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**MOTOR VEHICLE COMMISSION
REGULATORY AFFAIRS (COMMERCIAL
PASSENGER TRANSPORTATION)**

Zone of Rate Freedom

Proposed Amendment: N.J.A.C. 16:53D-1.1

Authorized By: Raymond P. Martinez, Chairman, Motor Vehicle Commission.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 48:2-21, and 48:4-2.20 through 2.25.

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

Proposal Number: PRN 2018-016.

Submit written comments by April 6, 2018, to:

Kate Tasch, APO
Attention: Regulatory and Legislative Affairs
New Jersey Motor Vehicle Commission
225 East State Street
PO Box 162
Trenton, NJ 08666-0162
or via e-mail to rulecomments@mvc.nj.gov

The agency proposal follows:

Summary

The public comment period for this notice of proposal will be 60 days, since the notice of proposal is not listed in the agency calendar. This notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Motor Vehicle Commission (Commission) proposes to amend the provisions of N.J.A.C. 16:53D, Zone of Rate Freedom. The Commission is statutorily obligated to establish for each calendar year a Zone of Rate Freedom (ZORF) for regular route private autobus carriers providing service within the State. See N.J.S.A. 48:4-2.21, as amended by P.L. 2003, c. 13, § 98. See also N.J.S.A. 48:4-2.20 through 2.25. The ZORF is the maximum permitted percentage increase adjustment and the maximum permitted percentage decrease adjustment that a private autobus carrier may make to its rate, fare, or charge for intrastate regular route service without first having to petition the Commission for approval. The maximum ZORF percentage amounts for increases and decreases take into account the varying fares currently charged by intrastate regular route private autobus operators. In accordance with N.J.S.A. 48:4-2.21, relevant factors that must be considered by the Commission in setting the ZORF percentages include, but are not limited to, the availability of alternative means of transportation; fluctuations in operational bus costs; and rates, fares, and charges existing in the bus industry and in other related transportation services, as well as the interests of the users of bus service in this State.

As long as the autobus carrier's fare adjustments remain within the designated ZORF percentage range, the carrier need only give notice to the Commission and the bus-riding public of the rate, fare, or charge adjustment. However, should a regular route private autobus carrier need a percentage fare adjustment greater than that allowed by the ZORF, the carrier will be required to comply with the petitioning procedures set forth in N.J.S.A. 48:2-21 and 48:2-21.1.

The ZORF percentage limitations set forth in N.J.A.C. 16:53D-1.1 apply only to regular route private autobus carriers. N.J.S.A. 48:4-2.25 authorizes the Commission to exempt rates, fares, and charges for regular routes in the nature of special (casino bus operations), charter, and special autobus operations from this rule, so long as carriers engaged in such operations file annual tariffs with the Commission.

N.J.A.C. 16:53D-1.1 consists of general provisions and standards that regular route private autobus carriers must follow, and specifies the maximum ZORF percentages for rate, fare, or charge increases and decreases for the calendar year and exempts student, senior, transfer, interline, and other unique rates, fares, or charges for a regular route from the requirements of this chapter provided they remain less than the current or adjusted regular route fare applicable to the route.

Social Impact

The proposed amendments have a positive social impact in that they enable private autobus carriers to increase or decrease regular route fares marginally within established limits without having to undertake costly and time-consuming formal administrative proceedings. Since the ZORF fare adjustment mechanism allows autobus carriers to effectuate minor changes to their regular route fares without the necessity of making a complex, formal tariff filing with the Commission, the ZORF fare adjustment procedures result in cost and time savings for both the regulated industry and the Commission. The ZORF-controlled fare increases also encourage autobus carriers to invest in new buses and in the servicing and maintenance of their existing fleet of buses, while at the same time protecting the public from unreasonable fare increases. The ZORF percentage limit for fare decreases discourages predatory fare-reducing tactics designed to reduce or eliminate competition. In sum, the ZORF fare adjustment mechanism has a positive impact upon the autobus industry and the Commission while also benefiting the public interest.

Economic Impact

The proposed amendments offer privately owned autobus companies a measure of flexibility in effectuating marginal adjustments to their regular route fares. Such companies can avoid the rate increase petition process set forth in N.J.S.A. 48:2-21 and 48:2-21.1, which is costly and time consuming, provided the fare adjustment that is sought remains within the percentage limits set forth in the ZORF rules. Although the ZORF provides a mechanism for regular route private autobus carriers to increase rates, fares, or charges, any adverse impact of such fare increases upon the public will be mitigated by the percentage limitations set forth in N.J.A.C. 16:53D-1.1. The ZORF percentage limitations are intended to ensure that only reasonable rate, fare, or charge increases will occur. The exemption of charter, casino, and special bus operations from the ZORF rules will have no adverse economic impact on the public because the competitive nature of these markets due in large part to their elastic demand, protects consumers from unreasonable rate, fare, or charge adjustments.

Federal Standards Statement

A Federal standards analysis is not required because the rule that is the subject of this rulemaking is dictated by State statutes and is not subject to Federal requirements or standards.

Jobs Impact

Although the ZORF rules could theoretically have an impact upon the jobs of private autobus carrier employees and the bus-riding public, no specific number of jobs generated or lost as a result of this rulemaking can be calculated. With limits on fare increases, private autobus carriers could conceivably adjust their employee levels to address financial constraints. Similarly, the ability of commuters to travel to their job sites could be affected by any changes made by such autobus carriers in bus routes or service to certain areas caused by shifts in employee staffing levels. However, it should be noted that rate change protection for both autobus carriers and commuters exists in other statutes and rules that govern rate changes outside the ZORF limits.

Agriculture Industry Impact

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

Regulatory Flexibility Statement

The proposed amendments affect private autobus carriers that are small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments do not impose any new reporting, recordkeeping, or compliance requirements on these autobus carriers. The proposed amendments set limits on rate modifications for which the procedure under N.J.A.C. 16:51-3 is not required.

Housing Affordability Impact Analysis

It is not anticipated that the proposed amendments will have any impact on housing costs because the scope of the rule, inasmuch as it applies only to procedures for amending regular route autobus fares, is

minimal, and there is an extreme unlikelihood that it would evoke a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

It is anticipated that the proposed amendments will have only an insignificant impact, if any, on any new construction. Moreover, because the proposed amendments apply only to the procedures for adjustment of autobus fares, they do not apply to housing units at all. Thus, the scope of the proposed amendments is minimal and there is an extreme unlikelihood that the proposed amendments will evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

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

SUBCHAPTER 1. GENERAL PROVISIONS

16:53D-1.1 General provisions

(a) Any regular route autobus carrier operating within the State, which carrier seeks to revise its rates, fares, or charges in effect as of the time of the promulgation of this rule, shall not be required to conform with N.J.A.C. 16:51-3.10, Tariff filings that do not propose increases in charges to customers, or 3.11, Tariff petitions that propose increases in charges to customers, provided the increase or decrease in the rate, fare, or charge, or the aggregate of increases and decreases in any single rate, fare, or charge is not more than the maximum percentage increase (10 percent for [2017] **2018**) or decrease (10 percent for [2017] **2018**), upgraded to the nearest \$.05.

1. For illustrative purposes, the following chart sets forth the [2017] **2018** percentage maximum for increases to particular rates, fares, or charges and the resultant amount as upgraded to the nearest \$.05:

<u>Present Fare</u>	<u>Percent of Increase</u>	<u>Increase Upgraded To Nearest \$.05</u>
\$2.00 or less	10.0%	\$.20
\$2.05-\$2.50	10.0%	\$.25
\$2.55 upward	10.0%	\$.30+

2. For illustrative purposes, the following chart sets forth the [2017] **2018** percentage maximum for decreases to particular rates, fares, or charges and the resultant amount as upgraded to the nearest \$.05:

<u>Present Fare</u>	<u>Percent of Decrease</u>	<u>Decrease Upgraded To Nearest \$.05</u>
\$.50 or less	10%	\$.05
\$.55 to \$1.00	10%	\$.10
\$1.05 upward	10%	\$.15+

3. (No change.)

TREASURY—GENERAL

(a)

**DIVISION OF PENSIONS AND BENEFITS
TEACHERS’ PENSION AND ANNUITY FUND
Teachers’ Pension and Annuity Fund
Proposed Amendments: N.J.A.C. 17:3-3.8 and 3.13**

Authorized By: Teachers’ Pension and Annuity Fund Board of Trustees, Angelina Scales, Secretary.
Authority: N.J.S.A. 18A:66-56.

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

Proposal Number: PRN 2018-013.

Submit comments by April 6, 2018, to:

Susanne Culliton
Administrative Practice Officer
Division of Pensions and Benefits
PO Box 295
Trenton, NJ 08625-0295
DPB.regulations@treas.nj.gov

The agency proposal follows:

Summary

The Board of Trustees of the Teachers’ Pension and Annuity Fund (TPAF) is responsible for periodically reviewing the administrative rules within N.J.A.C. 17:3. When the Board becomes aware of an administrative rule change that is necessary due to a court decision, change in the law, or a needed procedural correction, steps are taken to propose revisions to those rules so that compliance is achieved. Accordingly, the Board of Trustees of the TPAF (Board) proposes to amend N.J.A.C. 17:3-3.8, Withdrawal and return, contributory insurance and conversion, so that it provides the correct statutory citation for conversion of group life insurance as N.J.S.A. 18A:66-179. The current cross-reference is to the incorrect regulation, which is proposed to be deleted. In addition, the following sentence will be added: “The converted individual policy will not take effect until the expiration of the group life insurance policy at the conclusion of the 31-day grace period,” where “grace period” means the 31-day period following the member’s date of termination from employment. This addition will clarify that a converted individual policy will only take effect after the group life insurance policy expires, which occurs 31 days after a member leaves public employment.

In addition, N.J.A.C. 17:3-3.13(b) is proposed for deletion, as it is subject to misinterpretation that contradicts the intent of current statutes legislating the administration of beneficiary benefits in cases where a member dies with a retirement application pending. Existing case law supports that when a member dies with a retirement application pending, the member’s beneficiary (or beneficiaries) is entitled to receive active group life insurance benefits or retired pension benefits, but not both. For example, in the case, *New Jersey Education Association v. Board of Trustees, Public Employees’ Retirement System*, 327 N.J. Super. 405 (App. Div.), *certif. denied*, 165 N.J. 135 (2000), the Appellate Division of the Superior Court of New Jersey ruled that based on pertinent legislative history, the legislative intent of the existing statute was “to continue the practice of allowing certain beneficiaries to choose either an active member insurance death benefit *or* a retirement allowance.”. (emphasis added) Otherwise, “a limited class of beneficiaries [would receive benefits that] *exceed* the benefits that a retiring member could receive...” (emphasis added) Further, when a member leaves public employment, there is a 31-day grace period where the member is still covered under the group life insurance policy. If the separating member applies to the carrier to convert the expiring group life insurance policy into an individual policy, the individual policy will not take effect until the expiration of the group life insurance policy at the conclusion of the 31-day grace period. As a result of this deletion, subsection (a) will be recodified with no alphanumeric designation, since only one subsection will remain.

As the TPAF has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments to N.J.A.C. 17:3-3.8 will direct members and beneficiaries to the proper statutes for group life insurance conversion in cases where a member terminates employment for any reason, not just in cases where a member dies with a retirement application pending. This amendment will make the procedures for group life insurance conversions more efficient and unambiguous for all parties involved when a member terminates employment for any reason.