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RULE PROPOSALS

**LABOR AND WORKFORCE DEVELOPMENT
WORKFORCE DEVELOPMENT**

49 N.J.R. 2883(a)

Reproposed New Rules: N.J.A.C. 12:23-14

[Click here to view Interested Persons Statement](#)

New Jersey Innovation and Research Fellowship Program Rules

Authorized By: Aaron R. Fichtner, Ph.D., Acting Commissioner, Department of Labor and Workforce Development.

Authority: *N.J.S.A. 34:1-20* and *34:1A-3(e)*; and P.L. 2015, c. 235, Section 3.

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

Proposal Number: PRN 2017-225.

A **public hearing** on the proposed new rules will be held on the following date at the following location:

Monday, October 9, 2017
10:00 A.M. to 12:00 Noon
New Jersey Department of Labor and Workforce Development
John Fitch Plaza
10th Floor Conference Room
Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609) 292-2789 if you wish to be included on the list of speakers.

Submit written comments by November 4, 2017, to:

David Fish, Executive Director
Office of Legal and Regulatory Services
NJ Department of Labor and Workforce Development
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13th Floor
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The agency proposal follows:

Summary

The Department of Labor and Workforce Development (Department) is proposing new rules at N.J.A.C. 12:23-14 in order to implement P.L. 2015, c. 235 (the Act), which directs the Department, in consultation with the New Jersey Economic Development Authority, to "promulgate rules and regulations for the establishment, administration and evaluation of the New Jersey Innovation and Research Fellowship Program." According to the Act, the New Jersey Innovation and Research Fellowship Program (IRFP) will provide grants from State workforce development funds to appropriate businesses in order to support a technological research and innovation ecosystem in New Jersey.

In February 2017, the Department proposed new N.J.A.C. 12:23-14 in order to implement the Act (see *49 N.J.R. 322(a)*). The publication of that notice of proposal was followed by a comment period (during which individuals may submit written comments relating to the rule proposal) and a public hearing (during which individuals may testify in regard to the rule proposal). No one testified at the public hearing; however, the Department did receive one written comment from Marcus Weldon, President of Bell Labs and NOKIA CTO. Mr. Weldon commended the State Legislature, the Governor, and the Department for "transforming this legislation into reality and moving the New Jersey Innovation and Research Fellowship Program forward," adding that he also commended the Department, "for laying out a thorough eligibility, application and [page=2884] evaluation process ..." However, Mr. Weldon did take issue with several particular aspects of the proposed new rules and suggested alternatives relative to each. Specifically, Mr. Weldon stated the following:

(1) With regard to proposed N.J.A.C. 12:23-14.3(a), which states that, "[t]he Department will award IRFP grants to certain employers in the field of technology research in order to fund fellowships, with each fellowship lasting no fewer than two and no more than three years," Mr. Weldon suggested that the Department, "consider amending [the section] to grant the Commissioner the authority to waive the 'no more than three years' rule as needed/necessary to accommodate and support innovative projects that may require additional time."

(2) With regard to proposed N.J.A.C. 12:23-14.3(d), which states in pertinent part that in order to establish eligibility for an IRFP grant the applicant fellow, "must be prepared to receive a Ph.D. degree within six months or have just received a Ph.D. degree within the past six months from a university in New Jersey," Mr. Weldon suggested that, "the language be amended to read, 'He or she must be prepared to receive a Ph.D. degree within twelve months,'" adding, "[t]he proposed six months may limit the pool of viable applicants/projects," and "NOKIA Bell Labs believes extending the six-month language to twelve will result in more innovative proposals and a much more robust application process."

(3) With regard to the same paragraph of N.J.A.C. 12:23-14.3(d) quoted in (2) above, Mr. Weldon suggested, "adding language ... granting the Commissioner the authority and discretion to review and approve any application from a candidate with a Ph.D., regardless of the timeframe of the Ph.D. award."

(4) Also with regard to the same paragraph of N.J.A.C. 12:23-14.3(d) quoted in (2) above, Mr. Weldon suggested, "removing the stipulation that the Ph.D. is obtained from a university in New Jersey."

With regard to each of the provisions of the proposed new rules with which Mr. Weldon takes issue, he maintained that none is "consistent with the intent that the New Jersey Innovation and Research Fellowship Program has maximum impact on the ability to attract the best and brightest graduates to New Jersey."

Taking into consideration Mr. Weldon's written comments, the Department is re-proposing new N.J.A.C. 12:23-14 with two changes: the Department will change N.J.A.C. 12:23-14.3(d)1, so as to, require that the applicant fellow must be prepared to receive a Ph.D. degree within 12 months or have just received a Ph.D. degree within the past 12 months, rather than the originally proposed six months; and remove the requirement that the anticipated or recently earned Ph.D. degree must be from a university in New Jersey, permitting instead that the Ph.D. degree may be from a university located outside of New Jersey. The Department declines to make the remaining changes suggested by Mr. Weldon.

Following is summary of the sections of the proposed new subchapter.

Proposed new N.J.A.C. 12:23-14.1 would set forth the purpose of the subchapter.

Proposed new N.J.A.C. 12:23-14.2 would include definitions of words and terms used throughout the subchapter.

Proposed new N.J.A.C. 12:23-14.3 would address the scope of the subchapter and would address eligibility for applicant employers and applicant fellows under the IRFP.

Proposed new N.J.A.C. 12:23-14.4 would set forth requirements for the IRFP grant application.

Proposed new N.J.A.C. 12:23-14.5 would address Department review and evaluation of IRFP grant applications.

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

Social Impact

In that the purpose of the proposed new rules is solely to implement P.L. 2015, c. 235, the anticipated positive social impact of P.L. 2015, c. 235, as described in the legislation itself, speaks most directly to the anticipated positive social impact of the IRFP and, by extension, the proposed new rules. That is, within the first section of the Act, it states the following:

New Jersey, the headquarters of many of the leaders in the field of industrial research and development, has a long, successful history of innovation in the technology field.

...

Some of the most important inventors and technology companies in the world call New Jersey home. These companies, working in concert with universities, business partners and scientists, are part of the innovation ecosystem that consumers in the State, nation and around the world depend on and need to drive the economy.

An innovation ecosystem is an environment in which the persons who have the knowledge, ideas and actions are connected by institutional entities, such as universities, business firms, research institutes, state and local governments, and policy makers, to the materials and capital needed to spur development, inventions and economic growth.

It is essential that New Jersey acts to fertilize, maintain and grow an innovation ecosystem that allows technological ideas to flourish in New Jersey, and to expand upon the already rich environment for the development of technology in the State.

By directing workforce development funds toward the establishment of technological seed growth in New Jersey, the State will assist in the growth of the type of innovation ecosystem that has created such groundbreaking technology in the past.

Furthermore, it is the Department's belief that the proposed new rules would have a positive social impact in that they would minimize any possible confusion as to which entities and which individuals are eligible to apply for IRFP grants, what process must be followed in order to apply for an IRFP grant, and what criteria will be applied by the Department in determining who will be awarded an IRFP grant.

Economic Impact

It is not anticipated that the proposed new rules will have an economic impact beyond the related economic impact of the Act and the IRFP. The anticipated economic impact of the Act and the IRFP is addressed within the bill statement, which accompanies the Act. Specifically, the bill statement indicates that, "[i]t is essential that New Jersey acts to fertilize, maintain and grow an innovation ecosystem that allows technology ideas to flourish in New Jersey and expand upon the already rich environment for information technology in the State," adding, "[b]y dedicating a portion of the Workforce Development Partnership Fund to the establishment of technological seed growth in New Jersey, the State will assist in the growth of the type of innovation ecosystem that has created groundbreaking technology in the past."

Federal Standards Statement

The proposed new rules do not exceed standards or requirements imposed by Federal law as there are currently no Federal standards or requirements applicable to the subject matter of this rulemaking. As a result, a Federal standards analysis is not required.

Jobs Impact

With the exception of the new fellowships, which would be funded through the IRFP program, the Department does not anticipate that the proposed new rules will result directly in either the generation or loss of jobs.

Agriculture Industry Impact

The Department does not anticipate that the proposed new rules would have an impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed new rules would impose no reporting, recordkeeping, or compliance requirements on small businesses as that term is defined within the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq. Rather, the proposed new rules would establish a grant program (the IRFP) for eligible employers, including eligible small employers; a program which would require the submission of an application and related materials as a prerequisite to obtaining the grant; a program which would require the applicant employer and applicant fellow, along with the information and materials that they submit, to be evaluated by the Department prior to being awarded a grant.

[page=2885] Housing Affordability Impact Analysis

The proposed new rules would not evoke a change in the average costs associated with housing or the affordability of housing. The basis for this finding is that the proposed new rules pertain to a workforce development grant program. The proposed new rules do not pertain to housing.

Smart Growth Development Impact Analysis

The proposed new rules would not evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the proposed new rules pertain to a workforce development grant program. The proposed new rules do not pertain to housing production, either within Planning Areas 1 or 2, within designated centers, or anywhere in the State of New Jersey.

Full text of the proposed new rules follows:

SUBCHAPTER 14. NEW JERSEY INNOVATION AND RESEARCH FELLOWSHIP PROGRAM**12:23-14.1 Purpose**

Pursuant to P.L. 2015, c. 235, the purpose of this subchapter is to establish the New Jersey Innovation and Research Fellowship Program (IRFP), including defining the scope of the IRFP and establishing criteria and procedures for submission of applications to receive grant monies under the IRFP.

12:23-14.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings:

"Commissioner" means the Commissioner of the Department of Labor and Workforce Development.

"Department" means the Department of Labor and Workforce Development.

12:23-14.3 Scope and eligibility

(a) The Department will award IRFP grants to certain employers in the field of technology research in order to fund fellowships, with each fellowship lasting no fewer than two and no more than three years.

(b) In order to be eligible for a grant under the IRFP, both the applicant employer and the ultimate recipient of the IRFP grant funds (that is, the applicant fellow), shall meet the criteria set forth within this section.

(c) In order to be eligible for a grant under the IRFP, an applicant employer shall satisfy the following criteria:

1. Its primary business is the provision of a scientific process, product, or service and the applicant employer owns, has filed for, or has a license to use, protected, proprietary intellectual property;
2. Its principal place of business is in New Jersey;
3. It is organized as a C Corp or LLC with a business plan; and
4. It is not a home-based operation.

(d) In order to be eligible for a grant under the IRFP, the applicant fellow shall satisfy the following criteria:

1. He or she must be prepared to receive a Ph.D. degree within 12 months or have just received a Ph.D. degree within the past 12 months;
2. He or she must be in good standing with the conferring university; and
3. He or she must be a United States citizen, be a legal permanent resident, or possess all of the following: a valid immigrant visa, a valid employment authorization document, and an I-485 application pending with the United States Citizenship and Immigration Service.

(e) The IRFP grant monies shall be used by the grantee employer solely for salary to the fellow, with the limited exception that a small expense budget of no more than five percent of the total grant amount may be established for equipment and/or conference attendance.

i. Upon a showing of good cause by the applicant employer within the body of the IRFP grant application, the Commissioner may, concurrent with the award of the IRFP grant, authorize the expenditure for equipment and/or conference attendance of a fixed amount that is greater than five percent of the total grant amount.

(f) Under no circumstances shall IRFP grant monies be used by the grantee employer for capital purchases.

12:23-14.4 Application for IRFP grant

(a) The application for an IRFP grant shall be completed jointly by the applicant employer and the applicant fellow.

(b) Each applicant employer shall submit the application for an IRFP grant to the Commissioner in a format approved by the Commissioner. The completed application shall include, but not be limited to, the following:

1. Information regarding the applicant fellow, including, but not limited to, name, address, telephone number, undergraduate university attended, doctoral university attended, and name of dissertation advisor(s);
2. No fewer than two references from individuals who are familiar with the qualifications of the applicant fellow, along with the following information regarding each individual reference: name, title, institution, address, relationship to applicant fellow, and period of contact with applicant fellow;
3. Information regarding the university advisor of the applicant fellow, including but not limited to, name, university, department, address, and telephone number;
4. Information from the university advisor of the applicant fellow, including, but not limited to, existing relationship between his or her university research group and industrial partners; and relationship(s) that will be developed, extended, or enhanced by placement of the applicant fellow with the applicant employer;

5. From the applicant fellow:

i. One of the following:

- (1) Birth certificate or passport for a United States citizen;
 - (2) Legal Permanent Resident Card for a legal permanent resident of the United States; or
 - (3) Immigrant visa, employment authorization, and proof of having submitted a completed I-485 application to the United States Citizenship and Immigration Service; and
- ii. Postdoctoral CV including publication list; and
 - iii. A one-page explanation from the applicant fellow as to how his or her past or proposed research or skills are relevant to the applicant employer's mission and as to how the fellowship will benefit the applicant fellow;
6. Information from the applicant employer, including but not limited to, name and phone number of primary and secondary contact persons; company name, address, tax identification number; total number of employees; number of full-time employees; state of incorporation; date of incorporation; most recent two fiscal years' revenues; a list of all sources and amounts of third-party external funding the company has received from the State of New Jersey, the Federal government, venture funding and private investment, and initial public offering;
7. From the applicant employer:
- i. Executive business plan;
 - ii. One-page resume for all key personnel;
 - iii. One-page summary of the proposed project written in laymen's terms;
 - iv. A demonstration of the scientific and technological viability of the applicant employer's business product(s), service(s), and/or process(es) and the company's technical ability to implement;
 - v. Certificate to conduct business in New Jersey;
 - vi. Project description (10-page limit), including detailed work plan, timeline, methods and milestones, measurable impact of project on company goals and business plan, resources available (lab facilities, equipment) and their relevance to the project, expected next steps for fellow following completion of the first year of the fellowship, and a simple Gantt chart showing the proposed milestones and timelines and measurable accomplishments agreed upon by both the applicant fellow and applicant employer;
 - vii. A statement as to how the applicant employer plans to provide mentorship to the applicant fellow;
 - viii. A one-page explanation from the applicant employer as to how the applicant fellow will help the company to meet its commercialization goals; and
- [page=2886] ix. Liability insurance policies; and
8. Any other information or documentation the Commissioner deems appropriate.

12:23-14.5 Review and evaluation of IRFP grant applications

(a) The following factors will be among those considered in the review and evaluation of applications for an IRFP grant:

1. Quality of mentorship/supervision based on the degree of planning for the applicant fellow to work with and be mentored by a leading scientist in his or her field of expertise;
2. Quality and relevance of proposed project to company goals;

3. Degree to which use of applicant fellow in proposed project establishes relationship between company and applicant fellow's degree granting university;
 4. Degree to which combined applicant fellow and applicant employer program affects transfer of technology and technical expertise from university to company;
 5. Commitment of applicant fellow to career in industry;
 6. Personnel expertise and experience;
 7. Physical resources available;
 8. Soundness of business and commercialization plan; and
 9. Scientific and technological viability of the applicant employer's business product(s), service(s), and/or process(es) and the company's technical ability to implement it.
- (b) All applications will be reviewed and evaluated, with notice of approval or disapproval issued by the Department.
- (c) No application will be funded, unless approved by the Commissioner.
- (d) The Commissioner retains the authority to modify application review factors based on the changing needs of the New Jersey economy and to establish appropriate application review and approval methods consistent with those conditions.
- (e) Upon approval of the application, an IRFP grant contract containing the terms and conditions of the grant will be executed between the applicant employer and the Department.