

# 53 N.J.R. 1465(a)

VOLUME 53, ISSUE 17, SEPTEMBER 7, 2021

## RULE PROPOSALS

### Reporter

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***NJ - New Jersey Register > 2021 > SEPTEMBER > SEPTEMBER 7, 2021 > RULE PROPOSALS  
> LABOR AND WORKFORCE DEVELOPMENT -- INCOME SECURITY***

## Interested Persons Statement

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### 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

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LABOR AND WORKFORCE DEVELOPMENT > INCOME SECURITY

## Administrative Code Citation

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Proposed Amendments: N.J.A.C. 12:15-1.2, 1.3, 1.4, 1.5, and 1.6

## Text

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**2022 Maximum Weekly Benefit Rates**

**2022 Taxable Wage Base Under the Unemployment Compensation Law**

**2022 Contribution Rate of Governmental Entities and Instrumentalities**

**2022 Base Week****2022 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.

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

Proposal Number: PRN 2021-085.

Submit written comments by November 6, 2021, 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](mailto:david.fish@dol.nj.gov)

The agency proposal follows:

**Summary**

In accordance with the provisions of the Unemployment Compensation Law, N.J.S.A. 43:21-1 et seq., and the Temporary Disability Benefits Law, N.J.S.A. 43:21-25 et seq., which require the Commissioner of the Department of Labor and Workforce Development (Department) to annually establish and promulgate the maximum unemployment insurance, 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 2022.

The proposed amendments to N.J.A.C. 12:15-1.2 establish the 2022 maximum weekly benefit rates for unemployment insurance benefits under the Unemployment Compensation Law and for State Plan temporary disability and family leave insurance benefits under the Temporary Disability Benefits Law. The maximum weekly benefit rates are \$ 804.00 for unemployment insurance and \$ 993.00 for temporary disability insurance and family leave insurance.

The proposed amendments to N.J.A.C. 12:15-1.3 establish the 2022 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), and the 2022 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). The new taxable wage base would be \$ 39,800 for contributions under the Unemployment Compensation Law and \$ 151,900 for contributions to the State Disability Benefits Fund, including the "Family Temporary Disability Leave Account."

The proposed amendment to N.J.A.C. 12:15-1.4 reflects the change in year from 2021 to 2022. The actual contribution rate for governmental entities and instrumentalities will remain unchanged from the prior year.

The proposed amendment to N.J.A.C. 12:15-1.5 establishes the amount of earnings required in 2022 to establish a base week for an individual's claim for unemployment compensation and State Plan temporary disability and family leave insurance benefits.

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The proposed amendment to N.J.A.C. 12:15-1.6 establishes the amount of base year earnings required in 2022 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.

Because 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**

The proposed amendments to N.J.A.C. 12:15-1.2 will ensure that payments to unemployment, disability insurance, and family leave insurance recipients who are 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.

The proposed amendment to N.J.A.C. 12:15-1.3 will generate 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, which 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.

**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 [page=1466] under the Temporary Disability Benefits Law beginning January 1, 2022, 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, 2022, the maximum weekly benefit will increase from \$ 731.00 to \$ 804.00. The 2022 maximum benefit rate represents a 10.0 percent increase from the current benefit rate.

The maximum weekly benefit for State Plan Temporary Disability and family leave insurance is computed as 70 percent of the Statewide average weekly wage in the second preceding calendar year. As of January 1, 2022, the maximum weekly benefit will increase from \$ 903.00 to \$ 993.00. The 2022 maximum benefit rate represents a 9.9 percent increase from the current benefit rate.

The proposed amendment to N.J.A.C. 12:15-1.3(a) will increase from \$ 36,200 to \$ 39,800 the wages of an individual employee of an employer that are subject to contributions under the Unemployment Compensation Law, beginning January 1, 2022. The taxable wage base is computed as 28 times the Statewide average weekly wage in the second preceding calendar year. The 2022 taxable wage base for contributions under the Unemployment Compensation Law represents a 9.9 percent increase from the current wage base.

The proposed amendment to N.J.A.C. 12:15-1.3(b) will increase from \$ 138,200 to \$ 151,900 the wages of an individual employee of an employer that are subject to contributions to the State Disability Benefits Fund, including the "Family Temporary Disability Leave Account," beginning January 1, 2022. The taxable wage base is computed as 107 times the Statewide average weekly wage in the second preceding calendar year. The 2022 taxable wage base for contributions to the State Disability Benefits Fund, including the "Family Temporary Disability Leave Account," represents a 9.9 percent increase from the current wage base.

The proposed amendment to N.J.A.C. 12:15-1.4 will have no economic impact.

The proposed amendment to N.J.A.C. 12:15-1.5 will increase from \$ 220.00 to \$ 240.00 the amount an individual must earn to establish a base week under the Unemployment Compensation and Temporary Disability Benefits

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Laws, beginning January 1, 2022. 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, 2021, will be \$ 12.00 (an increase from the minimum hourly wage rate of \$ 11.00, which had been in effect on October 1, 2020).

The proposed amendment to N.J.A.C. 12:15-1.6 will, beginning January 1, 2022, increase from \$ 11,000 to \$ 12,000 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, which for the purpose of this calculation is \$ 12.00 (an increase from the minimum hourly wage rate of \$ 11.00, which had been in effect on October 1, 2020).

#### **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 N.J.S.A. 52:14B-1 et seq., 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 average costs associated with housing, nor would they have an effect on the affordability of 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.

**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) For unemployment compensation claims commencing on or after January 1, [2021] **2022**, the maximum weekly benefit rate under the Unemployment Compensation Law shall be [\$ 731.00] **\$ 804.00** per week.

(b) For periods of disability or family leave commencing on or after January 1, [2021] **2022**, the maximum weekly benefit rate for State Plan temporary disability and family leave insurance benefits under the Temporary Disability Benefits Law shall be [\$ 903.00] **\$ 993.00** 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 [\$ 36,200] **\$ 39,800** during the calendar year [2021] **2022**.

(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 [\$ 138,200] **\$ 151,900** during the calendar year [2021] **2022**.

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

(a) (No change.)

(b) This contribution rate shall be effective on taxable wages paid in the calendar year [2021] **2022**.

### 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 shall be [\$ 220.00] **\$ 240.00** per week for calendar year [2021] **2022**.

### 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 [page=1467] established 20 base weeks, the alternative earnings amount for establishing eligibility shall be [\$ 11,000] **\$ 12,000** for unemployment compensation benefit years and periods of disability and family leave commencing on or after January 1, [2021] **2022**.

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