

[51 N.J.R. 1395\(a\)](#)

VOLUME 51, ISSUE 17, SEPTEMBER 3, 2019

RULE PROPOSALS

Reporter

51 N.J.R. 1395(a)

***NJ - New Jersey Register > 2019 > SEPTEMBER > SEPTEMBER 3, 2019 > RULE PROPOSALS
> LABOR AND WORKFORCE DEVELOPMENT -- INCOME SECURITY***

Interested Persons Statement

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 a 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.

Agency

LABOR AND WORKFORCE DEVELOPMENT > INCOME SECURITY

Administrative Code Citation

Proposed Amendments: [N.J.A.C. 12:15-1.2](#), [1.3](#), [1.4](#), [1.5](#), and [1.6](#)

Text

2020 Maximum Weekly Benefit Rates

2020 Taxable Wage Base Under the Unemployment Compensation Law

2020 Contribution Rate of Governmental Entities and Instrumentalities

2020 Base Week**2020 Alternative Earnings Test**

Authorized By: Robert Asaro-Angelo, Commissioner, Department of Labor and Workforce Development.

Authority: [N.J.S.A. 34:1-5](#), [34:1-20](#), [34:1A-3\(e\)](#), [43:21-3\(c\)](#), [43:21-4\(e\)](#), [43:21-7\(b\)\(3\)](#), [43:21-7.3\(e\)](#), 43:21-19(t), 43:21-27, 43:21-40, and 43:21-41; and P.L. 2019, c. 37.

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

Proposal Number: PRN 2019-131.

A **public hearing** on the proposed amendments will be held on the following date at the following location:

Monday, September 23, 2019
10:00 A.M. to 12:00 Noon
New Jersey Department of Labor and Workforce Development
John Fitch Plaza
11th Floor, Large Conference Room
Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609) 292-2789 if you wish to be included on the list of speakers.

Submit written comments by November 2, 2019, to:

David Fish, Executive Director
Office of Legal and Regulatory Services
New Jersey Department of Labor and Workforce Development
PO Box 110-13th Floor
Trenton, New Jersey 08625-0110
Fax to: (609) 292-8246

Email: david.fish@dol.nj.gov

The agency proposal follows:

Summary

In accordance with the provisions of [N.J.S.A. 43:21-1](#) et seq., the Unemployment Compensation Law, and 43:21-25 et seq., the Temporary Disability Benefits Law, which require the Commissioner of the Department of Labor and Workforce Development to establish and promulgate the maximum unemployment compensation, temporary disability insurance, and family leave insurance benefit rates; the contribution rate for governmental entities; the alternative earnings and base week amounts; and the taxable wage base, the Commissioner is proposing amendments to [N.J.A.C. 12:15-1.2](#), [1.3](#), [1.4](#), [1.5](#), and [1.6](#) to establish these rates and amounts for 2020. P.L. 2019, c. 37, which Governor Murphy signed on February 19, 2019, increases the number of weeks that an eligible individual may collect family leave insurance benefits (from six to 12) and modifies the method for calculating the maximum weekly benefit rate for both temporary disability benefits and family leave insurance benefits (from 53 percent of the Statewide average weekly remuneration paid to covered workers in the second preceding calendar year, to 70 percent of the Statewide average weekly remuneration paid to covered workers in the second preceding calendar year). So as to properly fund these increases to the maximum weekly rates for temporary disability benefits and family leave insurance benefits, P.L. 2019, c. 37, also modifies the method for calculating the taxable

wage base for the purpose of contributions to the State Disability Benefits Fund, including the "Family Temporary Disability Leave Account" (from 28 times the Statewide average weekly remuneration paid to covered workers in the second preceding calendar year, to 107 times the Statewide average weekly remuneration paid to covered workers in the second preceding calendar year).

The proposed amendment to [N.J.A.C. 12:15-1.2\(a\)](#) establishes the 2020 maximum weekly benefit rate for benefits under the Unemployment Compensation Law. The proposed amendment to [N.J.A.C. 12:15-1.2\(b\)](#) establishes the maximum weekly benefit rate for State Plan temporary disability and family leave insurance benefits under the Temporary Disability Benefits Law for periods of disability or family leave commencing on or after January 1, 2020 and prior to July 1, 2020.

Consistent with P.L. 2019, c. 37, proposed new [N.J.A.C. 12:15-1.2\(c\)](#) establishes the maximum weekly benefit rate for State Plan temporary disability and family leave insurance benefits under the Temporary Disability Benefits Law for periods of disability or family leave commencing on or after July 1, 2020 and prior to January 1, 2021. Prior to this year, the maximum weekly benefit rate for State Plan temporary disability and family leave insurance benefits had been adjusted on an annual basis and that annual adjustment had been based on the following statutory formula: 53 percent of the Statewide average weekly remuneration paid to workers covered under the Unemployment Compensation Law in the second preceding calendar year. P.L. 2019, c. 37, amended the Temporary Disability Benefits Law such that for all periods of disability commencing on or after July 1, 2020, and for periods of family temporary disability leave commencing after July 1, 2020, the maximum weekly benefit rate for State Plan disability and family leave insurance benefits shall be calculated as 70 percent of the Statewide average weekly remuneration paid to workers covered under the Unemployment Compensation Law in the second preceding calendar year. This change in the law, necessitates the addition of new [N.J.A.C. 12:15-1.2\(c\)](#), which establishes the new maximum weekly TDI/FLI benefit rate for periods of disability or family leave commencing on or after July 1, 2020 and prior to January 1, 2021; and accounts for the increase in the maximum weekly TDI/FLI benefit rate, as discussed in the [page=1396] Economic Impact statement below, from \$ 667.00 for periods of disability or family leave commencing on or after January 1, 2020, and prior to July 1, 2020, to \$ 881.00 for periods of disability or family leave commencing on or after July 1, 2020, and prior to January 1, 2021.

The proposed amendment to [N.J.A.C. 12:15-1.3\(a\)](#) establishes the 2020 taxable wage base for the purpose of contributions under the Unemployment Compensation Law in accordance with [N.J.S.A. 43:21-7\(b\)\(3\)](#). Proposed new [N.J.A.C. 12:15-1.3\(b\)](#) establishes the taxable wage base for the purpose of contributions to the State Disability Benefits Fund, including the Family Temporary Disability Leave Account, in accordance with [N.J.S.A. 43:21-7\(b\)\(4\)](#). Prior to this year, the taxable wage base for the purpose of contributions to the State Disability Benefits Fund had been calculated on an annual basis using the following statutory formula: 28 times the Statewide average weekly remuneration paid to workers covered under the Unemployment Compensation Law in the second preceding calendar year. P.L. 2019, c. 37, amended the Unemployment Compensation Law such that for calendar years beginning on and after January 1, 2020, the taxable wage base for the purpose of contributions to the State Disability Benefits Fund shall be calculated as 107 times the Statewide average weekly remuneration paid to workers covered under the Unemployment Compensation Law in the second preceding calendar year. This change in the law accounts for the increase in the taxable wage base for the purpose of contributions to the State Disability Benefits Fund, including the Family Temporary Disability Leave Account, as discussed in the Economic Impact statement below, from \$ 34,400 in 2019, to \$ 134,900 in 2020.

The proposed amendment to [N.J.A.C. 12:15-1.4](#) reflects a decrease in the contribution rate for governmental entities and instrumentalities from 0.7 percent (of taxable wages) in 2019, to 0.6 percent in 2020. By way of background, [N.J.S.A. 43:21-7.3](#) permits any governmental entity or instrumentality to elect the payment of contributions, as an alternative to financing benefits by payments in lieu of contributions. (In other words, government employers can choose to either reimburse the fund for unemployment compensation benefits paid on a dollar-for-dollar basis or make contributions at a rate set by the Department based on experience). As to the contribution rate paid by those governmental entities that have elected to pay contributions, [N.J.S.A. 43:21-7.3\(e\)](#) requires that the Commissioner review the composite benefit cost experience of all governmental entities and instrumentalities electing to pay contributions and, on the basis of that experience, establish the contribution rate for

the next following calendar year that can be expected to yield sufficient revenue in combination with worker contributions to equal or exceed the projected costs for that calendar year. On the basis of the Department's calculation this year, it has determined that a contribution rate for governmental entities and instrumentalities in 2020 of 0.6 percent of taxable wages should yield sufficient revenue in combination with worker contributions to equal or exceed the projected costs for 2020. Therefore, the Department is proposing that the contribution rate for governmental entities and instrumentalities be decreased from 0.7 percent of taxable wages to 0.6 percent of taxable wages.

The proposed amendment to [N.J.A.C. 12:15-1.5](#) establishes the amount of earnings required in 2020 to establish a base week for an individual's claim for unemployment compensation and State Plan temporary disability and family leave insurance benefits.

The proposed amendment to [N.J.A.C. 12:15-1.6](#) establishes the amount of base year earnings required in 2020 to establish an individual's eligibility for unemployment compensation and State plan temporary disability and family leave insurance benefits in those instances when the individual has not established 20 base weeks.

As a 60-day comment period has been provided in the 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

It is the Department's belief that the proposed amendments will have a positive social impact in that they would help effectuate the expanded benefit set forth in P.L. 2019, c. 37, which, among other things, increased from six to 12 the number of weeks that an eligible individual may collect family leave insurance benefits.

Regarding P.L. 2019, c. 37, and the resulting changes to the statutory formulae for calculating the maximum weekly TDI/FLI rate and the taxable wage base for contributions to the State Disability Benefits Fund, including the Family Temporary Disability Leave Account, that are reflected in the proposed amendments to [N.J.A.C. 12:15-1.2](#) and [1.3](#), it has been explained by the Governor that P.L. 2019, c. 37, was intended to ensure that no one should ever be forced to choose between caring for a family member and earning a paycheck. The Governor has stated that by providing the most expansive "paid family leave time and benefits" in the nation through the signing of P.L. 2019, c. 37, it was the Governor's hope that New Jersey's workers would no longer have to face such a decision and that working families would be treated with the respect and dignity they deserve.

More specifically, the proposed amendments to [N.J.A.C. 12:15-1.2](#) will ensure that payments to unemployment compensation, temporary disability insurance, and family leave insurance recipients entitled to maximum benefits will increase in line with the upward trend of wages in the State's economy, thus preserving the real purchasing power of their benefits and will provide greater financial stability to workers.

The proposed amendments to [N.J.A.C. 12:15-1.3](#) will generate the increased revenues for the unemployment compensation fund and the State disability benefits fund needed to offset the increased level of benefits for the unemployment compensation, temporary disability insurance, and family leave insurance programs that are statutorily indexed to the trend of wages in the State's economy.

The proposed amendment to [N.J.A.C. 12:15-1.4](#) will have no social impact.

The proposed amendments to [N.J.A.C. 12:15-1.5](#) and [1.6](#) will provide for the base week amount and the amount of earnings to establish eligibility, respectively, which are indexed to the State minimum hourly wage.

Overall, in that P.L. 2019, c. 37's expansion of temporary disability and family leave insurance benefits encourages workers and their families to utilize available benefits and provide those individuals with a greater degree of economic security through enhanced income support, the proposed amendments would have the same social impact.

Economic Impact

The proposed amendments to [N.J.A.C. 12:15-1.2](#) will increase the weekly benefit rates received by individuals eligible for the maximum weekly benefit rate under the Unemployment Compensation Law and under the Temporary Disability Benefits Law beginning January 1, 2020 (adjusted again on July 1, 2020 for both temporary disability benefits and family leave insurance benefits), in compliance with statutory provisions that automatically adjust these benefit rates each year in accordance with changes in the Statewide average weekly wage. The maximum weekly benefit for Unemployment Compensation is computed as 56 and 2/3 percent of the Statewide average weekly wage in the second preceding calendar year. As of January 1, 2020, the maximum weekly unemployment compensation benefit will increase from \$ 696.00 to \$ 713.00. The 2020 maximum benefit rate represents a 2.4 percent increase from the current benefit rate.

The maximum weekly benefit for State Plan Temporary Disability and family leave insurance, for periods of disability or family leave commencing on or after January 1, 2020, and prior to July 1, 2020, is computed as 53 percent of the Statewide average weekly wage in the second preceding calendar year. As of January 1, 2020, the maximum weekly benefit will increase from \$ 650.00 to \$ 667.00. This maximum benefit rate represents a 2.4 percent increase from the current maximum benefit rate.

The maximum weekly benefit for State Plan temporary disability and family leave insurance, for periods of disability or family leave commencing on or after July 1, 2020, and prior to January 1, 2021, is computed as 70 percent of the Statewide average weekly wage in the second preceding calendar year. As of July 1, 2020, the maximum weekly benefit will increase from \$ 667.00 to \$ 881.00. This maximum benefit rate represents a 32.1 percent increase from the January 1, 2020 maximum benefit rate.

The proposed amendment to [N.J.A.C. 12:15-1.3\(a\)](#) will increase from \$ 34,400 to \$ 35,300, the wages of an individual employee from an [page=1397] employer that are subject to contributions under the Unemployment Compensation Law, beginning January 1, 2020. The taxable wage base for contributions under the Unemployment Compensation Law is computed as 28 times the Statewide average weekly wage in the second preceding calendar year. The 2020 taxable wage base for contributions under the Unemployment Compensation Law represents a 2.6 percent increase from the current wage base.

Proposed new [N.J.A.C. 12:15-1.3\(b\)](#) will increase from \$ 34,400 to \$ 134,900, the wages of an individual employee from an employer that are subject to contributions to the State Disability Benefits Fund, including the Family Temporary Disability Leave Account, beginning January 1, 2020. The taxable wage base for contributions to the State Disability Benefits Fund, including the Family Temporary Disability Leave Account, is computed as 107 times the Statewide average weekly wage in the second preceding calendar year. The 2020 taxable wage base for contributions to the State Disability Benefits Fund, including the Family Temporary Disability Leave Account, represents a 292.2 percent increase from the current wage base.

The proposed amendment to [N.J.A.C. 12:15-1.4](#) will decrease the contribution rate for governmental entities and instrumentalities from 0.7 percent of taxable wages to 0.6 percent of taxable wages, thereby resulting in decreased costs to State and local government units that choose this financing option.

The proposed amendment to [N.J.A.C. 12:15-1.5](#) will increase from \$ 172.00 to \$ 200.00 the amount an individual must earn to establish a base week under the Unemployment Compensation and Temporary Disability Benefits Laws, beginning January 1, 2020. The amount is computed as 20 times the State minimum hourly wage in effect as of October 1 of the preceding calendar year. Pursuant to [N.J.S.A. 34:11-56a4](#), the State minimum hourly wage rate in effect as of October 1, 2019, was \$ 10.00 (an increase from the minimum hourly wage rate of \$ 8.85, which had been in effect on October 1, 2018).

The proposed amendment to [N.J.A.C. 12:15-1.6](#) will, beginning January 1, 2020, increase from \$ 8,600 to \$ 10,000, the alternative earnings eligibility standard under the Unemployment Compensation and Temporary Disability Benefits Laws in those situations where the individual has not established 20 base weeks in the base year period. The amount is computed as 1,000 times the State minimum hourly wage in effect as of October 1 of the preceding

calendar year. As indicated earlier, pursuant to [N.J.S.A. 34:11-56a4](#), the State minimum hourly wage rate in effect as of October 1, 2019, was \$ 10.00 (an increase from the minimum hourly wage rate of \$ 8.85, which had been in effect on October 1, 2018).

Federal Standards Statement

The proposed amendments do not contain any standards or requirements that exceed standards or requirements imposed by Federal Law. The proposed amendments affect benefit and contribution levels under the Unemployment Compensation and Temporary Disability Benefits Laws. As a result, an explanation or analysis of the proposed amendments pursuant to Executive Order No. 27 (1994) is not required.

Jobs Impact

The proposed amendments will have no impact on jobs in New Jersey. The Department does not anticipate an increase or decrease in jobs as a result of these amendments.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed amendments do not impose any reporting, recordkeeping, or compliance requirements on small businesses as that term is defined in the Regulatory Flexibility Act, [N.J.S.A. 52:14B-16](#) et seq. The proposed amendments affect benefit and contribution levels under the Unemployment Compensation and Temporary Disability Benefits laws. Thus, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The proposed amendments would not evoke a change in the affordability of housing or in the average costs associated with housing. The basis for this finding is that the proposed amendments pertain to the statutorily mandated annual adjustment of unemployment compensation, temporary disability benefits, and family leave insurance benefits rates and do not pertain to housing.

Smart Growth Development Impact Analysis

The proposed amendments would not evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the proposed amendments pertain to the statutorily mandated annual adjustment of unemployment compensation, temporary disability benefits, and family leave insurance benefits rates and do not pertain to housing production, either within Planning Areas 1 or 2, or within designated centers.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Commissioner has evaluated this rulemaking and has 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.

Regulations

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

SUBCHAPTER 1. GENERAL PROVISIONS

12:15-1.2 Maximum weekly benefit rates

(a) [In accordance with the provisions of the Unemployment Compensation Law, [N.J.S.A. 43:21-1](#) et seq.] **For unemployment compensation claims commencing on or after January 1, 2020**, the maximum weekly benefit rate under the Unemployment Compensation Law [is hereby promulgated as being \$ 696.00] **shall be \$ 713.00** per week.

(b) [The] **For periods of disability or family leave commencing on or after January 1, 2020, and prior to July 1, 2020**, the maximum weekly benefit rate for State Plan temporary disability and family leave insurance benefits under the Temporary Disability Benefits Law [is hereby promulgated as being \$ 650.00] **shall be \$ 667.00** per week.

[(c) These maximum benefits shall be effective for the calendar year 2019 on unemployment compensation benefit years and periods of disability and family leave commencing on or after January 1, 2019.]

(c) For periods of disability or family leave commencing on or after July 1, 2020, and prior to January 1, 2021, the maximum weekly benefit rate for State Plan temporary disability and family leave insurance benefits under the Temporary Disability Benefits Law shall be \$ 881.00 per week.

12:15-1.3 Taxable wage base under the Unemployment Compensation Law

(a) In accordance with the provisions of [N.J.S.A. 43:21-7\(b\)\(3\)](#), the "wages" of any individual with respect to any one employer for the purpose of contributions under the Unemployment Compensation Law shall include the first [\$ 34,400] **\$ 35,300** during the calendar year [2019] **2020**.

(b) In accordance with the provisions of [N.J.S.A. 43:21-7\(b\)\(4\)](#), the "wages" of any individual with respect to any one employer for the purpose of contributions to the State Disability Benefits Fund, including the Family Temporary Disability Leave Account, shall include the first \$ 134,900 during the calendar year 2020.

12:15-1.4 Contribution rate of governmental entities and instrumentalities

(a) In accordance with the provisions of [N.J.S.A. 43:21-7.3\(e\)](#), the contribution rate for all governmental entities and instrumentalities electing to pay contributions under the Unemployment Compensation Law [is hereby promulgated as being seven-tenths] **shall be six-tenths** of one percent ([0.7] **0.6** percent) for the entire calendar year.

(b) This contribution rate shall be effective on taxable wages paid in the calendar year [2019] **2020**.

12:15-1.5 Base week

In accordance with the provisions of [N.J.S.A. 43:21-19\(c\)\(1\)](#) and (t)(3) and [43:21-27\(h\)\(4\)](#), the base week amount [is hereby promulgated as being \$ 172.00] **shall be \$ 200.00** per week for calendar year [2019] **2020**.

[page=1398] 12:15-1.6 Alternative earnings test

In accordance with the provisions of [N.J.S.A. 43:21-4\(e\)\(4\)\(B\)](#) and [43:21-41\(d\)\(2\)](#), in those instances in which the individual has not established 20 base weeks, the alternative earnings amount for establishing eligibility [is hereby promulgated as being \$ 8,600] **shall be \$ 10,000** for unemployment compensation benefit years and periods of disability and family leave commencing on or after January 1, [2019] **2020**.