

STATE OF NEW JERSEY
THE DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
NOTICE OF RULE WAIVER/MODIFICATION/SUSPENSION
PURSUANT TO EXECUTIVE ORDER NO. 103 (MURPHY)(MARCH 9, 2020)
COVID-19 STATE OF EMERGENCY

Temporary Rule Modification adopted by the Acting Director of the Division of Pensions and Benefits in the New Jersey Department of the Treasury

Date: May 6, 2020

Authority: N.J.S.A. App.A:9-45 & App. A:9-47 ; Executive Order No. 103 (Murphy)(“EO 103”)

Effective Date: May 6, 2020

Expiration Date: Upon the end of the emergency declared under EO 103.

This is an emergency adoption of a temporary rule modification of the “Return to Employment Regulation” at N.J.A.C. 17:1-17.14. Section 6 of EO 103, issued in response to the COVID-19 pandemic, authorizes agency heads to waive/suspend/modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Pursuant to that authority, and with the approval of the Governor and in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health, the Division of Pensions and Benefits is modifying its rules as follows to allow people with skills critical to the State’s response to the COVID-19 pandemic to return from retirement before the six-month period has elapsed from the time of their retirement to assist the State, provided that there was no pre-arrangement with the employer; and further provided that their temporary employment ceases upon the end of the COVID-19 emergency. Executive Order No. 115, which was also issued in response to the COVID-19 pandemic, authorized certain retirees to return to State and local government employment without impacting their retirement pensions.

Full Text of the proposed modification follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

N.J.A.C. 17:1-17.14 Retiree Reemployment

(a) – (g) No change

(h) Effective immediately, certain retirees who have not yet met the 180-day complete termination from employment and who did not retire on a disability retirement allowance may return to work for their former employer on a temporary basis, if the following conditions are met:

1. There must not be any pre-planning of this temporary return to employment. All employees who retire on or after April 1, 2020, will be presumed to have pre-planned their temporary return to employment;

2. The retiree must have met a 30 day separation from their former employer from the date of retirement or the date of Board approval, whichever is later, in order for their retirement benefit to be considered due and payable; and

3. The employer that seeks to reemploy a retiree, who has met the above criteria, shall provide a statement to the Division:

- i. substantiating that the person is returning for COVID-19 emergency duty;**
- ii. detailing the job description for the retiree's temporary duties;**
- iii. detailing the justification for the need for this retiree's reemployment, including the expertise that the retiree brings to the Agency; and,**
- iv. indicating the length of time during the COVID-19 emergency that the retiree's expertise would be required.**

I find that waiver/suspension/modification of the rule above is necessary because enforcement of the existing rules would be detrimental to the public welfare during this emergency.

5/6/20

Date

DIVISION OF PENSIONS AND BENEFITS

By: John D. Megariotis
John Megariotis, Acting Director