

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Teachers' and State Employees' Retirement System Board of Trustees AND
Local Governmental Employees' Retirement System Board of Trustees

RULE CITATION: All rules, generally

DEADLINE FOR RECEIPT: Monday, December 12, 2022

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Is this the proper agency or body to submit these rules? Are there boards for the other systems or funds, such as those referenced in 20 NCAC 02A .0101? Must they be included to approve rule changes?

Please retype the rule accordingly and resubmit it to our office electronically.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Local Governmental Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02N .0106

DEADLINE FOR RECEIPT: Monday, December 12, 2022

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Include the zip code in the address in line 10.

What are "legal holidays"? Are these federal or state holidays?

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: December 7, 2022

1 20 NCAC 02N .0106 is amended as published in 36:23 NCR, page 1856, as follows:

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4 **SUBCHAPTER 2N FIREFIGHTERS' FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND**

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7 **SECTION .0100 - ORGANIZATION OF THE FUND**

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9 **20 NCAC 02N .0106 OFFICE OF THE DIRECTOR**

10 The Office of the Director is located ~~at in the Longleaf Building,~~ 3200 Atlantic Avenue, Raleigh, North Carolina and
11 the mailing address is Retirement Systems Division, Department of State Treasurer, 3200 Atlantic Avenue, Raleigh,
12 North Carolina 27604. Office hours are from 8 a.m. to 5 p.m., Mondays - Fridays, except legal holidays.

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14 *History Note: Authority G.S. 58-86-10;*
15 *Eff. June 1, 1988;*
16 *Recodified from 3 NCAC 3 Eff. May 1, 1993;*
17 *Amended Eff. October 1, 1993;*
18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21,*
19 *2018;*
20 *Amended Eff. September 1, ~~2019~~2019;*
21 *Amended Eff. January 1, 2023.*
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REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Local Governmental Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02N .0108

DEADLINE FOR RECEIPT: Monday, December 12, 2022

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Consider rewriting the items as "Rules 20 NCAC 2A .0101, .0102..." for simplicity and clarity.

If the format of multiple items is maintained, each item should end in a semi-colon and the final item's semi-colon preceded by an "and". These items are connected.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: December 7, 2022

1 20 NCAC 02N .0108 is readopted as published in 36:23 NCR, page 1856, as follows:

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3 **20 NCAC 02N .0108 DIVISIONAL RULES**

4 The following rules are hereby incorporated by reference including subsequent amendments to the rules:

5 (1) Rules .0101; Organization, Authority; .0102, Exercise of Authority; .0103, Delegation of Authority
6 to Director; of 20 NCAC 2A.

7 (2) Sections .0200, Rule-Making Procedures; .0300, Declaratory Rulings; .0400, Contested Case
8 Procedures; of 20 NCAC 2A.

9 (3) Rule .0504, Direct Deposit of Monthly Benefits; of 20 NCAC 2A.

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11 *History Note: Authority G.S. 58-86-10; 150B-21.6;*

12 *Eff. October 1, ~~1993~~ 1993;*

13 *Readopted Eff. January 1, 2023.*

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REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Local Governmental Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02N .0208

DEADLINE FOR RECEIPT: Monday, December 12, 2022

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

The "application" referenced in (b) is similar to a form. Are the contents or substantive requirements of the application prescribed by rule or statute apart from that listed in (b)?

Does the application in (b) require any information outside the information listed?

In (b), what is meant by "first employment date"? Would "date of employment" be more appropriate?

Based on a plain reading of (c), once a monthly payment is made the Director is required to enroll the applicant. No other steps are required by the applicant and no other steps need to be taken, such as approval of the application, before the Director enrolls. Consider including language to require the application be approved in addition to the payment being made.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: December 7, 2022

1 20 NCAC 02N .0208 is readopted as published in 36:23 NCR, page 1856, as follows:

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20 NCAC 02N .0208 APPLYING FOR MEMBERSHIP

(a) Only eligible ~~firefighters~~~~firemen~~ or eligible rescue squad workers may join the pension fund. In order to join the pension fund they must complete the application for membership and return it to the office of the ~~director~~Director.

(b) Applications for membership may be obtained from the office of the ~~director~~Director at the address shown in Rule .0106 of this Subchapter. The application asks for general information, including the applicant's name, address, social security number, fire department or rescue squad, and his or her ~~length of service~~first employment date with that department or squad.

~~(c) After receipt of a completed application, the director shall determine if the applicant is an eligible fireman or an eligible rescue squad worker. The director shall notify the applicant in writing of the determination.~~

~~(d)~~(c) If the ~~director~~ determines that the applicant is eligible to join the pension fund and after~~After~~ the ~~director~~Director has received the monthly payment required by G.S. 58-86-35 or 58-86-40, the ~~director~~Director shall enroll the applicant in the pension fundfund, and issue the applicant a membership identification card which contains the member's register number.

*History Note: Authority G.S. 58-86-10; 58-86-35; 58-86-40;
Eff. June 1, 1988;
Recodified from 3 NCAC 3 Eff. May 1, 1993;
Amended Eff. December 1, ~~1993~~1993;
Readopted Eff. January 1, 2023.*

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Local Governmental Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02N .0215

DEADLINE FOR RECEIPT: Monday, December 12, 2022

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (b), do the "expected dates of entry and discharge" include members within the reserves?

In line 9, change "must" to "shall". Use active voice.

In (b), what are "eligible" firefighters and rescue squad workers? What does "eligible" mean in this context?

In line 13, change "must" to "shall". Use active voice.

In line 15, insert a comma after "applicable" so as to not include the proceeding language in a separate clause.

In line 16, consider replacing "or" with "else" or similar language to eliminate confusion as to whether this clause is another portion of a list of requirements.

In (c), is the "intent to do so" referring to the intent to enter the armed forces?

Also, in line 18, change "may" to "shall". This places a clear statement of generally applicability on receipt of credits if the member notifies the Director's office and continues monthly payments.

Additionally, in line 19, remove the comma after "so" to avoid creating an unnecessary clause.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: December 7, 2022

1 20 NCAC 02N .0215 is readopted as published in 36:23 NCR, page 1857, as follows:

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3 **20 NCAC 02N .0215 MILITARY SERVICE**

4 (a) Any member who enters the armed forces may take a military leave of absence as provided by Paragraph (b) of
5 this Rule, continue to receive service credit as provided by Paragraph (c) of this Rule, or withdraw from the pension
6 fund and seek a ~~refund~~refund, under Rule .0216 of this Section.

7 (b) To take a military leave of absence a member must provide written notice to the office of the ~~director~~Director that
8 the member he or she is taking such leave. The member shall specify in the notice the branch of the armed forces the
9 member is entering and the expected dates of entry and discharge. The notice must be delivered to the office of the
10 ~~director~~Director no later than six months after the member ceases service as an eligible firefighter fireman or an
11 eligible rescue squad worker, whichever is applicable, or the member will be deemed to have withdrawn from the
12 pension fund. No member may remain on military leave of absence for more than one normal draft or enlistment
13 period, whichever is applicable. Any member who has taken a military leave of absence must commence service as
14 either an eligible firefighter fireman or an eligible rescue squad worker within six months after the expiration of a
15 normal draft or enlistment period, whichever is applicable or within six months after the member's discharge if that
16 occurs earlier, or the member will be deemed to have withdrawn from the pension fund. ~~The provisions of Rule~~
17 ~~.0214(c) of this Section are applicable to members on military leaves of absence.~~

18 (c) Any member who enters the armed forces may continue to receive service credit if the member he notifies the
19 office of the ~~director~~Director in writing of the member's his or her intent to do so, and if ~~he or she~~ the member
20 continues to make monthly payments required by G.S. 58-86-35 or 58-86-40. Credit for time served in the armed
21 forces is limited to one normal draft or enlistment period, whichever is applicable.

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23 *History Note: Authority G.S. 58-86-10;*
24 *Eff. June 1, 1988;*
25 *Recodified from 3 NCAC 3 Eff. May 1, 1993;*
26 *Amended Eff. December 1, ~~1993~~ 1993;*
27 *Readopted Eff. January 1, 2023.*
28

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Local Governmental Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02N .0219

DEADLINE FOR RECEIPT: Monday, December 12, 2022

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In reviewing this Rule, the staff recommends the following changes be made:

Insert a comma after "(3)" in line 4.

In line 5, change "must" to "shall". Use active voice.

Also, what are the requirements for the "letter requesting the payment" to be sent to the Director?

Is the absence of interest to be paid on the monthly payments reiterated from G.S. 58-86-60, or developed independently as a new regulation?

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: December 7, 2022

1 20 NCAC 02N .0219 is readopted with changes, as published in 36:23 NCR, page 1857, as follows:

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3 **20 NCAC 02N .0219 REFUNDS OF DECEASED MEMBERS' PAYMENTS**

4 In order to receive the lump sum payment for deceased members provided by G.S. 58-86-60(2) and (3) the person or
5 persons entitled to such payment must file with the office of the ~~director~~Director a death certificate and a letter
6 requesting the payment. The amount of the payment will be determined in accordance with G.S. 58-86-60 ~~and~~and,
7 accordingly, no interest will be paid on the monthly payments.

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9 *History Note: Authority G.S. 58-86-10; 58-86-60;*

10 *Eff. June 1, 1988;*

11 *Recodified from 3 NCAC 3 Eff. May 1, 1993;*

12 *Amended Eff. December 1, ~~1993~~1993;*

13 *Readopted Eff. January 1, 2023.*

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