate vicinity of every sleeping room in buildings that contain a fuel-burning appliance or that have an attached garage.
- i. As an alternative to (a)1 above, carbon monoxide alarms may be installed in the locations specified in the Uniform Construction Code, N.J.A.C. 5:23, with the approval of the Department.
- (b) Carbon monoxide alarms shall be manufactured, listed, and labeled in accordance with UL 2034 and shall be installed in accordance with the requirements of this subchapter and NFPA 720. Carbon monoxide alarms shall be battery-operated, hard-wired, or of the plug-in type.
- (c) At the request of a tenant of a unit in which a person who is deaf or hearing impaired resides, the owner shall provide and install a visual alarm type carbon monoxide detector for that unit.

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES LOCAL FINANCE BOARD

Employee Compensation Disclosure Proposed New Rules: N.J.A.C. 5:30-18

Authorized By: Local Finance Board, Timothy J. Cunningham, Chair.

Authority: N.J.S.A. 40A:5-50 and 40A:5A-10.c.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2017-138.

Please submit written comments on the notice of proposal by September 15, 2017, via e-mail to dlgs@dca.nj.gov or by regular mail to:

Patricia Parkin McNamara, Executive Secretary Local Finance Board Department of Community Affairs

PO Box 803 Trenton, NJ 08625-0803

For comments submitted via e-mail, please name the subject heading "NJAC 5:30-18: Employee Compensation Disclosure Form."

The agency proposal follows:

Summary

N.J.S.A. 40A:5-49 and 50 authorize the Local Finance Board (Board) to promulgate rules implementing an employee compensation disclosure form to be utilized by local units subject to the Local Fiscal Affairs Law (N.J.S.A. 40A:5-1 et seq.). N.J.S.A. 40A:5-49 sets forth that, as a general matter, whenever a local unit's governing body "proposes a resolution, or other action that will establish or modify the salaries, benefits, or other compensation of any individual employee or group of its employees," a public meeting must first be held where the proposed action shall be introduced and discussed by the governing body. At least 10 days prior to the meeting date, notice of the public meeting must appear in a newspaper with substantial circulation in the local unit. Prior to publication of the meeting notice, an employee compensation disclosure form promulgated by the Local Finance Board must be prepared by the chief financial officer or other appropriate officer of the local unit. The form shall be filed by the chief financial officer with the clerk or the secretary to the governing body, who must in turn make the form available to the public upon request and provide said form to the governing body. The employee compensation disclosure form is a mandatory component of any formal action taken by the local unit, but shall not be considered part of any contract or agreement. Any formal governing body action approving or disapproving a measure establishing or modifying employee compensation shall occur no earlier than the 10th calendar day immediately following the meeting at which the measure was introduced and discussed. Governing body actions taken without complying with the statute are deemed null and void.

The Local Finance Board proposes new N.J.A.C. 5:30-18.1 and 18.2 to implement N.J.S.A. 40A:5-49. Proposed new N.J.A.C. 5:30-18.1 defines the terms "local unit" and "compensation." The term "local unit" encompasses not only entities subject to the Local Fiscal Affairs Law, but also to those governed by the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.); N.J.S.A. 40A:5A-10.c permits the Board to extend provisions of the Local Fiscal Affairs Law as appropriate to entities subject to the Local Authorities Fiscal Control Law.

Proposed new N.J.A.C. 5:30-18.2 sets forth requirements for the mandatory public meeting including advertising, notice publication, the opportunity for public comment on the proposed compensation measure, and when the governing body can take final action on the measure. The rule would address preparation and content of the employment compensation disclosure form along with the form's availability to the general public.

Proposed new N.J.A.C. 5:30-18.2(a) states that, except for those circumstances listed in paragraph (a)2, such as compensation modified by ordinance (where a public hearing is already required prior to adoption), a local unit's governing body shall adhere to the provisions of N.J.S.A. 40A:5-49 with respect to any employee compensation measure. This includes the ratification of individual employment agreements and collective negotiated agreements and where compensation is being established or modified by resolution within a range set by an existing ordinance. The term "governing body" does not extend to chief executive officers of municipalities or counties that are authorized by law under the municipality's or county's form of government to unilaterally set the compensation of certain employees. The term "employee" also includes governing body members and appointed local government officers.

The Board is proposing the promulgation of the employee compensation disclosure forms set forth in N.J.A.C. 5:30-18.1 Appendices A and B. The proposed employee compensation disclosure form in N.J.A.C. 5:30-18 Appendix A, which is patterned after the collective negotiations agreement summary forms utilized by the State's Public Employee Relations Commission (PERC), would be utilized when the governing body proposes ratifying a collective negotiated agreement or an individual employment contract; this form compares the base salary and other compensation in the base year (generally the final

year of the expiring or expired contract) versus each year of the proposed contract. For employees that would not be subject to a collective negotiated agreement or an individual employment agreement, the proposed form in N.J.A.C. 5:30-18 Appendix B would compare current compensation (or compensation of a prior employee in the same position) to the proposed level of compensation.

As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed new rules would enhance transparency by implementing a statute requiring public hearings and improving public disclosure for a greater number of local unit employee compensation measures. Taxpayers and residents would be better informed and have greater opportunity to impact governing body decisions with respect to salary and benefit increases, particularly the ratification of labor agreements and individual employee agreements containing salary, wage, health benefit, and other compensation provisions directly impacting property taxes, utility rates, and other fees and charges. Additional public participation and governing body deliberation could lead to greater consideration by local units of more reasonable and fiscally sustainable employee compensation, along with potential cost saving measures such as sharing services with another government entity, utilizing an independent contractor, or reducing positions and reallocating their duties amongst other existing positions.

Economic Impact

The proposed new rules will potentially have a positive impact on taxpayers and residents while not imposing a significant burden on local government officials. The proposed forms require the listing of compensation information the local unit already possesses and should be analyzed to determine whether to establish or modify employee compensation. Greater public understanding and participation in employee compensation decisions improve the ability to hold local unit governing bodies accountable for decisions made on key cost drivers, thereby increasing a local unit's incentive to restrain personnel costs.

Federal Standards Statement

No Federal standards analysis is required because the proposed new rules are not being proposed in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The Board does not anticipate that the proposed new rules will have a direct impact on the creation or loss of local government jobs; however, additional public participation and governing body deliberation could lead to greater consideration by local units that would eliminate existing positions, such as sharing services with another government entity, utilizing an independent contractor, or reducing positions and reallocating their duties amongst other existing positions.

Agriculture Industry Impact

The Board does not anticipate that the proposed new rules would have an impact on the agriculture industry, as they pertain to compensation of local government employees.

Regulatory Flexibility Statement

The proposed new rules, which pertain to compensation of local government employees, would not impose any reporting, recordkeeping, or compliance requirement on "small businesses," as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact Analysis

There is an extreme unlikelihood that the proposed new rules would evoke a change in the average costs associated with housing or affect the affordability of housing in New Jersey, as they pertain to local government employee compensation.

Smart Growth Development Impact Analysis

There is an extreme unlikelihood that the proposed new rules would evoke a change in the housing production within Planning Areas 1 or 2,

or within designated centers, under the State Development and Redevelopment Plan, as they pertain to local government compensation.

Full text of the proposed new rules follows:

SUBCHAPTER 18. EMPLOYEE COMPENSATION DISCLOSURE

5:30-18.1 Definitions

The following word and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Compensation" means all forms of cash and non-cash payments or benefits provided in exchange for services, including, but not limited to, salaries and wages, health benefits and other fringe benefits, bonuses, severance payments, deferred payments, and other financial arrangements or transactions, such as personal vehicles, meals, housing, personal and family education benefits, below-market loans, payment of personal or family travel, entertainment, and personal use of the local unit's property.

"Local unit" means any entity subject to the Local Fiscal Affairs Law (N.J.S.A. 40A:5-1 et seq.) or the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.).

5:30-18.2 Disclosure of compensation for certain employees

- (a) Before taking formal action approving or disapproving a measure establishing or modifying the compensation of its employees, a local unit shall first hold a public meeting pursuant to the provisions of N.J.S.A. 40A:5-49 where the proposed measure shall be introduced and discussed in public by the governing body, except to the extent that the circumstances set forth in (a)2 below apply. The governing body shall allow public comment on the proposed measure.
- 1. Governing body members, the mayor or other chief executive, and appointed local government officers shall be considered employees for purposes of N.J.S.A. 40A:5-49.
- 2. The provisions of N.J.S.A. 40A:5-49 shall not apply to the establishment, increase, or decrease of the compensation of a local government employee that results from:
- i. Promoting, demoting, reassigning, or otherwise transferring an employee to a position where the employee's compensation will be subject to an existing amount or package of compensation, except that the provisions of N.J.S.A. 40A:5-49 shall apply if the governing body adopts a resolution specifying the precise amount of compensation the employee is to receive within an existing compensation range;
 - ii. An order by a Federal agency, State agency, or court;
- iii. Imposition by an arbitrator pursuant to the Police and Fire Public Interest Arbitration Reform Act, N.J.S.A. 34:13A-14 et seq.;
- iv. A unilateral action by the chief executive officer of a municipality or county as authorized by law under the municipality's or county's form of government and within the general limits of the municipal or county budget; or
- v. A county ordinance or municipal ordinance enacted pursuant to N.J.S.A. 40A:9-165, except that the provisions of N.J.S.A. 40A:5-49

shall apply where the ordinance establishes a compensation range for one or more positions but the precise amount of compensation an employee receives within said range is established or modified through a resolution of the governing body.

- 3. Governing body ratification of an individual employment agreement or collective negotiation agreement addressing compensation shall be subject to the provisions of N.J.S.A. 40A:5-49, except to the extent that (a)2iii above shall apply. The provisions of N.J.S.A. 40A:5-49 shall not apply to independent contractors or where another government entity would be providing a service.
- (b) Prior to submission of the public meeting notice for advertisement, the chief financial officer or other appropriate officer of the local unit shall prepare an employment compensation disclosure form, set forth at N.J.A.C. 5:30-18 Appendix A or B, incorporated herein by reference, and file the form with the clerk or the secretary to the governing body of the local unit. The form shall display the estimated cost of compensation for each individual employee or group of employees, itemized by the specific form of compensation, the estimated cost of the compensation at the time of the action, and the incremental difference resulting from any changes. This information shall be displayed for each year of a proposed individual employment agreement or collective negotiated agreement.
- (c) The clerk or the secretary to the governing body must provide the employee compensation disclosure form to the governing body prior to the public meeting.
- (d) Copies of the proposed compensation measure and accompanying employee compensation disclosure form shall be made available to members of the general public upon request during the local unit's normal business hours, at no charge, beginning at least seven calendar days preceding the date of the public meeting.
- (e) Notice of the public meeting must appear in a newspaper with substantial circulation in the local unit at least 10 calendar days prior to the meeting date. The notice shall set forth the date, time, place, and purpose of the public meeting, along with the time and place at which copies of the proposed action regarding employee compensation and employee compensation disclosure form shall be available to the public upon request at no charge.
- (f) At the public meeting, a declaration shall be made that the employee compensation disclosure form has been provided to the governing body pursuant to the requirements of N.J.S.A. 40A:5-49. The employee compensation disclosure form shall be made part of any formal action taken by the local unit, but shall not be considered part of any contract or agreement.
- (g) Governing body action approving or disapproving a measure establishing or modifying the compensation of its employees shall occur no earlier than the 10th calendar day immediately following the meeting at which the measure was introduced and discussed.
- (h) Governing body actions taken without compliance with N.J.S.A. 40A:5-49 and this subchapter shall be null and void.

Employer:	Organization:
	Appendix A ENSATION DISCLOSURE FORM nents and Individual Employment Agreements
	accordance with N.J.S.A. 40A:5-49. This form shall be prepared is a mandatory part of any formal action taken by the local unit,
SECTION I: Parties	
Public Employer:	County:
Position(s)/Employee Representative (if applicable)):
 base year is the final year of the prior employee For a new hire to a position for which co employee in that position did not have an in the prior employee received in their final year. 	employee in that position had an individual employment agreement, the oyee's individual employment agreement. Impensation has already been established by ordinance, and the prior individual employment agreement, the "base year" is the compensation ear. In the same position without a contract, the existing employee's current
SECTION II: Base Salary Calculation	
or table and any amount provided pursuant to a sala It shall also include any other item agreed to by t	ows: "Base salary' means the salary provided pursuant to a salary guide ary increment, including any amount for longevity or length or service. the parties, or any other item that was included in the base salary as salary shall not include non-salary economic issues, pension and health
Salary Costs in Base Year:	\$
Longevity Costs in Base Year:	\$
Other Base Year Salary Costs:	

\$______ Page **1** of **4**

Complete ALL Pages

Sum of "Other" Costs:

TOTAL Base Salary Cost:

Employer:	Organization:					
SECTION III: Yearly Inc	rease in Base Sal	lary Cost over	Term of Contra	ct		
Total Base Salary Cost from	\$					
Increases	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6*
Effective Date (Month/Day/Year)						
Cost of Salary Increments (\$)						
Salary Increase Above Increments (\$)						
Longevity Increase (\$)						
Total Increased Cost for "Other" Items (\$)						
Total Increase (\$) (sum of prior lines) *pp	ease add another n	ase for addition	 al years past Year 6			
SECTION IV: Average	_					
Dollar Increase Over Life o	f Contract	\$	[sun	n of all "Total Inc	crease" Lines in S	ection III]
Percentage Increase Over L	ife of Contract	%[divide "Dollar Increase" by "Total Base			se Salary"]	
Average Percentage Increas	e per Year	%[divide "Percentage Increase" by number of y contract]			per of years of	
SECTION V: Medical C	Costs		Base Year	Ye	ar 1	
Health Plan Cost		\$_		\$		
Prescription Plan Cost		\$_		\$		
Dental Plan Cost		\$_		\$		
Vision Plan Cost		\$_		\$		
TOTAL Cost of Insurance		\$_		\$		
Employee Insurance Contri	butions	\$_		\$		
Contributions as % of Total	Incurance Cost		0/2		0/2	

Page 2 of 4 Complete ALL Pages

Employer:	Organization:						
Describe any medical insur contributions past Year 1.	ance changes, inclu	ding co-pays	s and sched	uled modificatio	ns in employ	ee insurance	е
SECTION VI: Other Ed		←		Increases			
Item Description	Base Year Cost (\$)	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
SECTION VII: Miscelland	eous Compensatior	1					
Describe any compensation Section VI: Other Economic			nsation whi	ch do not lend th	nemselves to i	inclusion un	nder
SECTION VII: Certificati	ion and Signature						
The undersigned certifies th	hat the foregoing fig	ures are true	e:				
Print Name:							
Position/Title:							
Signature:							
Date:							

Page 3 of 4 Complete ALL Pages

Employer: _	Organization:
	Notes Page

Page 4 of 4 Complete ALL Pages

Employer: ______Position:_____

EMPLOYER	Appendix B COMPENSATION DISCLO	OSURE FORM
		40A:5-49. This form shall be prepared y formal action taken by the local unit,
SECTION I: Parties		
Public Employer:	County:	
Position:		
SECTION II: Base Salary Calcula	tion & Comparison	
Note: For new hires, the compensation of	f the prior employee in that position sha	all be listed under "current or prior".
or table and any amount provided pursu It shall also include any other item agr	ant to a salary increment, including any reed to by the parties, or any other iter	e salary provided pursuant to a salary guide amount for longevity or length or service. In that was included in the base salary as salary economic issues, pension and health
and medical insurance costs.	Current or Prior	Proposed
Salary Costs	\$	\$
Longevity Costs	\$	\$
Other Salary Costs:		
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Sum of "Other" Costs:	\$	\$
TOTAL Base Salary Cost:	\$	\$
Dollar Increase - Total Base Salary	\$	
Percentage Increase – Total Base Salary	%	

Page 1 of 4 Complete ALL Pages

Employer:		Position:		
SECTION III: Medical Costs	(Current/Prior	r Proposed	
Health Plan Cost	:	\$	<u> </u>	
Prescription Plan Cost	:	\$	<u> </u>	
Dental Plan Cost	:	\$	<u> </u>	
Vision Plan Cost	:	\$	\$	
TOTAL Cost of Insurance	:	\$	<u> </u>	
Employee Insurance Contributions	:	\$	<u> </u>	
Contributions as % of Total Insurance	Cost			%
SECTION IV: Other Economic I	tems Outside Ba	se Salary (Ado	l additional pages for	additional items)
Item Description	Current/Prior (Cost (\$) Pro	posed Cost (\$)	

SECTION VII: Miscellaneous Compensation

Describe any compensation measures or changes to compensation which do not lend themselves to inclusion under Section IV: Other Economic Items outside Base Salary

Page 2 of 4 Complete ALL Pages

Employer:	Position:
SECTION VII	: Certification and Signature
The undersigned	d certifies that the foregoing figures are true:
Print Name:	<u> </u>
Position/Title:	<u> </u>
Signature:	
Date	

Page 3 of 4 Complete ALL Pages

Employer:	Position:	
	Notes Page	

Page 4 of 4 Complete ALL Pages
