

4A:3-5.6 Federal fair labor standards applicable to more than 40 hours in a workweek for 3E, 4E, NL, and N4 titles: State service

(a) Employees in exempt positions may be eligible for overtime compensation under this section as follows:

1. Employees in exempt fixed workweek titles (3E, 4E) shall be eligible for either cash payment or compensatory time off at the discretion of the department head with the approval of the Chairperson or designee for time worked in excess of 40 hours per week.

2.-3. (No change.)

(b) Overtime compensation for employees in exempt positions shall be as follows:

1. Exempt employees in fixed workweek titles (3E, 4E) shall be compensated either in cash payment or compensatory time off at the discretion of the department head with the approval of the Chairperson or designee for time worked in excess of the regular workweek.

i.-ii. (No change.)

2.-3. (No change.)

4A:3-5.7 Special circumstances: State service

(a)-(c) (No change.)

(d) Eligibility for overtime compensation for exceptional emergencies shall be as follows:

1. (No change.)

2. An agency head shall file with the Chairperson or designee two reports concerning an exceptional emergency as follows:

i.-ii. (No change.)

3. These provisions shall not apply to work performed beyond the regular work hours on emergency maintenance, construction, snow removal, or other related work in situations that constitute unreasonable safety hazards to the public, employees, other persons, or property of the State. The Chairperson or designee shall establish emergency condition rates for these circumstances.

(e) Eligibility for special project rate compensation shall be as follows:

1. If an employee works on a part time, occasional, or sporadic basis, and solely at the employee's option, in a different capacity from which the employee is regularly employed, the hours employed in the different capacity shall be excluded from the calculation of the hours to which the employee is entitled to overtime compensation. Such employment may be paid at special project rates as approved by the Chairperson or designee.

2. NL and N4 employees who perform extraordinary work activities on a limited or periodic basis necessitating work time beyond the general workweek in the same capacity from which the employee is regularly employed may be paid special project rates as approved by the Chairperson or designee.

3. A fully detailed justification for a special project for which (e)1 or 2 above would be applicable must be filed with the Chairperson or designee for review and approval.

4A:3-5.9 Appointing authority responsibilities: State service

(a) (No change.)

(b) A copy of each department's procedures, written interpretations, and any subsequent changes are to be filed with the Chairperson or designee and approved prior to promulgation.

(c) For budget requests, the appointing authority shall provide an annual summary to include the extent and justification for overtime required during the past fiscal year, current fiscal year, and the extent and justification of anticipated overtime during the next fiscal year. The latter shall be supported by a description of the work programs to be accomplished, the amount of hours and money involved, the circumstances dictating that it be overtime, and alternatives that would permit accomplishment of the overtime work on regular time. The instructions for the above shall be included in the "Manual for Preparation of Budget Request" which is published and distributed to all State agencies by the Office of Management and Budget in the Department of the Treasury. The appointing authority shall file a copy of this summary with the Chairperson or designee.

(d) (No change.)

(e) Upon demand, the appointing authority shall make available to the Chairperson or designee all records and accounts of overtime work at the time(s) and location(s) specified.

(f) Upon demand for reports of compensatory time off or comparable time off, the appointing authority shall make available to the Chairperson or designee the following items:

1.-8. (No change.)

(g) (No change.)

4A:3-5.10 Appeal procedures: State service

(a) (No change.)

(b) Position designation appeals may be filed by an employee and shall be submitted, in writing, to the appointing authority through the personnel office.

1.-2. (No change.)

3. The decision letter shall state that the appellant has the right to appeal an adverse decision. Additionally, if the appellant does not receive a decision letter from the appointing authority within 20 days, he or she may file an appeal, in writing, within 10 days from the final day for the appointing authority's decision. All second level appeals shall be submitted to the Civil Service Commission.

i. (No change.)

4. The appropriate section of the Civil Service Commission shall review the appeal, order an audit where warranted, and issue a written decision. The decision letter shall be issued within 20 days of receipt of the appeal and shall include findings of fact, conclusions, a determination and a statement that the appellant has the right of appeal to the Chairperson or designee.

5. All appeals to the Commission must include copies of the determinations and decision letters from the lower levels and state which findings are being disputed and the reasons. Appeals shall be submitted, in writing, within 20 days of receipt of the decision letter from the prior level in the Civil Service Commission.

i. The Commission shall render a decision based on the written record or such other procedures as he or she deems appropriate.

ii. The decision of the Commission shall be the final administrative decision.

(c) Title designation appeals may be filed either by the appointing authority or an affected employee.

1. The appeal must explain how the requested status more accurately reflects the duties of the title under the Fair Labor Standards Act. See N.J.A.C. 4A:3-5.4. Such appeals shall be submitted, in writing, to the Civil Service Commission.

2. (No change.)

3. An appeal of the first level decision may be filed with the Commission in accordance with (a)5 above.

(d) (No change.)

## COMMUNITY AFFAIRS

### (a)

#### DIVISION OF LOCAL GOVERNMENT SERVICES LOCAL FINANCE BOARD

#### Duties; Use of Local Finance Notices; Reserve for Pension Contributions; Annual Budgets of Municipal Port Authorities; Grants

#### Adopted Repeals: N.J.A.C. 5:30-1.2, 1.5, 3.7, 10.1, and 16.3

#### Adopted Amendment: N.J.A.C. 5:30-1.8

Proposed: December 5, 2016, at 48 N.J.R. 2513(b).

Adopted: April 12, 2017, by Local Finance Board, Timothy J. Cunningham, Chair.

Filed: April 18, 2017, as R.2017 d.097, **without change**.

Authority: N.J.S.A. 40:68A-43.1, 40A:5A-26, 52:27BB-8, and 52:27BB-10.

Effective Date: May 15, 2017.  
 Expiration Date: January 15, 2023.

**Summary of Public Comment and Agency Response:**  
**No comments were received on the notice of proposal to repeal N.J.A.C. 5:30-1.2, 1.5, 3.7, 10.1, and 16.3 and amend N.J.A.C. 5:30-1.8.**

**Federal Standards Statement**

No Federal standards analysis is required because the adopted amendment and repeals are not being adopted 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.

**Full text of the adopted amendment follows:**

SUBCHAPTER 1. GENERAL PROVISIONS

- 5:30-1.2 (Reserved)
- 5:30-1.5 (Reserved)
- 5:30-1.8 Use of Local Finance Notices

(a) When necessary for the day-to-day administration of the responsibilities of the Board and the Division, the Director may issue such communications and directives as necessary to local units subject to the oversight of the Board and Division. Such communications and directives shall be known as Local Finance Notices (Notices), and shall be numbered in a scheme as determined necessary from time-to-time by the Director.

(b) (No change.)

SUBCHAPTER 3. ANNUAL BUDGET

- 5:30-3.7 (Reserved)

SUBCHAPTER 10. MUNICIPAL PORT AUTHORITIES

- 5:30-10.1 (Reserved)

SUBCHAPTER 16. AGENCY COMMUNICATIONS WITH LOCAL UNITS

- 5:30-16.3 (Reserved)

**(a)**

**DIVISION OF LOCAL GOVERNMENT SERVICES  
 LOCAL FINANCE BOARD**

**Refunding of Bonds Meeting Certain Conditions  
 Adopted Amendment: N.J.A.C. 5:30-2.5**

**Adopted New Rule: N.J.A.C. 5:31-8.1**

Proposed: December 19, 2016, at 48 N.J.R. 2659(a).  
 Adopted: April 12, 2017, by the Local Finance Board, Timothy J. Cunningham, Chair.

Filed: April 18, 2017, as R.2017 d.098, **without change**.  
 Authority: N.J.S.A. 18A:24-61.5(b), 40A:2-51(c), and 40A:5A-6.  
 Effective Date: May 15, 2017.  
 Expiration Dates: January 15, 2023, N.J.A.C. 5:30;  
 July 18, 2018, N.J.A.C. 5:31.

**Summary of Public Comment and Agency Response:**  
**No comments were received on the notice of proposal to amend N.J.A.C. 5:30-2.5 and adopt new N.J.A.C. 5:31-8.1.**

**Federal Standards Statement**

No Federal standards analysis is required because the new rule and amendment are not adopted 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.

**Full text of the adoption follows:**

CHAPTER 30  
 LOCAL FINANCE BOARD

SUBCHAPTER 2. LOCAL BOND LAW

5:30-2.5 Refunding of bonds meeting certain conditions  
 (a) Notwithstanding the approvals and consents required of the Local Finance Board in connection with the authorization, sale, and issuance of refunding bonds pursuant to N.J.S.A. 40A:2-51 et seq., or 18A:24-61 et seq., any municipality, county, or school district meeting all of the conditions set forth below, may authorize and issue refunding bonds, including by adoption of any refunding bond ordinance or resolution in connection therewith, to refund long-term debt without prior approval of the Local Finance Board, where the issuance of those refunding bonds realizes debt service savings on the outstanding obligations, provided all of the following conditions are present:

1. (No change.)
  2. The new debt service schedule shall be structured, such that no annual debt service payment is more than it was under the original debt service schedule;
  3. The final maturity of the refunding bond does not extend past the budget year in which such final maturity was originally scheduled to mature; and
  4. (No change.)
- (b) (No change.)

CHAPTER 31  
 LOCAL AUTHORITIES

SUBCHAPTER 8. FINANCING

5:31-8.1 Refunding of bonds meeting certain conditions  
 (a) Any local unit subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.) meeting all of the conditions set forth below, may authorize and issue refunding bonds to refund long-term debt without prior approval of the Local Finance Board, where the issuance of said bonds realizes debt service savings on the outstanding obligations, provided all of the following conditions are present:

1. The present value savings is at least three percent;
2. The new debt service schedule shall be structured such that no annual debt service payment is more than it was under the original debt service schedule;
3. The final maturity of the refunding bond does not extend past the budget year in which such final maturity was originally scheduled to mature;
4. The debt savings are substantially level across the life of the refunding; and
5. The resolution allowing for the refunding is adopted by at least a two-thirds vote of the full membership of the governing body.

(b) The local unit shall, within 10 days of the closing on the refunding bond sale, file with the Local Finance Board a comparison of the initial and refunding debt service schedule showing annual present value savings; a summary of the refunding; an itemized accounting of all costs of issuance; a certification from the chief financial officer, or equivalent, for the local unit that all of the conditions of this section have been met; and a resolution that has been passed by at least two-thirds of the full membership of the governing body allowing for the refunding.