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**TO:** Certifying Officers of the Public Employees' Retirement System (PERS), Teachers' Pension and Annuity Fund (TPAF), and Defined Contribution Retirement Plan (DCRP)

**FROM:** Florence J. Sheppard   
Deputy Director, Benefit Operations

**SUBJECT:** **Chapter 92, P.L. 2007 and Chapter 103, P.L. 2007 Pension Changes for Public Employees' Retirement System (PERS), Teachers' Pension and Annuity Fund (TPAF), and Defined Contribution Retirement Program (DCRP)**

Governor Corzine recently signed two pieces of legislation into law.

**Chapter 92, P.L. 2007**, provides for changes to the administration of the Public Employees' Retirement System (PERS), Teachers' Pension and Annuity Fund (TPAF) and creates the Defined Contribution Retirement Program (DCRP), a new system in which newly elected and certain appointed officials shall be enrolled beginning July 1, 2007.

**Chapter 103, P.L. 2007**, provides additional changes to the administration of the PERS, TPAF, and DCRP.

**Changes to pension administration\*** under the PERS, TPAF, and DCRP are addressed in this letter and provided as initial guidance for employers. This information will continue to be updated and clarified as implementation of the new laws continue.

#### ELIGIBILITY

Some provisions of Chapter 92 and Chapter 103 apply to all members of the PERS, TPAF, and DCRP while certain provisions affect only **new employees**. In addition, some provisions have an effective date for new employees and a different effective date for employees already enrolled in the retirement systems. Please watch for these important differences as you read about the changes.

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\*Changes to the State Health Benefits Program under Chapter 92 were addressed in an earlier Certifying Officer Letter of June 2007, with SHBP updates resulting from Chapter 103 to follow separately.

- A **new employee** within the meaning of this guidance and the eligibility requirements found in Chapter 92 and Chapter 103 means an employee enrolled in the PERS or TPAF *on or after* July 1, 2007, **or** a State or local official who is *elected or appointed on or after* July 1, 2007.
- If a PERS or TPAF *retiree* returns, *on or after* July 1, 2007, to a position covered by the same retirement system from which they retired, that member *is considered a new employee* under this law.

**Note:** Additional information on eligibility is pending..

### CONTRIBUTION RATES

Chapter 103 provides for an increase in the employee pension contribution rate for PERS and TPAF members from 5% to **5.5%** of salary.

This increase is to be implemented in two phases.

**The first phase** applies to:

- State employees (except Judicial Branch);
  - Employees of an independent State authority, board, commission, corporation, agency, or organization;
  - Employees of a board or commission under the authority of the Commissioner of Education or of the State Board of Education;
  - Employees of a State public institution of higher education (except employees of the University of Medicine and Dentistry of New Jersey - UMDNJ); and
  - Teachers and other employees of a local school district, regional school district, county vocational school district, county special services school district, jointure commission, educational services commission, State-operated school district, charter school, or county college.
- For State employees paid through the State Centralized Payroll Unit who were **already enrolled in the PERS or TPAF prior to July 1, 2007**, the increase was effective Pay Period #15 beginning July 7, 2007 for the July 27, 2007 check date.
- For all **new employees** of these employer groups, the increase was effective July 1, 2007.
- For all other employees of these employer groups who were **already enrolled in the PERS or TPAF prior to July 1, 2007**, the increase was effective July 1, 2007.

**The second phase** applies to:

- Employees of the Judicial Branch of State government;
- Employees of the University of Medicine and Dentistry of New Jersey (UMDNJ); and
- Employees of Counties, Municipalities, and other local employers not included in phase one:

- For State Judicial Branch employees paid through the State Centralized Payroll Unit who are **already enrolled in the PERS or TPAF prior to July 1, 2008**, the increase is effective Pay Period #15 beginning July 5, 2008 for the July 25, 2008 check date.
- For employees of these employer groups *enrolled on or after* July 1, 2008, the increase is effective July 1, 2008.
- For all other employees of these employer groups who were **already enrolled in the PERS or TPAF prior to July 1, 2008**, the increase is effective July 1, 2008.

**Note:** An increase in the member contribution rate will also increase the minimum repayment amount for pension loans or the purchase cost for service credit if certified after the member's effective date of change. (See additional information on pension loans, below.)

### PERS AND TPAF RETIREMENT

#### Revised Early Retirement Benefit for New Employees

Chapter 103 changes certain provisions of PERS and TPAF Early Retirement for **new employees** enrolled in the PERS and TPAF *on or after* July 1, 2007.

If a member enrolled on or after July 1, 2007 retires with 25 or more years of service **before reaching age 60**, the retirement allowance will be reduced 1% per year (1/12 of 1% per month) for each year the member is under age 60 through age 55. The retirement allowance will also be reduced by 3% per year (1/4 of 1% per month) for each year the member is under age 55 as required under prior law.

**Note:** There is no change to the **Early Retirement provisions for employees who were already enrolled in the PERS or TPAF prior to July 1, 2007**. There will be *no reduction* to the Early Retirement benefit if these members are age 55 or older at retirement. The retirement allowance will continue to be reduced 3% per year (1/4 of 1% per month) for each year these members are under age 55.

### PROFESSIONAL SERVICES CONTRACTS

Effective January 1, 2008, Chapter 92 provides that a person is *prohibited* from becoming a member of the PERS if employed under a professional services contract or if the person meets the definition of an independent contractor as set forth in regulation or policy of the federal Internal Revenue Service for the purposes of the Internal Revenue Code.

A person performing professional services under a contract established *prior to* January 1, 2008, who is enrolled in the PERS, may continue to accrue PERS service credit during the term of the existing contract; however, the person will not be eligible for PERS credit for the performance of those services after the contract expires. This limitation on PERS credit includes any extension, modification, or other agreement to continue a professional services contract beyond its current term.

The factors for defining an independent contractor are listed in the "Self Employment Issues" section of Fact Sheet #21, *Employment After Retirement – PERS*.

Employers with specific questions regarding professional services contracts and independent contractors should address them in writing — by letter or e-mail — to the

Division of Pensions and Benefits. If sending e-mail, list “professional services” as the subject line.

### **PENSION LOANS**

Because the minimum repayment amount on a pension loan is based on the member’s pension contribution rate, the increase under Chapter 103 in the PERS and TPAF contribution rates to 5.5% will require higher minimum repayment amounts for pension loans certified after an employee’s pension contribution rate changes.

In addition, Chapter 92 provides for changes to loan interest rates and the introduction of administrative fees for pension loans taken by members of State-administered retirement systems that include loan privileges. (These changes apply to Public Employees’ Retirement System and Teachers’ Pension and Annuity Fund, as well as the Police and Firemen’s Retirement System, State Police Retirement System, and Judicial Retirement System).

Specific details including interest and fee amounts are yet to be determined. A Certifying Officer Letter detailing pension loan changes, and additional communications for employees, will be made available as soon as it is possible. Members and employers should also check the Division of Pensions and Benefits Web site for future updates on pending loan changes at: [www.state.nj.us/treasury/pensions](http://www.state.nj.us/treasury/pensions) .

**Note:** To assure timely submission and faster processing of loan requests, employers should encourage employees to use the online Loan Application available on the Member Benefits Online System (MBOS). Find out more about MBOS and the online Loan Application at: [www.state.nj.us/treasury/pensions](http://www.state.nj.us/treasury/pensions) ; at the Pensions and Benefits home page, click on “Online Member Services – MBOS”.

### **DEFINED CONTRIBUTION RETIREMENT PROGRAM**

Chapter 92 established the Defined Contribution Retirement Program (DCRP) for **new** Elected and Appointed Officials.

Chapter 103 expands eligibility in the DCRP to include **new** PERS and TPAF members who earn salary in excess of established maximum compensation amounts.

The DCRP will be administered for the Division of Pensions and Benefits by Prudential Financial.

#### **Elected Officials**

An **elected official** is any individual who holds a State or local (county, municipal, etc.) elected public office.

- *On or after July 1, 2007, a newly elected official* will only be enrolled in the DCRP and cannot enroll in the PERS.
- An **elected official** who is already enrolled in the PERS *prior to July 1, 2007* based on an elected office, will remain a PERS member while in that elected office.

If, however, *on or after July 1, 2007*, there is a break of service in that elected office, or the official is elected to a *different* elected office, the official will be enrolled in the DCRP and cannot continue with PERS membership under the new elected office.

### **Appointed Officials**

**State appointees** are individuals appointed by the Governor, including those requiring the advice and consent of the Senate.

**Local appointees** are individuals appointed by the Governor, including those requiring the advice and consent of the Senate; **or** individuals appointed in a similar manner by the governing body of a local entity (county, municipality, etc.).

- *On or after* July 1, 2007 a **newly appointed official** who does not have existing PERS account will only be enrolled in the DCRP and cannot enroll in the PERS.
- An **appointed official** who is already enrolled in the PERS *prior to* July 1, 2007, will remain a PERS member while serving in the appointed position.

Similarly, if an employee is enrolled in the PERS *prior to* July 1, 2007, and is appointed to a DCRP eligible position *on or after* July 1, 2007, the newly appointed official will remain a PERS member while in the appointed position.

- A **State appointed official** who is already enrolled in the TPAF *prior to* July 1, 2007, will remain a TPAF member if appointed to certain State educational positions. If the appointee does not have a TPAF account, the appointed official will only be enrolled in the DCRP.

A listing of DCRP eligible appointed positions is being developed for the Division of Pensions and Benefits by the New Jersey Department of Community Affairs and the Department of Education.

### **Workers' Compensation Judges and the DCRP**

Chapter 92 provided that the Workers' Compensation Judges Part of the PERS (WCJ-PERS) be closed to new enrollees.

- *On or after* July 1, 2007, a **newly appointed Workers' Compensation Judge** who does not have an existing PERS account will only be enrolled in the DCRP.
- Workers' Compensation Judges already enrolled in the WCJ-PERS prior to its closure to new members will remain in the WCJ-PERS.
- A member who was already enrolled in the PERS *prior to* July 1, 2007, and who is appointed as a Workers' Compensation Judge *on or after* July 1, 2007, will remain a regular PERS member while a Workers' Compensation Judge.

### **DCRP Enrollment for Elected or Appointed Officials**

Additional minimum DCRP eligibility criteria for a newly elected or appointed official includes a minimum base salary of \$1,500.00.

Furthermore, if the elected or appointed official will earn *less than* \$5,000.00 annually, the official may choose to *waive* participation in the DCRP for that office or position. Please note, however, that to waive participation is an irrevocable decision for that office or position, and an elected or appointed official who waives participation cannot later choose to enroll based on that same office or position.

Once enrolled, an employee contribution of 5.5% will be deducted from compensation and invested in the DCRP. The employer contributes an additional 3% to the DCRP based on the annual compensation (base salary).

**Chapter 92 also provides that service time from enrollment in the DCRP *cannot* be used to qualify for State Health Benefits Program coverage at retirement.**

Additional information on DCRP eligibility for elected or appointed officials, enrollment forms, and other program information is being developed and will be provided under a separate mailing.

**PERS and TPAF Maximum Compensation and the DCRP**

Chapter 103 provides that new employees are subject to a maximum compensation limit for PERS or TPAF pension contributions. The maximum compensation is based on the annual maximum wage for Social Security.

***Note: The PERS and TPAF maximum compensation limit does not apply to employees who were already members of the PERS or TPAF *prior to July 1, 2007.****

**For calendar year 2007, the annual maximum wage is \$97,500** and is subject to change at the start of each calendar year. Therefore, a new employee enrolled in the PERS or TPAF *on or after* July 1, 2007 who earns in excess of \$97,500 before the end of the year will be enrolled in the DCRP — *in addition to* the PERS or TPAF.

When enrolled in the DCRP, an employee contribution of 5.5% will be deducted from all compensation in excess of the maximum and invested in the DCRP. The employer contributes an additional 3% to the DCRP based on the compensation in excess of the maximum.

PERS and TPAF members who also participate in the DCRP will receive service credit in their corresponding PERS or TPAF account, and will be eligible to retire under the rules of the PERS or TPAF — with the final salary at retirement limited to the maximum compensation amounts in effect when the salary is earned. At retirement, additional income will be available to the member based on the investment in the DCRP.

A PERS or TPAF member who is also eligible for the DCRP can choose to *waive* participation in the DCRP. If a PERS or TPAF member waives participation and later wishes to participate, he or she can apply for DCRP enrollment with membership to be effective January 1 of the following calendar year.

DCRP plan materials, enrollment forms, and other program information are being developed and will be provided under a separate mailing.

**OUTSTANDING ISSUES AND ADDITIONAL INFORMATION**

The Division of Pensions and Benefits is awaiting further clarification on several aspects of this legislation.

While this letter is intended to provide general information and guidance to employers regarding the changes put into place by Chapter 92 and Chapter 103, updates to the information are expected. When new information becomes available it will be posted to the Division of Pensions and Benefits Web site at: [www.state.nj.us/treasury/pensions](http://www.state.nj.us/treasury/pensions)

If you have specific questions regarding Chapter 92 or Chapter 103, contact the Division's Office of Client Services at (609) 292-7524, or e-mail the Division at: [pensions.nj@treas.state.nj.us](mailto:pensions.nj@treas.state.nj.us)