

STATEMENT OF IMMINENT PERIL

The State of New Jersey is confronting a fiscal and economic crisis more severe than any experienced since the Great Depression. The State Treasurer indicates that the State's actual and anticipated revenue collections continue to fall far short of last June's fiscal projections, upon which the current budget is premised. So far during Fiscal Year 2009, the State is experiencing a revenue shortfall currently estimated to be in excess of \$2.8 billion. The Treasurer indicates that further significant erosion of State revenue may be inevitable as jobs and purchasing power are lost. Counties and municipalities are also experiencing similar reductions in local revenues. At the same time, these deteriorating economic conditions are forcing increasing numbers of New Jersey residents to seek assistance from the State and local governments. This need for assistance, in turn, requires government to dedicate increasingly scarce resources to meet these obligations, while at the same time attempting to spur economic improvements in order to reverse the deflationary cycle.

In recognition of the scope and severity of the ongoing national and international economic crisis, the federal government in recent weeks enacted what has been described as an unprecedented short-term stimulus law intended to bolster the staggering national economy by creating and retaining more than 3 million jobs. Other federal stimulus legislation to

support the financial industry and other key sectors of the economy has been enacted, and additional legislation to address the home foreclosure crisis has been promised. The federal stimulus package is designed to provide targeted assistance by funding public projects with immediate job impacts, and by providing funds to enhance states' ability to address the immediate needs of their residents. Even with these efforts, the State and its local governments will continue to need to function effectively and address many competing and worthy needs with less revenue for the foreseeable future.

The above-described fiscal crisis, coupled with the intensified demands for public services, and the need to prevent job loss to avoid worsening economic conditions, give rise to an immediate need for additional civil service regulatory flexibility for public employers to implement appropriate personnel measures and measures short of permanent layoffs to address the many interrelated issues arising from the need to continue government services in the current economic situation and hopefully avoid the need for substantial, permanent layoffs. This rule will allow appointing authorities to implement staggered temporary layoffs, treating the layoff as a single action spread out over a defined period of time rather than as a series of discrete layoffs. The rule provides appointing authorities the flexibility to choose the device best suited to address the competing demands of providing necessary services with reduced revenues while not exacerbating the current bad economic situation.

It is vital that any alternative measures to permanent layoffs, such as a temporary layoff program, be as equitable as possible in application so as to preserve morale, minimize disruption in services, and ensure that the burden does not fall disproportionately on lower-paid positions. Without changes to the regulatory framework to allow temporary layoffs, civil service jurisdictions will be forced, by the end of the fiscal year, to engage in layoffs to achieve a level of budgetary relief in the personnel area, with their attendant impact on the health, safety, and welfare of laid-off workers and the public.

Local civil service jurisdictions have been requesting the regulatory flexibility during this economic downturn to avoid disruption and substantial permanent layoffs while achieving personnel savings from temporary layoffs or furloughs. The inevitable disruption and dislocation that will be associated with significant layoffs under existing rules will undermine the functioning of government and endanger the public health, safety, and welfare.

Without the regulatory flexibility provided by this rule, there will be substantial peril to the health, safety, and welfare of the residents of the State and the economy will be undermined by permanently laying off employees at a time when breaking the cycle of job loss is the top priority for the State and federal governments. Further, such layoffs will deprive New

Jersey residents of important and essential services performed by a trained workforce during precisely the same time period – the midst of a historic fiscal crisis – when those services are most sorely needed. Unless an orderly procedure governing temporary layoffs is adopted immediately, the State and local government units will be faced with implementing layoffs under existing rules in order to achieve needed personnel savings.

The Commission, therefore, promulgates new rules by emergency adoption to avoid the disruption described above. A concurrent rule proposal accompanies this emergent adoption and the Commission will consider comments from all interested parties prior to adoption of the concurrent proposed rules.

Dated: March __, 2009