



State of New Jersey  
DEPARTMENT OF THE TREASURY  
DIVISION OF PENSIONS AND BENEFITS  
(609) 292-7524 TDD (609) 292-7718  
[www.state.nj.us/treasury/pensions](http://www.state.nj.us/treasury/pensions)

JON S. CORZINE  
Governor

MAILING ADDRESS:  
PO BOX 295  
TRENTON, NJ 08625-0295

LOCATION:  
50 WEST STATE STREET  
TRENTON, NEW JERSEY

R. DAVID ROUSSEAU  
State Treasurer

FREDERICK J. BEAVER  
Director

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**TO:** Participants in the Public Employees' Retirement System (PERS)

**FROM:** Frederick J. Beaver   
Director, Division of Pensions and Benefits

The Division of Pensions and Benefits has been made aware of a memo, written on CWA local leadership letterhead and circulated to certain union members which erroneously and misleadingly describes the process for readopting regulations for the Public Employees' Retirement System. The purpose of this Division notice is to provide PERS members with a factual description of what will and will not occur as well as to correct the misinformation and unnecessarily alarmist language contained in the CWA memo. Unfortunately, the letter does not contain an accurate description of the regulatory process. We think it important that PERS members be provided with an accurate depiction of what will and will not occur through the adoption of regulations (which is usually a period of 4 to 6 months), most of which are unchanged.

Now let's consider the process.

- At its monthly meeting on October 21, 2009, the PERS Board unanimously approved the proposed regulations for publication in the New Jersey Register;
- We expect the proposed rules to be published sometime in November;
- Once published, interested parties will have sixty (60) days to submit their comments;
- Upon close of the comment period, Division of Pensions and Benefits staff will address all comments, make changes where appropriate, and prepare a document for consideration by the Board;
- Once all this is done the Board will be presented with a revised regulation, with comments and responses to comments, for Board consideration; and
- If approved by the Board, the regulations will then be sent for final publication.

Suggestions that this process would begin and conclude over a condensed period of time, such as during the next two months, are irresponsibly false.

Written comments are required as it is the best way to ensure that all member concerns are addressed.

Aside from the process, let's now consider what the letter describes as rules that "must be objected to." The first paragraph of the letter talks to "who is appointed to the State Investment Council, how much you can earn in retirement, the terms of loans from your pension account, breaks in service and rules governing disability retirements." The letter

fails to mention that the rules dealing with these particular issues appear in the statutes governing the Public Employees' Retirement System. They have been set forth by the Legislature — not the agency. The Board does not have the ability to promulgate regulations that are contrary to law and it does not do so.

Specifically, the letter addresses the earnings limit in both service retirements and disability retirements. The reenrollment provisions of the PERS statute for the types of retirements are clearly set forth in the state statutes, and any regulations that appear in the Administrative Code help to clarify the terms of the existing statute. The reenrollment provisions, and the attendant maximum earnings for retirees who return to public service, are not created by the Agency through regulation and thus cannot be changed by the Agency through regulation.

Finally, the CWA letter suggests that "...we need a public hearing to voice our objections to these rules. We need changes to stop the unjust treatment of retirees who may be harmed by these rules..." You have every opportunity to voice objections or concerns during the comment period required by the regulatory process.

You would be well advised to read the regulations when they are promulgated. It is unclear how so many people know that they would like to argue against the regulations when the regulations are not currently considered public information and therefore no one should have been able to review them. However, when they are promulgated, it is important that everyone reads them. I am confident that, once read, the membership will feel assured that the Division is not attempting to railroad the regulations through the administrative process — nor is the Division interested in treating retirees unjustly. To the contrary, the regulations are written in an effort to help the members of PERS understand the statutes that govern it so compliance is met.