



LEXSTAT 42 NJR 1992(A)

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**RULE PROPOSALS**

**LABOR AND WORKFORCE DEVELOPMENT  
INCOME SECURITY**

*42 N.J.R. 1992(a)*

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

[Click here to view Interested Persons Statement](#)

**2011 Maximum Weekly Benefit Rates**

**2011 Taxable Wage Base Under the Unemployment Compensation Law**

**2011 Contribution Rate of Governmental Entities and Instrumentalities**

**2011 Base Week**

**2011 Alternative Earnings Test**

Authorized By: Harold J. Wirths, 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 2010-208.

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

Thursday, September 30, 2010

10:00 A.M. to 12:00 Noon

New Jersey Department of Labor and Workforce Development

John Fitch Plaza

2nd 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 6, 2010 to:

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

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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 N.J.S.A. 43:21-25 et seq. (the Temporary Disability Benefits Law), which require the Commissioner of the Department of Labor and Workforce Development 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 through 1.6 to establish these rates and amounts for 2011.

The proposed amendment to N.J.A.C. 12:15-1.2 establishes the 2011 maximum weekly benefit rate for benefits under the Unemployment Compensation Law and for State Plan temporary disability and family leave insurance benefits under the Temporary Disability Benefits Law.

The proposed amendment to N.J.A.C. 12:15-1.3 establishes the 2011 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).

The proposed amendment to N.J.A.C. 12:15-1.4 establishes the 2011 contribution rate for governmental entities and instrumentalities that elect to pay contributions under the Unemployment Compensation Law.

The proposed amendment to N.J.A.C. 12:15-1.5 establishes the amount of earnings required in 2011 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 2011 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 amendment to N.J.A.C. 12:15-1.2 will ensure that payments to unemployment, disability insurance and family leave insurance recipients entitled to maximum benefits will be in line with the prevailing trend of wages in the State's economy, which this year is a downward trend.

The proposed amendment to N.J.A.C. 12:15-1.3 will generate decreased revenues for the unemployment compensation fund and the State disability benefits fund in line with the diminished level of benefits for the unemployment compensation, temporary disability insurance and family leave insurance programs, which are statutorily indexed to the downward trend of wages in the State's economy.

The proposed amendment to N.J.A.C. 12:15-1.4 will increase the contribution rate for governmental entities and instrumentalities that elect to pay contributions under the Unemployment Compensation Law and will generate increased revenues needed to offset increased benefit costs.

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 will have minimal economic impact. Specifically, the proposed amendment to N.J.A.C. 12:15-1.2 will [page=1993] decrease 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, 2011, 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, 2011, the maximum weekly benefit will decrease from \$ 600.00 to \$ 598.00. The 2011 maximum benefit rate represents a 0.3 percent decrease from the current benefit rate.

The maximum weekly benefit for State Plan Temporary Disability and family leave insurance is computed as 53 percent of the Statewide average weekly wage in the second preceding calendar year. As of January 1, 2011, the maximum weekly benefit will decrease from \$ 561.00 to \$ 559.00. The 2011 maximum benefit rate represents a 0.4 percent decrease from the current benefit rate.

The proposed amendment to N.J.A.C. 12:15-1.3 will decrease from \$ 29,700 to \$ 29,600 the wages of an individual employee of an employer that are subject to contributions under the Unemployment Compensation Law, beginning January 1, 2011. The taxable wage base is computed as 28 times the Statewide average weekly wage in the second preceding calendar year. The taxable wage base represents a 0.3 percent decrease from the current wage base.

The proposed amendment to N.J.A.C. 12:15-1.4, which will increase the contribution rate for governmental entities from 0.6 to 0.7 percent of taxable wages for 2011, will result in increased 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 reflect only a change in the year from 2010 to 2011, since the amount an individual must earn to establish a base week under the Unemployment Compensation and Temporary Disability Benefits Laws will remain unchanged between 2010 and 2011. The amount is computed as 20 times the State minimum hourly wage in effect as of October 1 of the preceding calendar year. The State minimum hourly wage in effect as of October 1, 2010 is identical to the Statewide minimum hourly wage in effect as of October 1, 2009. Therefore, the amount will remain at \$ 145.00.

The proposed amendment to N.J.A.C. 12:15-1.6 will reflect only a change in the year from 2010 to 2011, since 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 will remain unchanged from 2010 to 2011. The amount is computed as 1,000 times the State minimum hourly wage in effect as of October 1 of the preceding calendar year. The State minimum hourly wage in effect as of October 1, 2010 is identical to the Statewide minimum hourly wage in effect as of October 1, 2009. Therefore, the amount will remain at \$ 7,300.

### **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.

### Smart Growth Impact

The proposed amendments will not have any impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

### Housing Affordability Impact

The proposed amendments would not evoke a change 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

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, within designated centers.

**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., the maximum weekly benefit rate under the Unemployment Compensation Law is hereby promulgated as being [\$ 600.00] **\$ 598.00** per week.

(b) 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 [\$ 561.00] **\$ 559.00** per week.

(c) These maximum benefits shall be effective for the calendar year [2010] **2011** on unemployment compensation benefit years and periods of disability and family leave commencing on or after January 1, [2010] **2011**.

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

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 [\$ 29,700] **\$ 29,600** during the calendar year [2010] **2011**.

### 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 [six-tenths] **seven-tenths** of one percent ([0.6] **0.7** percent) for the entire calendar year.

(b) This contribution rate shall be effective on taxable wages paid in the calendar year [2010] **2011**.

### 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 \$ 145.00 per week for calendar year [2010] **2011**.

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 \$ 7,300 for unemployment compensation benefit years and periods of disability and family leave commencing on or after January 1, [2010] **2011**.