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RULE PROPOSALS

**LABOR AND WORKFORCE DEVELOPMENT
INCOME SECURITY**

43 N.J.R. 2275(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](#)

2012 Maximum Weekly Benefit Rates

2012 Taxable Wage Base Under the Unemployment Compensation Law

2012 Contribution Rate of Governmental Entities and Instrumentalities

2012 Base Week

2012 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 2011-195.

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

Tuesday, October 25, 2011
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 5, 2011 to:

David Fish, Executive Director
Office of Legal and 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

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 2012.

The proposed amendment to *N.J.A.C. 12:15-1.2* establishes the 2012 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 2012 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* reflects the change in year from 2011 to 2012. However, 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 2012 to establish a base week for an [page=2276] 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 2012 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 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 will have minimal economic impact. Specifically, the proposed amendment 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, 2012, 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, 2012, the maximum weekly benefit will increase from \$ 598.00 to \$ 611.00. The 2012 maximum benefit rate represents a 2.2 percent increase 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, 2012, the maximum weekly benefit will increase from \$ 559.00 to \$ 572.00. The 2012 maximum benefit rate represents a 2.3 percent increase from the current benefit rate.

The proposed amendment to *N.J.A.C. 12:15-1.3* will increase from \$ 29,600 to \$ 30,300 the wages of an individual employee of an employer that are subject to contributions under the Unemployment Compensation Law, beginning January 1, 2012. 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 2.4 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 reflect only a change in the year from 2011 to 2012, 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 2011 and 2012. 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, 2011 is identical to the State minimum hourly wage in effect as of October 1, 2010. 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 2011 to 2012, 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 2011 to 2012. 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, 2011 is identical to the State minimum hourly wage in effect as of October 1, 2010. 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 Analysis

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 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.

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

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 [\$ 598.00] **\$ 611.00** 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 [\$ 559.00] **\$ 572.00** per week.

(c) These maximum benefits shall be effective for the calendar year [2011] **2012** on unemployment compensation benefit years and periods of disability and family leave commencing on or after January 1, [2011] **2012**.

[page=2277] 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 [\$ 29,600] **\$ 30,300** during the calendar year [2011] **2012**.

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 [2011] **2012**.

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 [2011] **2012**.

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, [2011] **2012**.