

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

COMMUNITY AFFAIRS

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES LOCAL FINANCE BOARD

Local Unit Payment of Bond or Note Obligations

Proposed New Rule: N.J.A.C. 5:30-8.6

Authorized By: Local Finance Board, Thomas H. Neff, Chair.

Authority: N.J.S.A. 52:27BB-32 and 40A:5A-26.

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

Proposal Number: PRN 2013-012.

Submit comments by March 23, 2013 to:

Patricia McNamara, Executive Secretary
Local Finance Board
Department of Community Affairs
P.O. Box 803
Trenton, New Jersey 08625-0803

The agency proposal follows:

Summary

Local units making late payments on their debt obligations, or missing payments entirely, could potentially jeopardize other local units' continued access to capital markets and compromise the liquidity and solvency of local governments throughout the State. There have been recent isolated examples of municipalities making late debt payments that, although limited in scope, underscore the need to ensure all local units continue to meet their debt obligations in a timely fashion. N.J.S.A. 52:27BB-32 and 40A:5A-26 enable the Board to promulgate rules pertaining to the payment of local unit debt obligations.

Proposed N.J.A.C. 5:30-8.6(a) directs chief financial officers of local units to schedule automated payment of any debt payments, and that debt payments be scheduled to take place at least 10 days before payment is due. The term "local unit" as used in this rule means a municipality, county, local authority, or fire district.

Proposed N.J.A.C. 5:30-8.6(b) requires a local unit to immediately report to the Director of the Division of Local Government Services (Director) of a failure to make the 10-day automated debt payment deadline, or the potential or actual failure to make a debt payment by the date and time when said obligation becomes due.

Chief financial officers who fail to comply with the rule may be subject to disciplinary action by the Director.

This rule proposal provides for a comment period of 60 days and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed new rule protects the public interest by protecting local units' access to credit markets, thereby allowing local governments throughout the State to fund operating and capital expenditures benefitting the health, safety, and welfare of their citizens.

Economic Impact

The Board anticipates that the proposed new rule will have a positive economic impact by keeping interest rates for local public borrowing at reasonable levels. Preserving access to capital at reasonable rates allows local units to meet infrastructure and service delivery needs without imposing excessive burdens on taxpayers and ratepayers.

Federal Standards Statement

No Federal standards analysis is required because the proposed new rule is not being proposed to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The Board does not anticipate the creation or loss of any jobs as a result of the proposed new rule.

Agriculture Industry Impact

The Board does not anticipate that the proposed new rule will have an impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed new rule would not impose any reporting, recordkeeping or compliance requirement on "small businesses" as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed new rule imposes requirements on municipalities, counties, local authorities, and fire districts.

Housing Affordability Impact Analysis

The proposed new rule will have a positive impact on housing affordability. If local units face difficulty in borrowing funds at reasonable interest rates, increased financing costs would be passed onto New Jersey homeowners thereby increasing the property tax burden.

Smart Growth Development Impact Analysis

The proposed new rule will have no anticipated impact on housing production in Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan because the proposed new rule pertain to local unit debt payments.

Full text of the proposed new rule follows (additions indicated in boldface **thus**; deletion indicated in brackets [thus]):

5:30-8.6 [(Reserved)] **Payment of bond or note payments by county or municipality**

(a) For all payments of principal and interest for all bonds or notes, the chief financial officer of a local unit shall schedule automated payment at least 10 days before the payment is due.

Payment may be in the form of a scheduled Electronic Funds Transfer (EFT), an Automated Clearing House payment (ACH), or any other generally accepted banking payment method. Local units unable to independently schedule and process automated payments shall obtain assistance through their bank. Contracting with a bank to act as a paying agent is an option that assures compliance with this section and, although not obligatory on the part of the local unit, is strongly encouraged. The term "local unit" as used in this section means a municipality, county, local authority, or fire district.

(b) Local units must report immediately to the Director of the Division of Local Government Services in the event the local unit:

1. Misses the 10-day automated payment deadline for any debt service or note payment;
2. Fails to make a debt service or note payment by the date and time when said obligation becomes due; or
3. Becomes aware of a potential for the local unit to miss a debt service or note payment by the date and time when said obligation becomes due.

(c) The chief financial officer whose local unit fails to comply with this section may be subject to disciplinary action by the Director of the Division of Local Government Services.

HIGHER EDUCATION

(a)

EDUCATIONAL OPPORTUNITY FUND

EOF Authority, Mission and Scope, and Undergraduate EOF Academic and Financial Eligibility

Proposed Amendments: N.J.A.C. 9A:11-1.2, 1.4, and 2.2

Authorized By: Educational Opportunity Fund Board of Directors,
Glenn B. Lang, EOF Executive Director.

Authority: N.J.S.A. 18A:71-28 et seq. and 18A:71-33 through 36;
and Reorganization Plan 005-2011.

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

Proposal Number: PRN 2013-009.

Submit written comments by March 23, 2013 to:

Ms. Audrey Bennerson
Administrative Practice Officer
New Jersey Higher Education
E-mail: Audrey.Bennerson@njhe.state.nj.us
Regular Mail: P.O. Box 542
Trenton, NJ 08625-0542
Delivery: 20 West State Street
Trenton, New Jersey 08608

The agency proposal follows:

Summary

The Educational Opportunity Fund (EOF) program provides students from educationally disadvantaged backgrounds with financial aid and other support services while attending participating New Jersey colleges and universities. The program is a collaborative effort. Under the general supervision of the New Jersey Higher Education, the EOF Board of Directors (EOF Board) administers the program and the participating institutions directly serve students.

Working with participating institutions, the EOF Board maintains a Statewide system to identify and recruit potential college students from backgrounds of historical poverty; develops eligibility criteria for EOF financial assistance based on students' income and their potential for success in college; establishes procedures to determine the amount of the academic year grants according to the total financial need of each student; and advises on the development, organization, and coordination of a wide range of educational support and enrichment activities.

The definition of "ability to benefit" is proposed for deletion at N.J.A.C. 9A:11-1.2 and the phrase is also proposed for deletion at N.J.A.C. 9A:11-2.2(d)1 because the recent passage of the Federal Consolidated Appropriations Act of 2012 no longer permits students to gain eligibility for Federal Title IV student assistance funds by passing an "ability to benefit" test. N.J.A.C. 9A:11-1.4(b) is proposed to be restructured in a paragraph form with the substance of existing subsection (b) proposed for recodification as paragraph (b)1. New N.J.A.C. 9A:11-1.4(b)2 is proposed, which states "Meet N.J.A.C. 9A:9-2.1(d)2, the New Jersey Higher Education Student Assistance Authority's rule governing the provision of documentation that an institution is authorized to participate in Title IV Federal student aid programs under the Higher Education Act of 1965, as amended and its implementing regulations."

As the EOF 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

EOF students come from every county in New Jersey. They have generally lived and attended high school in neighborhoods characterized by depressed economic conditions, substandard educational services, and unequal opportunities. Approximately 60 percent of total EOF enrollment comes from the State's most distressed municipalities (communities that have been designated "labor surplus areas" by the New Jersey Department of Labor and Workforce Development and the U.S. Bureau of Labor Statistics). Fifty percent of the enrollment comes from school districts designated by the New Jersey Department of Education as district factor group "A" or "B" school districts. The vast majority of EOF students spend their elementary and secondary school years in public school districts that by all objective measures fail to provide the level of educational preparation required for success in the more demanding curricula and challenging majors of our colleges and universities. The elimination of the Federal "ability to benefit" provision will have no impact on EOF student enrollment because all of the participating campus programs require students to have a high school diploma or a GED. The proposed amendments will ensure that eligible students are receiving student financial aid from all the State and Federal programs that they are eligible for.

Economic Impact

Funds for EOF student grants are derived from State appropriations, while the State and participating institutions share the costs of EOF program support services. The total Fiscal Year 2013 State appropriation for EOF (for student grants, program support services, and the King Scholarship) is \$38,974,000. Since State appropriations provide funds for EOF student grants, program enrollment is limited by the size of the annual appropriation. During the 2011-12 academic year, the EOF program had more than 13,300 students (unduplicated headcount) in 52 programs at 42 New Jersey colleges and universities. Approximately \$16.7 million of the annual \$38.9 million dollar appropriation is used for EOF Article III academic year student financial aid grants. The proposed amendments aim to ensure that the EOF program continues to serve individuals who have been burdened by long-term economic deprivation and a lack of access to high-quality educational preparation. Fifty percent of EOF enrollment comes from school districts characterized by both low student achievement and concentrated poverty (A and B school districts). The median annual family income of EOF students for a family of four in fall 2009 was approximately \$28,000 compared to State median household income of \$67,681. Almost all EOF students are first-generation college students and 40 percent come from single-female-headed households.

The proposed amendments will provide a seamless process for institutions to continue to award students EOF Article III student grants, as well as tuition aid grants (TAG) to offset their total cost of education. The proposed amendments will have no direct impact on the total number of students awarded grants or the total cost of the program.

Federal Standards Statement

The proposed amendments do not require a Federal standards analysis under Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 et seq. because EOF was established by New Jersey legislation, is wholly