

attend apprenticeship programs that address all aspects of HVACR practice.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the proposed amendments.

Jobs Impact

The Board does not believe that the proposed amendments will increase or decrease the number of jobs in New Jersey.

Agriculture Industry Impact

The Board does not believe that the proposed amendments will have any impact on the agriculture industry of this State.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (the Act), N.J.S.A. 52:14B-16 et seq., requires the Board to give a description of the types and an estimate of the number of small businesses to which the rulemaking will apply. A regulatory flexibility analysis is not required because the proposed amendments only apply to applicants for licensure who are not considered "small businesses" because they do not yet have a license to practice HVACR.

Housing Affordability Impact Analysis

The proposed amendments will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rulemaking would evoke a change in the average costs associated with housing because the proposed rules concern educational requirements for licensure as master HVACR contractors.

Smart Growth Development Impact Analysis

The proposed amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the proposed amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments concern educational requirements for licensure as master HVACR contractors.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Board has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS

13:32A-1.2 Definitions

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

...

"HVACR apprentice" means a person who is enrolled in an HVACR apprenticeship or other training program **including, but not limited to, steamfitter, pipefitter, or sheet metal apprenticeship programs**, approved by the United States Department of Labor and who engages in the installation, alteration, repair, service, or renovation of HVACR systems under the [supervision] **supervision** of a Master HVACR contractor as part of that apprenticeship or other training program **and who has studied and performed the majority of HVACR practices**.

"HVACR journeyman" means any person who installs, alters, repairs, services, maintains, or renovates HVACR systems and who works under the supervision of a Master HVACR contractor **and has studied and performed the majority of HVACR practices**.

"Master heating, ventilating, air conditioning, and refrigeration contractor" or "[master] **Master HVACR contractor**" means any person licensed by the Board who obtains a pressure seal and advertises, undertakes, or offers to undertake for another, the planning, laying out, supervising, installing, servicing, maintaining, renovating, testing, commissioning, starting-up, or repairing of HVACR systems, apparatus,

or equipment. In order to act as a "Master HVACR contractor," an individual shall be a bona fide representative of the legal entity licensed pursuant to the provisions of this chapter **and shall have studied and performed the majority of HVACR practices**.

...

SUBCHAPTER 2. APPLICATION FOR LICENSURE

13:32A-2.2 Education requirements

(a) An applicant for licensure as a master HVACR contractor shall complete one of the following:

1. Five years of employment in the HVACR contracting business, which consists of:

i. Four or more years in an HVACR apprenticeship or other training program **including, but not limited to, steamfitter, pipefitter, or sheet metal apprenticeship programs**, approved by the United States Department of Labor, which includes education in the proper management of chlorofluorocarbons and other refrigerants, including high global warming potential gases, and education in propane services that meets the requirements of (c) below; and

ii. (No change.)

2.-3. (No change.)

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

TREASURY — GENERAL

(a)

DIVISION OF PENSIONS AND BENEFITS

STATE POLICE RETIREMENT SYSTEM

9/11 World Trade Center Accidental Disability Benefits

Proposed Amendments: N.J.A.C. 17:5-4.2 and 6.1

Proposed New Rules: N.J.A.C. 17:5-7

Authorized By: State Police Retirement System Board of Trustees,
Mary Ellen Rathbun, Secretary.

Authority: P.L. 2019, c. 157 and P.L. 2019, c. 251.

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

Proposal Number: PRN 2020-049.

Submit comments by July 3, 2020, to:

Susanne Culliton
Assistant Director
Division of Pensions and Benefits
PO Box 295
Trenton, NJ 08625-0295
DPB.regulations@treas.nj.gov

The agency proposal follows:

Summary

On July 8, 2019, Governor Murphy signed the Bill Ricci World Trade Center Rescue, Recovery, and Cleanup Operations Act (P.L. 2019, c. 157), which permits certain members of the Police and Firemen's Retirement System of New Jersey (PFRSNJ), the State Police Retirement System (SPRS), or the Public Employees Retirement System (PERS) to receive an accidental disability retirement allowance for disability resulting from participation in 9/11 World Trade Center rescue, recovery, or cleanup operations. The law, which became effective on July 8, 2019, states the Board of the SPRS (Board) shall promulgate rules necessary to implement the provisions of the law.

On August 23, 2019, Governor Murphy signed P.L. 2019, c. 251, which was effective on October 22, 2019. Previously, an SPRS member who had service credit in another State-administered retirement system before entering the SPRS could either interfund transfer (if the former account is still active) or purchase (if the former account has expired) that credit. The credit could be used to compute a retirement allowance on the

basis of one percent of final compensation for each year of that service credit. However, the credit could not be used to satisfy the minimum creditable service requirement for retirement on a service or special service retirement, which requires a certain number of years of creditable service to qualify for those retirement benefits. As a result of the August 2019 change in the law, transferred credits may be used in determining service and special service retirement benefits. Additionally, a member transferring or electing to purchase service credit who retires under a service, special, or deferred retirement option before completing the required payments will receive pro rata credit for service earned or purchased before retirement, unless the member chooses to make the additional lump sum payment required at retirement to provide full credit. Accordingly, the rules need to be amended to implement the provisions of both of the new laws.

Therefore, the Board proposes to amend N.J.A.C. 17:5-4.2(a)2 and 6.1(c), which affect purchases, transfers, and eligible service and adopt new N.J.A.C. 17:5-7, which affects retirements within the SPRS.

Subchapter 4. Purchases and Eligible Service

At Subchapter 4, the Board proposes to amend N.J.A.C. 17:5-4.2(a)2, to include the provisions of P.L. 2019, c. 251, which permits the purchase of former membership service from another State-supported retirement system to qualify for service or special retirement.

Subchapter 6. Honorable Service; Interfund Transfers; Other State Systems

At Subchapter 6, the Board proposes to amend N.J.A.C. 17:5-6.1(c) to permit membership credit transferred from another State-administered retirement system to be used as creditable service as a State police employee.

Subchapter 7. 9/11 World Trade Center Accidental Disability

The Board proposes to add new N.J.A.C. 17:5-7, 9/11 World Trade Center Accidental Disability, to implement P.L. 2019, c. 157, which permits certain members of the SPRS to receive an accidental disability retirement allowance for disability resulting from participation in 9/11 World Trade Center rescue, recovery, or cleanup operations. The subchapter will set forth: the purpose of this subchapter, definitions, eligibility, and filing requirements.

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 and amendments benefit SPRS members, retirees, and survivors of members and retirees by increasing eligibility for accidental disability for some members, and by increasing pension benefits for those now eligible to purchase or transfer service from another system. Members, retirees, and survivors of members and retirees rely on the efficient operation of the SPRS to provide them with a monthly distribution in retirement, proper crediting of contributions and earnings, death benefits, and information regarding their individual accounts.

Economic Impact

The proposed new rules and amendments will result in an increase in contributions by the State for the SPRS. P.L. 2019, c. 251, permits SPRS members to purchase former membership credit and to have it recognized as creditable service in the SPRS. If such purchases cover the full cost of credit established, there is potentially no additional cost to the State. However, the bill also provides that service credit transferred from another State-administered retirement system into SPRS be credited with no additional cost. It is not possible to reliably estimate the economic impact of this change as the number of State police hires who enter SPRS membership with credible service from another pension system is unknowable.

Additionally, according to the fiscal estimate produced by the Office of Legislative Services for P.L. 2019, c. 157, “the cost increase cannot be estimated because it will depend on the number of members or retirees who incurred an illness, who can prove participation in the rescue, recovery, and cleanup operations, and who submit an application for the benefit. It is likely that the increase in costs will not be significant.”

Federal Standards Statement

The proposed new rules and amendments meets the applicable Federal standards, that is, 26 U.S.C. § 403(b). There are no other Federal standards applicable to the subject matter of this rulemaking.

Jobs Impact

Implementation of the proposed new rules and amendments will not result in the generation or loss of jobs. The Division invites any interested parties to submit written comments along with any data or studies concerning the jobs impact of the proposed new rules and amendments.

Agriculture Industry Impact

The proposed new rules and amendments will not have any impact on the agriculture industry.

Regulatory Flexibility Statement

N.J.A.C. 17:5 affects SPRS members, retirees, and survivors of members and retirees. Thus, the proposed new rules and amendments do not impose any reporting, recordkeeping, or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The proposed new rules and amendments will have no impact on the affordability of housing in New Jersey, nor will they involve a change in the average costs associated with housing, because the new rules and amendments pertain only to administration of the SPRS for members, retirees, and survivors of members and retirees.

Smart Growth Development Impact Analysis

The proposed new rules and amendments will not have any impact on the achievement of smart growth; nor will they involve a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey, because the rules pertain to administration of the SPRS for members, retirees, and survivors of members and retirees.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Board has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 4. PURCHASES AND ELIGIBLE SERVICE

17:5-4.2 Optional purchases of eligible service

(a) 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: [Such] **In accordance with P.L. 2019, c. 251, such service [cannot] can** be used to qualify for retirement under the minimum service requirements [of 20 years at age 50 or “Special Retirement.”]. 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.

3.-4. (No change.)

SUBCHAPTER 6. TRANSFERS

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

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

(c) Membership credit [so] transferred **under this section** shall be included in the computation of a retirement allowance. Such credits [cannot] **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.

(d)-(g) (No change.)

SUBCHAPTER 7. 9/11 WORLD TRADE CENTER ACCIDENTAL DISABILITY

17:5-7.1 Purpose of this subchapter

The Bill Ricci World Trade Center Rescue, Recovery, and Cleanup Operations Act, P.L. 2019, c. 157 (Act), permits certain members or retirees of the Police and Firemen's Retirement System of New Jersey (PFRSNJ), State Police Retirement System (SPRS), and Public Employees' Retirement System (PERS) to receive an accidental disability retirement allowance for a disability resulting from participation in 9/11 World Trade Center rescue, recovery, or cleanup operations. The purpose of this subchapter is to establish the rules necessary to implement the provisions of the Act.

17:5-7.2 Definitions

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

"Qualifying condition or impairment of health" includes: diseases of the upper respiratory tract and mucosae, including conditions of conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, upper airway hyper-reactivity, and tracheo-bronchitis, or a combination of such conditions; diseases of the lower respiratory tract, including, but not limited to, bronchitis, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic; diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure; diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions; diseases of the skin, such as contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; and new onset diseases resulting from exposure, as such diseases occurring in the future, including cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, musculoskeletal disease, and chronic psychological disease.

"World Trade Center Health Program" means the program created by the James Zadroga Health and Compensation Act of 2010, including the Clinical Centers of Excellence administered by the Centers for Disease Control/National Institute for Occupational Safety and Health.

"World Trade Center rescue, recovery, or cleanup operations" means the rescue, recovery, or cleanup operations at the World Trade Center site between September 11, 2001 and October 11, 2001.

"World Trade Center site" means any location below a line starting from the Hudson River and Canal Street, east on Canal Street to Pike Street, south on Pike Street to the East River, and extending to the lower tip of Manhattan.

17:5-7.3 Eligibility

(a) The event(s) on which an application for accidental disability retirement benefits is based shall be presumed to have occurred during, and as a result of, the performance of a member's regular or assigned duties and not the result of the member's willful negligence, if the member:

1. Participated in World Trade Center rescue, recovery, or cleanup operations for:
 - i. A minimum of eight hours; or
 - ii. Less than eight hours, and the member sustained a documented physical injury at the World Trade Center site between September 11, 2001 and September 12, 2001, that prevented the member from continuing to participate in World Trade Center rescue, recovery, or cleanup operations for a minimum of eight hours, and the documented physical injury is a qualifying condition or impairment of health that resulted in a total and permanent disability for which the member seeks a presumption under this subchapter;

2. Is totally and permanently disabled by a qualifying condition or impairment of health as a direct result of participation in World Trade Center rescue, recovery, or cleanup operations; and

3. Passed a physical examination for entry into public service which failed to disclose evidence of a qualifying condition or impairment of health that formed the basis for the total and permanent disability.

(b) A retiree who retired on a service retirement, special retirement, or an ordinary disability retirement shall be eligible to apply to the Board to have the retiree's retirement allowance recalculated as an accidental disability retirement allowance for benefit payments on or after the application for recalculation, if the retiree:

1. Participated in the World Trade Center rescue, recovery, or cleanup operations for a minimum of eight hours;

2. Is totally and permanently disabled by a qualifying condition or impairment of health as a direct result of participation in World Trade Center rescue, recovery, or cleanup operations; and

3. Passed a physical examination for entry into public service that failed to disclose evidence of a qualifying condition or impairment of health that formed the basis for the total and permanent disability.

17:5-7.4 Filing requirements

(a) A member or retiree must file a written and sworn Eligibility Registration Form with the Division indicating the dates, locations of service, and number of hours of participation in World Trade Center rescue, recovery, or cleanup operations by July 8, 2021, to qualify for the presumption or recalculation pursuant to N.J.A.C. 17:5-7.3, unless a retiree files an application for recalculation, pursuant to N.J.A.C. 17:5-7.3(b), before July 8, 2021, then such application for recalculation shall serve as the Eligibility Registration Form. This form allows eligible SPRS members or retirees the right to file for an accidental disability retirement should they become totally and permanently disabled by a qualifying condition or impairment of health as a direct result of participation in World Trade Center rescue, recovery, or cleanup operations.

(b) A retiree seeking recalculation of a retirement allowance pursuant to N.J.A.C. 17:5-7.3(b) must file an application for recalculation, on a form prescribed by the Division, within 30 days of the date that the retiree knew, or should have known, of the existence of a total and permanent disability caused by a qualifying condition or impairment of health and its relation to World Trade Center rescue, recovery, or cleanup operations. Retirees who knew, or should have known, of the existence of a total and permanent disability caused by a qualifying condition or impairment of health and its relation to World Trade Center rescue, recovery, or cleanup operations before July 8, 2019, must file an application for recalculation, on a form prescribed by the Division, within 30 days from the date members and retirees are notified of the enactment of P.L. 2019, c. 157.

(c) A member with an Eligibility Registration Form on file with the Division must file an application with the prospective date of retirement pursuant to N.J.A.C. 17:5-5.1.

(d) N.J.S.A. 53:5-10 requires medical examinations of members who apply for accidental disability retirements. If a member or retiree who is enrolled in the World Trade Center Health Program provides medical documentation for treatment provided or paid by the World Trade Center Health Program sufficient to allow the Medical Review Board to certify that the member or retiree is totally and permanently disabled by a qualifying condition or impairment of health as a direct result of participation in World Trade Center rescue, recovery, or cleanup operations, no further evaluation is necessary. However, if the medical documentation is not sufficient to establish a total and permanent disability caused by a qualifying condition or impairment of health as a direct result of participation in World Trade Center rescue, recovery, or cleanup operations after review by the Medical Review Board, then an independent medical examination shall be required pursuant to N.J.A.C. 17:1-7.10.