

community and by members of the general public. For these reasons, the rules proposed for readoption will further the public interest.

Economic Impact

The Division does not anticipate that the rules proposed for readoption will have any economic impact on covered employers and labor organizations, covered persons selling, leasing or financing real property or covered owners and operators of places of public accommodation. Since the Division will assume the cost of formulating, printing and distributing the posters, and since the posters are available free-of-charge from the Division’s website or its offices, covered individuals and entities will be able to comply with the rules proposed for readoption without incurring any out-of-pocket costs and with only an incidental administrative expenditure of time.

Federal Standards Statement

The rules proposed for readoption relate to compliance with the notice posting requirements in the LAD and FLA. Accordingly, the rules proposed for readoption are not intended to implement or comply with any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards or requirements. However, the Division’s rules are similar to Federal regulations that require the posting of different notices under various Federal laws. Accordingly, some persons and entities covered by the LAD’s and FLA’s posting requirements are also required to post notices regarding unlawful discrimination or family leave under various Federal laws.

Specifically, 29 CFR 1601.30(a) requires employers and labor organizations, as defined by Title VII of the Civil Rights Act and by the Americans With Disabilities Act (ADA), to display posters which advise the public of the pertinent provisions of these Federal laws. Similarly, 24 CFR 110.10 and 110.25, promulgated pursuant to the Fair Housing Act, impose an obligation on persons who rent or sell real estate to display posters advising that it is a violation of Federal law to engage in unlawful housing discrimination based on race, color, religion, sex, national origin, handicap or familial status. Moreover, Federal regulations require certain state and local entities to disseminate information about the ADA. These regulations include the posting of notices as one of several suggested means of meeting this requirement. 28 CFR 35.106. Further, the Federal Family and Medical Leave Act (FMLA) and its implementing regulations require that employers covered by the FMLA post notices explaining the act’s provisions and providing information concerning the filing of complaints. 29 U.S.C. §2619; 29 CFR 825.300.

The rules proposed for readoption do not unnecessarily exceed or duplicate such Federal regulations. Instead, the rules articulate requirements to display posters that explain provisions of the LAD and FLA. Accordingly, the Division’s rules regarding the display of official Division posters continue to be necessary to further the statutory mandate to prevent and eliminate unlawful discrimination that violates the LAD and to fulfill the statutory notice requirements of the FLA. Although the requirement to display Division posters may reach some individuals and entities that are also covered by corresponding Federal notice requirements described above, the LAD and FLA cover more individuals and entities under their respective definitions of “employer” than their Federal counterparts. Moreover, there are significant differences in the coverage of Federal and State laws that are reflected in the contents of the Division’s official posters.

For example, the LAD proscribes discrimination on bases not covered by Federal discrimination laws, such as marital status, sexual orientation and gender identity or expression. Likewise, the LAD’s definition of “disability” is significantly broader than the ADA’s definition of “disability.” In light of these distinctions, the contents of the Division’s LAD posters do not duplicate Federal posters. Similarly, there are significant differences between the FMLA and FLA, including the definition of covered employers and the permitted reasons for taking leave, that call for the posting of notices under each law. Therefore, the notice provided by the Division’s posters is not a superfluous reiteration of Federal civil rights laws and do not unnecessarily exceed or duplicate Federal regulation of the same activities. Instead, the notice requirements serve purposes unique to the LAD and FLA.

Jobs Impact

The Division does not anticipate that the rules proposed for readoption will have any impact on the number of jobs in this State.

Agriculture Industry Impact

The Division does not anticipate that the rules proposed for readoption will have any impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption will not impose any reporting or recordkeeping requirements on small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. There are small businesses that are employers, housing providers or owners of places of public accommodation that would be required to comply with these rules by posting the required posters. However, since the Division assumes the cost of formulating, printing and distributing the posters, and since the posters are available for downloading free-of-charge from the Division’s website, small businesses will be able to comply with the rules proposed for readoption without incurring any out-of-pocket costs and only a minimal expenditure of time.

Smart Growth Impact

The Division does not anticipate that the rules proposed for readoption will have any impact on the achievement of smart growth or implementation of the State Development and Redevelopment Plan, otherwise known as the State Plan.

Housing Affordability Impact

The rules proposed for readoption will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules concern only the display of posters by employers, those in the business of selling or renting real estate and owners of places of public accommodation.

Smart Growth Development Impact

The rules proposed for readoption will have an insignificant impact on smart growth development and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas I or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules concern only the display of posters by employers, those in the business of selling or renting real estate and owners of places of public accommodation.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:8.

TREASURY — GENERAL

(a)

**DIVISION OF PENSIONS AND BENEFITS
TEACHERS’ PENSION AND ANNUITY FUND**

**Enrollment Following Deferred Retirement
Proposed Repeal and New Rule: N.J.A.C. 17:3-2.7**

Authorized By: Teachers’ Pension and Annuity Fund Board of Trustees, Mary Ellen Rathbun, Secretary.

Authority: N.J.S.A. 18A:66-56.

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

Proposal Number: PRN 2011-097.

Submit comments by June 17, 2011 to:

Susanne Culliton, Assistant Director
Division of Pensions and Benefits
PO Box 295
Trenton, NJ 08625-0295

The agency proposal follows:

Summary

The Board of Trustees of the Teachers' Pension and Annuity Fund (TPAF) proposes to repeal and replace N.J.A.C. 17:3-2.7, Enrollment following deferred retirement, since the enactment of P.L. 2007, c. 103, which imposes a maximum compensation upon which contributions will be made for TPAF employees who become members of the retirement system on or after July 1, 2007. The maximum amount will be the amount of base or contractual salary equivalent to the annual maximum wage contribution base for Social Security. P.L. 2008, c. 89 amended the statutory age-related reductions for early retirement benefits for members who enrolled in the TPAF after the effective dates of these laws. P.L. 2008, c. 89 amended the age for receipt of a service retirement or deferred retirement benefits to age 62. It also increased the minimum annual salary for TPAF participation for those members who enroll on or after November 2, 2008.

As a result of these changes in the TPAF retirement benefit structure and enrollment eligibility, it is necessary to clarify when a vested member returning to public employment prior to attaining the age to commence receipt of deferred retirement benefits may continue to accrue retirement system service and salary in the former account or must enroll under a new membership account. The length of time that has elapsed since the last pension contribution to the previous account is critical in determining whether the original membership account remains open. N.J.S.A. 18A:66-7(a) provides for cessation of membership after two years of inactivity, subject to certain exceptions pursuant to N.J.S.A. 18A:66-8(a). Members returning to TPAF-eligible employment after the expiration of the prior account are assigned a new enrollment date, and are subject to all enrollment, contribution and retirement eligibility requirements associated with that new enrollment date.

Further, it is necessary to clarify that members who are required to establish a new account due to the expiration of the prior account may elect to aggregate all service and salary credit within the new account, subject to all requirements associated with the new enrollment date. In some instances, this could mean that an individual who re-enrolled on or after November 2, 2008, would not be eligible for retirement benefits until the attainment of age 62. The transfer of all prior vested service to the new account is optional, however, and the re-enrolling member may elect to leave the prior vested account intact, and qualify for the receipt of a deferred retirement based upon that service under the provisions of N.J.S.A. 18A:66-36. No retirement benefits shall be payable until the member has terminated all TPAF eligible employment.

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 rules involving the Teachers' Pension and Annuity Fund benefit the members, retirees, beneficiaries and participating employers of the Fund. The members, participating employers, retirees and survivors of retirees rely on the efficient operation of the retirement system to provide them with both monthly retirement benefits and information needed regarding their individual accounts. The members rely upon the predictability of the rules, which guide the administration of their benefits and the stability of the Fund. The protections and guarantees that these rules afford its members mandate their continued existence.

The proposed repeal and new rule at N.J.A.C. 17:3-2.7 will clarify the statutory age-related reductions for early retirement benefits, the age for receipt of a service or deferred retirement and increased the minimum annual salary for those members who enrolled in the TPAF after the effective date of the enactment of P.L. 2007, c. 103 and P.L. 2008 c. 89. This legislation was enacted as a result of recommendations made by the Joint Legislative Committee on Public Employee Benefits Reform, which recognized the need to control pension costs and eliminate pension abuses.

The social benefits of this rulemaking outweigh any negative effect that the repeal and new rule may impose on members or employers. Providing proper interpretation of an enrollment following a deferred retirement will provide members and employers with a better understanding of this administrative practice. The taxpaying public may be affected by these rules, since public monies are used to fund the

benefits and they, too, benefit from the proper and efficient administration of the retirement system, which the rules require.

Economic Impact

The proposed repeal and new rule will have a positive economic impact on the TPAF, employers and members, in that it will clarify enrollment eligibility following a deferred retirement. Members that deferred their retirement and returned to public employment prior to the expiration of the former account can resume their original membership with the original benefit structure intact, thus remaining cost neutral. Those members that return to TPAF eligible employment after the expiration of the prior account are assigned a new enrollment date and are subject to all enrollment, contribution and retirement eligibility requirements associated with the new enrollment date for the prospective service. Further, they may elect to transfer their vested account to this new account, which will provide cost savings to the retirement system. The enactment of P.L. 2007, c. 103 and P.L. 2008, c. 89 are a result of recommendations made by the Joint Legislative Committee on Public Employee Benefits Reform, which recognized the need to control pension costs and eliminate abuse to the pension systems. The Division will continue to monitor the impact of the proposed repeal and new rule.

Federal Standards Statement

A Federal standards analysis is not required because N.J.S.A. 52:14-15.1a (P.L. 1996, c. 8) and 52:18A-96 et seq. governs the subject of this rulemaking, and there is no Federal requirement or standard that affects the subject of this rulemaking.

Jobs Impact

The operation of the proposed repeal and new rule will not result in the generation or loss of jobs. The Board invites any interested parties to submit any data or studies concerning the jobs impact of this proposed rulemaking along with their written comments.

Agriculture Industry Impact

The proposed repeal and new rule will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed repeal and new rule has no effect on small businesses as the term is defined in N.J.S.A. 52:14B-16 et seq., and only affects members and retirees of the Teachers' Pension Annuity Fund in New Jersey and the TPAF.

Smart Growth Impact

The proposed repeal and new rule will not have any impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The proposed repeal and new rule will not have an impact on affordable housing in New Jersey since the repeal and new rule apply to the enrollment following a deferred retirement of a member of the Teachers' Pension and Annuity Fund, further, as such, it will have no impact on the average cost of housing in New Jersey.

Smart Growth Development Impact

The proposed repeal and new rule will not 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 repeal and new rule only apply to the enrollment following a deferred retirement of a member of the Teachers' Pension and Annuity Fund.

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

17:3-2.7 Enrollment following deferred retirement

[(a) The membership account under which a member elected deferred retirement, who resumes regular service prior to age 60, shall be reinstated.

(b) If the member returned to employment prior to July 1, 1995, the member shall be assigned the original rate of contribution if the member resumes service before a period of two years has elapsed since the member last made a contribution to the account.

(c) If there has been a lapse of more than two years, a commuted rate shall be assigned. Such commuted rate of contribution shall be determined by adding the lapsed period to the member's age as of the date of original enrollment.

(d) Members who return to employment after July 1, 1995 shall be assigned the flat contribution rate in effect at the time of their return to employment.]

(a) For a member who has enrolled in the retirement system prior to November 2, 2008, the membership account under which a member elected deferred retirement who resumes regular service prior to age 60 shall be continued provided the member returns to service within the two-year period stipulated by N.J.S.A. 18A:66-7(a) or the longer period provided by N.J.S.A. 18A:66-8(a).

(b) Should a member who has enrolled in the retirement system prior to November 2, 2008, who elected a deferred retirement, resume regular service prior to age 60 after the period for continued membership stipulated by N.J.S.A. 18A:66-7(a) or 8(a) has expired, then such member shall be enrolled in the retirement system under a new membership account and shall be subject to such benefits and requirements as shall apply to new members of the retirement system as of the date of such new enrollment.

(c) For a member who has enrolled in the retirement system on or after November 2, 2008, the membership account under which a member elected deferred retirement who resumes regular service prior to age 62 shall be continued provided the member returns to service within the two-year period stipulated by N.J.S.A. 18A:66-7(a), or the longer period provided by N.J.S.A. 18A:66-8(a).

(d) Should a member who has enrolled in the retirement system on or after November 2, 2008, and who elected a deferred retirement, resume regular service prior to age 62 after the period for continued membership stipulated by N.J.S.A. 18A:66-7(a) or 8(a) has expired, then such member shall be enrolled in the retirement system under a new membership account and shall be subject to such benefits and requirements as shall apply to new members of the retirement system as of the date of such new enrollment.

(e) In the event that either (b) or (d) above applies, the member may elect to transfer all service credit associated with the previously vested membership to the new membership account and such service credit will be subject to the benefits and requirements as shall apply to new members of the retirement system as of the date of such new enrollment. Should the member elect not to transfer the service credit associated with the vested membership to the new membership account, no benefits shall be payable from the previous application for deferred retirement until such time as the member has terminated all TPAF eligible employment.

OTHER AGENCIES

(a)

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Administrative Rules; Fees Authority Assistance Programs; Direct Loan Program

Proposed Amendments: N.J.A.C. 19:30-6.1, 6.2 and 6.3; and 19:31-3.1, 3.2 and 3.5

Authorized By: New Jersey Economic Development Authority, Caren S. Franzini, Chief Executive Officer.
 Authority: N.J.S.A. 34:1B-1 et seq.
 Calendar Reference: See Summary below for explanation of exception to calendar requirement.
 Proposal Number: PRN 2011-104.

Submit written comments by June 17, 2011:

Maureen Hassett, SVP Governance & Communications
 New Jersey Economic Development Authority
 PO Box 990
 Trenton, NJ 08625-0990

The agency proposal follows:

Summary

The New Jersey Economic Development Authority ("EDA" or "Authority") is proposing amendments to its rules to establish fees and revise existing eligibility and approval provisions for three new programs – the Edison Innovation Angel Growth Fund, the Edison Innovation VC Growth Fund, and the Edison Innovation Growth Stars Fund – which are replacing current funding programs under the EDA's Edison Innovation Fund.

The three new EDA programs and proposed fees established under N.J.A.C. 19:30-6.1, 6.2 and 6.3, intended to support emerging technology and life sciences businesses in New Jersey, are summarized as follows:

The Edison Innovation Angel Growth Fund offers up to \$250,000 in convertible debt financing to leverage private angel investments to a business that has generated a minimum of \$500,000 in prior 12-month commercial revenues. The program will leverage private angel investors, under a two to one angel matching requirement, in support of early stage, emerging technology and life science businesses through a match fund program and provide growth capital for key hires, product iteration/roll out, product enhancement or marketing/sales. The fees to be established for the Edison Innovation Angel Growth Fund are as follows: Application Fee \$2,500, Commitment Fee .75 percent of loan amount, Closing Fee .75 percent of loan amount, and Commitment Extension Fee \$750.00.

The Edison Innovation VC Growth Fund offers a subordinated convertible note of up to \$500,000 to support the growth of venture capital supported technology businesses. The program will leverage institutional venture backed investments, under a one to one matching fund requirement, in support of early stage, emerging technology and life science businesses that have generated a minimum of \$500,000 in prior 12-month commercial revenues for key hires, product iteration/roll out, product enhancement, or marketing/sales. The fees to be established for the Edison Innovation VC Growth Fund are as follows: Application Fee \$2,500, Commitment Fee .75 percent of loan amount, Closing Fee .75 percent of loan amount, and Commitment Extension Fee \$750.00.

The Edison Innovation Growth Stars Fund provides funding for the best performing technology businesses by providing \$500,000 in the form of a subordinated convertible note. For this program, businesses must have generated a minimum of \$2 million in prior 12-month commercial revenues and there is a one to one matching fund requirement. The funds will provide additional growth capital for key hires, product iteration/roll out, product enhancement or marketing/sales. The fees to be established for the Edison Innovation Growth Stars Fund are as follows: Application Fee \$2,500, Commitment Fee .75 percent of loan amount, Closing Fee .75 percent of loan amount, and Commitment Extension Fee \$750.00.

Other revisions to the Authority's rules implementing Edison Innovation Fund programs are summarized as follows:

The proposed amendments at N.J.A.C. 19:31-3.1(b)6 delete a reference to the Edison Innovation R&D Fund offered by the Authority in conjunction with the New Jersey Commission on Science and Technology (CST) due to elimination of State appropriations to CST.

The proposed amendments at N.J.A.C. 19:31-3.2(f) revise the eligibility requirements for the Edison Innovation Fund to target assistance to businesses with commercially viable products and by businesses located throughout the State and not limited to location or industry.

In addition, the proposed amendments at N.J.A.C. 19:31-3.1(h)5 extend the existing authority of the EDA, in structuring loan agreements with certain eligible applicants, to receive incentives including stock, stock options, a percentage of royalties or a percentage of sales proceeds, as a payment term and condition for financing under the new programs.

The proposed amendments at new N.J.A.C. 19:31-3.2(g) would 1) prohibit assistance under the Edison Innovation Angel Growth Fund to a business that has ever received Edison Innovation Fund assistance from the EDA or similar assistance provided by any other State agency; and 2)