

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0101

DEADLINE FOR RECEIPT: Friday, December 9, 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 it necessary to have both (2) and (3)? It seems you could combine them and simply say in (2) that "The mailing address and physical address is...."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 20 NCAC 02B .0101 is amended as published in 36:23 NCR, page 1843, as follows:

2
3 **SUBCHAPTER 02B - TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM**

4
5 **SECTION .0100 - GENERAL PROVISIONS**

6
7 **20 NCAC 02B .0101 GENERAL INFORMATION**

8 The following is general information about the Teachers' and State Employees' Retirement System:

- 9 (1) The ~~chief officer~~ Director is the Director of the Retirement ~~Systems~~; Systems Division;
- 10 (2) The mailing address is Retirement Systems Division, Department of State Treasurer, 3200 Atlantic
11 Avenue, Raleigh, North Carolina 27604;
- 12 (3) The office is located ~~in the Longleaf Building,~~ at 3200 Atlantic Avenue, Raleigh, North Carolina.

13
14 *History Note: Authority G.S. 135-6(f);*
15 *Eff. February 1, 1976;*
16 *Readopted Eff. September 21, 1977;*
17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21,*
18 *2018;*
19 *Amended Eff. September 1, ~~2019~~ 2019;*
20 *Amended Eff. January 1, 2023.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0202

DEADLINE FOR RECEIPT: Friday, December 9, 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:

In (a), line 4, change "will" to "shall".

In (b), include an Oxford comma after "rates" on line 9.

In (b), line 10, what does it mean for the "file" to be "open" as well as "readily available" for the public?

In the new paragraph (c), when deleting the lettering of a paragraph, strikethrough the entire parenthetical and insert the new one. It should look like: (c)~~(d)~~

In paragraph (c), include an Oxford comma after both uses of "rates" on lines 19 and 20.

In History Note, please reorder the citations to G.S. 135, putting (f) before (m).

Also in the History Note, I suggest a citation to G.S. 150B-1(d)(30).

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0202 is readopted as published 36:23 NCR, page 1843 as follows:

2

3 **20 NCAC 02B .0202 ACTUARIAL TABLES: RATES AND ASSUMPTIONS**

4 (a) Actuarial tables and assumptions will be adopted by the ~~board~~Board of ~~trustees~~Trustees after the presentation of
5 the recommendations of the actuary ~~by including the tables, rates, etc. in the minutes of the board with the resolution~~
6 ~~adopting said tables, rates or assumptions.~~ As provided by G.S. 150B-1(d), these actions of the Board of Trustees are
7 not subject to rule-making requirements.

8 (b) The ~~director~~Director of the ~~retirement systems~~ shall maintain a file of copies of all resolutions adopting tables,
9 rates or assumptions and the current version of all tables as amended by the ~~board~~Board of ~~trustees~~Trustees. The file
10 shall be open and readily available to the public during regular office hours.

11 ~~(c) This Rule includes but is not limited to the following actuarial tables and assumptions:~~

12 ~~(1) interest rate assumptions;~~

13 ~~(2) salary increase assumptions;~~

14 ~~(3) required contribution rates;~~

15 ~~(4) mortality assumptions;~~

16 ~~(5) separation and retirement assumptions;~~

17 ~~(6) joint and survivor tables;~~

18 ~~(7) reserve transfer tables.~~

19 ~~(c)~~ Tables, rates and assumptions shall become effective on the first day of the month following adoption, unless a
20 specific effective date is included in the adopting resolution. If the specific date is included, the tables, rates or
21 assumptions shall be effective as provided in the adopting resolution.

22

23 *History Note: Authority G.S. 135-6(m); 135-6(f);*

24 *Eff. February 1, 1976;*

25 *Readopted Eff. September 21, 1977;*

26 *Amended Eff. August 1, 1981-1981;*

27 *Readopted Eff. January 1, 2023.*

28

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0210

DEADLINE FOR RECEIPT: Friday, December 9, 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:

On line 4, add a comma after "(k)", and on line 5 add a comma following "physicians".

With respect to the quorum requirement, is this consistent with the Public Meetings Act?

On line 5, delete "being" following "three".

On lines 6-7, is the quorum applicable only to meetings approving applications for disability retirement? Is there a different quorum for other meetings of the Medical Board?

In History Note, reinsert "1977" from the line "Readopted Eff. September 21, ~~1977~~" followed by a semi-colon. It should appear as: "...September 21, ~~1977~~; 1977;"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0210 is readopted as published in 36:23 NCR, page 1844, as follows:

2

3 **20 NCAC 02B .0210 MEDICAL BOARD**

4 In accordance with the authority contained in G.S. 135-6(k) membership of the ~~medical~~Medical ~~board~~Board is
5 ~~increased from three to~~ consists of five physicians with a quorum of three being required at meetings approving
6 applications for disability retirement.

7

8 *History Note: Authority G.S. 135-6(k); 135-6(f);*

9

Eff. February 1, 1976;

10

Readopted Eff. September 21, 1977.

11

Readopted Eff. January 1, 2023.

12

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0211

DEADLINE FOR RECEIPT: Friday, December 9, 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:

Throughout, please capitalize "optional retirement program" as it is capitalized in G.S. 135-5.1.

What are the applicable state universities, ranks, and positions? Is this clearly defined within G.S. 135-5.1 to the regulated public?

On lines 5-6, when discussing reclassification to an eligible rank or position, why use "rank of instructor or above"? Is there a categorization or hierarchy? Consider using "eligible rank or position".

On line 6, consider deleting "exercise the option of electing to" and simply saying "elect to".

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0211 is readopted with changes as published in 36:23 NCR, page 1844, as follows:

2

3 **20 NCAC 02B .0211 OPTIONAL RETIREMENT PROGRAM**

4 An individual who is employed by a state university at a rank or in a position ~~ineligible which does not qualify him~~
5 for participation in the optional retirement program, as provided by G.S. 135-5.1, and who later is reclassified to the
6 rank of instructor or above shall be permitted to exercise the option of electing to withdraw from the Teachers' and
7 State Employees' Retirement System and to begin participation in the optional retirement program as though ~~he~~ the
8 individual were a new employee.

9

10 *History Note: Authority G.S. 135-5.1; 135-6(f);*

11 *Eff. February 1, 1976;*

12 *Readopted Eff. September 21, ~~1977~~ 1977;*

13 *Readopted Eff. January 1, 2023.*

14

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0213

DEADLINE FOR RECEIPT: Friday, December 9, 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:

Capitalize "eff." in line 7.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0213 is repealed as published in 36:23 NCR, page 1844, as follows:

2

3 **20 NCAC 02B .0213 DISABILITY RETIREMENT ALLOWANCE DEFINED**

4

5 *History Note:* *Authority G.S. 135-5(1)(3);*

6 *Eff. October 29, ~~1979~~1979;*

7 *Repealed eff. January 1, 2023.*

8

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0301

DEADLINE FOR RECEIPT: Friday, December 9, 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:

On line 9, what "form" are you referring to? A form must either go through rulemaking, or its contents or substantive requirements must be described in another Rule or statute. See G.S. 150B-2(8a)d.

Also, with respect to the form, who should make the "indication" on the form? The member?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0301 is readopted as published in 36:23 NCR, page 1844, as follows:

2

3

SECTION .0300 - BENEFICIARIES

4

5

6 **20 NCAC 02B .0301 DESIGNATION**

7 Any beneficiaries designated, other than the estate of a member or a trustee named by and acting for the member, must
8 be living persons at the time the designation is made. If it is desired that the estate be beneficiary, this should be
9 indicated on the form.

10

11 *History Note: Authority G.S. 135-5(g); 135-5(l); 135-6(f);*

12

Eff. February 1, 1976;

13

Readopted Eff. September 21, ~~1977~~-1977;

14

Readopted Eff. January 1, 2023.

15

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0302

DEADLINE FOR RECEIPT: Friday, December 9, 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:

Is this Rule necessary? It essentially repeats the content of the statutes cited in the History Note.

In (a), the wording of the added language in the second sentence is confusing. To avoid any confusion, would it be better to replace "so designated for the return of accumulated contributions" with "principal beneficiary"?

In (a), line 6, it's unclear to me to whom "those surviving" refers.

In (b) and (c), remove parentheticals and use appropriate identifiers. For example, say "beneficiary or beneficiaries" or simply "beneficiaries" if appropriate.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0302 is readopted as published in 36:23 NCR, page 1844. as follows:

2
3 **20 NCAC 02B .0302 PRINCIPAL BENEFICIARY**

- 4 (a) More than one principal beneficiary may be ~~named~~ designated for the return of accumulated contributions under
5 the provisions of G.S. 135-5(f) to share equally. In the event of the death of any so designated for the return of
6 accumulated contributions, ~~named~~, those surviving shall share equally in the total benefits. However, if there is
7 only one living designated principal beneficiary for the return of accumulated contributions at the member's death
8 and the member has met all other requirements under the provisions of G.S. 135-5(m), the designated principal
9 beneficiary may elect to receive the alternative benefit under the provisions of G.S. 135-5(m).
- 10 (b) More than one principal beneficiary may be designated for the death benefit of an active member or a retired
11 member under the provisions of G.S. 135-5(l) to share equally. In the event of the death of any so designated
12 principal beneficiary(ies) for the death benefit of an active member or retired member, those surviving principal
13 beneficiary(ies) shall share equally in the total benefits.
- 14 (c) More than one principal beneficiary may be designated for the guaranteed refund under the provisions of G.S.
15 135-5(g1) to share equally. In the event of the death of any so designated principal beneficiary(ies) for the
16 guaranteed refund, those surviving principal beneficiary(ies) shall share equally in the total benefits.

17
18 *History Note: Authority G.S. 135-5(f); 135-5(g); 135-5(g1); 135-5(l); 135-5(m); 135-6(f);*
19 *Eff. February 1, 1976;*
20 *Readopted Eff. September 21, ~~1977~~1977;*
21 *Readopted Eff. January 1, 2023.*
22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0303

DEADLINE FOR RECEIPT: Friday, December 9, 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:

Paragraphs (a), (b), and (c) should be framed to lead and follow into the subparagraphs, such as "the following apply to designating a contingent beneficiary..."

Remove all parentheticals and use appropriate identifiers. Each subparagraph has at least one. For example, say "beneficiary or beneficiaries" or simply "beneficiaries" if appropriate.

At the end of each subparagraph (2), consider adding language to clarify contingent beneficiaries only receive in the event all principal beneficiaries predecease the member, similar to (3).

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0303 is readopted as published in 36:23 NCR, page 1844, as follows:

2
3 **20 NCAC 02B .0303 CONTINGENT BENEFICIARY**

4 ~~A principal beneficiary may be named with the stipulation that should he predecease the member, payment of the~~
5 ~~amount due, if any, will be made to a designated contingent beneficiary. It is permissible to name more than one~~
6 ~~contingent beneficiary. In the event of the death of any so named, those surviving shall share equally in the total~~
7 ~~benefits. If more than one principal beneficiary is named, the naming of a contingent beneficiary or beneficiaries will~~
8 ~~not be permitted.~~

9 (a) Designating a contingent beneficiary for the return of accumulated contributions under the provisions of G.S. 135-
10 5(f):

11 (1) A principal beneficiary may be designated for the return of accumulated contributions with the
12 stipulation that should the principal beneficiary(ies) predecease the member, payment of the amount
13 due, if any, shall be made to the designated contingent beneficiary(ies) for the return of accumulated
14 contributions.

15 (2) If more than one principal beneficiary is designated for the return of accumulated contributions,
16 payment of the amount due, if any, shall be paid to any surviving principal beneficiary(ies)
17 designated for the return of accumulated contributions, sharing equally in the total benefits payable,
18 and shall not be paid to any contingent beneficiary.

19 (3) It is permissible to designate more than one contingent beneficiary for the return of accumulated
20 contributions. Payment of the amount due, if any, shall be paid to the surviving contingent
21 beneficiary(ies) designated for the return of accumulated contributions, sharing equally in the total
22 benefits, only in the event that there is no surviving principal beneficiary designated for the return
23 of accumulated contributions.

24 (b) Designating a contingent beneficiary for the death benefit under the provisions of G.S. 135-5(l):

25 (1) A principal beneficiary may be designated for the death benefit of an active member or retired
26 member with the stipulation that should the principal beneficiary(ies) predecease the member,
27 payment of the amount due, if any, shall be made to the designated contingent beneficiary(ies) for
28 the death benefit.

29 (2) If more than one principal beneficiary is designated for the death benefit, payment of the amount
30 due, if any, shall be paid to any surviving principal beneficiary(ies) designated for the death benefit,
31 sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.

32 (3) It is permissible to designate more than one contingent beneficiary for the death benefit. Payment
33 of the amount due, if any, shall be paid to the surviving contingent beneficiary(ies) designated for
34 the death benefit, sharing equally in the total benefits, only in the event that there is no surviving
35 principal beneficiary designated for the death benefit.

36 (c) Designating a contingent beneficiary for the guaranteed refund under the provisions of G.S. 135-5(g1):

1 (1) A principal beneficiary may be designated for the guaranteed refund with the stipulation that should
2 the principal beneficiary(ies) predecease the member, payment of the amount due, if any, shall be
3 made to the designated contingent beneficiary(ies) for the guaranteed refund.

4 (2) If more than one principal beneficiary is designated for the guaranteed refund, payment of the
5 amount due, if any, shall be paid to any surviving principal beneficiary(ies) designated for the
6 guaranteed refund, sharing equally in the total benefits payable, and shall not be paid to any
7 contingent beneficiary.

8 (3) It is permissible to designate more than one contingent beneficiary for the guaranteed refund.
9 Payment of the amount due, if any, shall be paid to the surviving contingent beneficiary(ies)
10 designated for the guaranteed refund, sharing equally in the total benefits, only in the event that
11 there is no surviving principal beneficiary designated for the guaranteed refund.

12
13 *History Note: Authority G.S. 135-5(f); 135-5(g); 135-5(g1); 135-5(l); 135-6(f);*
14 *Eff. February 1, 1976;*
15 *Readopted Eff. September 21, ~~1977~~1977;*
16 *Readopted Eff. January 1, 2023.*
17

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0304

DEADLINE FOR RECEIPT: Friday, December 9, 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:

What is meant by "legal representative"? Does this mean the member's administrator of the estate? More specificity is needed, as any attorney or power of attorney could be classified as a "legal representative".

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0304 is readopted as published in 36:23 NCR, page 1845, as follows:

2

3

4 **20 NCAC 02B .0304 NO LIVING BENEFICIARY**

5 If no ~~designated named~~ beneficiary, whether principal or contingent, is living at the time of the member's death,
6 payment of the amount due, if any, will be made to the ~~estate~~ legal representative of the member.

7

8 *History Note: Authority G.S. 135-5(g); 135-6(f);*

9

Eff. February 1, 1976;

10

Readopted Eff. September 21, ~~1977~~ 1977;

11

Readopted Eff. January 1, 2023.

12

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0305

DEADLINE FOR RECEIPT: Friday, December 9, 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 (a), line 4, please define or delete "duly".

In (a), line 5, please change "they" to "the beneficiary" or "the guardian" to clarify which county you're referring to. As written, it's not clear whether you mean the county the minor lives in, or the county the guardian lives in. See also (b) line 6.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0305 is readopted as published in 36:23 NCR, page 1845, as follows:

2

3 **20 NCAC 02B .0305 BENEFICIARY WHO IS A MINOR**

4 (a) Payments to beneficiaries who are minors will be made to a duly appointed guardian or to the clerk of superior
5 court in the county in which they reside to the extent that such payment may be authorized by law.

6 (b) In the event that the duly appointed guardian or the clerk of superior court in the county in which they reside is
7 unwilling or unable to accept payment(s) on behalf of the minor beneficiary(ies), payment may be made to a
8 custodian in accordance with Chapter 33A of the North Carolina General Statutes, entitled North Carolina
9 Uniform Transfers to Minors Act.

10

11 *History Note: Authority G.S. 135-5(g); 135-6(f);*

12 *Eff. February 1, 1976;*

13 *Readopted Eff. September 21, ~~1977~~1977;*

14 *Readopted Eff. January 1, 2023.*

15

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0307

DEADLINE FOR RECEIPT: Friday, December 9, 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:

At the end of Item (1), line 9, delete "or".

In (2), please move the text on line 11 over 1 tab so it lines up with the text on line 10.

In (2), lines 10-11, I don't understand the phrase "until such time as the retired member's last day of active service is greater than 180 days prior to the change". Does this just mean the member has to wait at least 180 days from the last day of active service to make a change? Please revise for clarity.

Change "must" to "shall" in line 14.

Also on line 14, please use the active voice and state who must submit the change.

Additionally, how shall members submit such a change in beneficiary to the Board of Trustees?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0307 is readopted as published in 36:23 NCR, page 1845, as follows:

2

3 **20 NCAC 02B .0307 CHANGE IN BENEFICIARY**

4 Prior to retirement, the member ~~may, has the right~~ at any time, ~~and from time to time,~~ to change any beneficiaries
5 designated for the return of accumulated contributions under the provisions of G.S. 135-5(f) or the death benefit for
6 active members under the provisions of G.S. 135-5(l) without the knowledge or consent of the beneficiaries. A retired
7 member may, at any time, change any beneficiaries designated for:

8 (1) The guaranteed refund under the provisions of G.S. 135-5(g1) until such time as the funds have been
9 depleted; or

10 (2) The death benefit for active members under the provisions of G.S. 135-5(l) until such time as the
11 retired member's last day of active service is greater than 180 days prior to the change; or

12 (3) The death benefit for retired members under the provisions of G.S. 135-5(l).

13

14 Any such change must be submitted to the ~~board~~Board of ~~trustees~~Trustees.

15

16 *History Note: Authority G.S. 135-5(f); 135-5(g); 135-5(g1); 135-5(l); 135-6(f);*

17 *Eff. February 1, 1976;*

18 *Readopted Eff. September 21, ~~1977~~1977;*

19 *Readopted Eff. January 1, 2023.*

20

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0308

DEADLINE FOR RECEIPT: Friday, December 9, 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:

Where is your statutory authority for this Rule? In 135-5(f), the statute states:

Upon receipt of proof satisfactory to the Board of Trustees of the death, prior to retirement, of a member or former member there shall be paid to such person or persons as the member or former member **shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees**, if such person or persons are living at the time of the member's death, otherwise to the member's legal representatives, the amount of the member's accumulated contributions at the time of the member's death, unless the beneficiary elects to receive the alternate benefit under the provisions of (m) below.

This Rule seems to explicitly contradict the bolded portion of the quoted statute, and instead provides that even if the member designated someone, that designation can be undone post-mortem and supplanted by someone the System determines the member "intended" to receive the benefits.

On line 5, how is it determined who the member "intended" to receive the return?

On line 6 and in (1) line 8, what is meant by "properly designated"?

In (1), lines 8-9, please clarify the phrase "at a time when there were separate forms for designation...." When was that?

Remove the parenthetical in Item (3), line 15.

Also, in (3), line 15, insert an Oxford comma after "successors".

What is the standard for "clear and convincing evidence" presented to the Division? Is this the same standard as is used in law – e.g. substantially more likely than not?

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

In your History Note, provide the rulemaking authority statutes. G.S. 135-5(m) does not expressly provide for rulemaking authority.

Also in the History Note, I would suggest a reference to G.S. 135-5(f).

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 20 NCAC 02B .0308 is readopted with changes as published in 36:23 NCR, page 1845, as follows:

2
3 **20 NCAC 02B .0308 SPECIAL RULE: BENEFICIARY BEFORE JULY 1, 1967**

4 In the event of the death of a person who became a member before July 1, 1967, the return of a member's contributions
5 shall be paid to such person as the member intended to receive ~~his~~the return of contributions and whom ~~he~~the member
6 designated as beneficiary for the death benefit as if the member had properly designated such person for the return of
7 contributions if the following conditions are met:

- 8 (1) the member had properly designated one person for the death benefit at a time when there were
9 separate forms for designation of beneficiary for return of contributions and designation of
10 beneficiary for the death benefit;
- 11 (2) the person designated as beneficiary for the death benefit is living at the time of the member's death;
- 12 (3) any previously designated beneficiary for the return of contributions who is living at the time of the
13 member's death or, if such previously designated beneficiary dies between the time of the member's
14 death and the time of determination of payment of the return of accumulated contributions, the
15 legatee(s), heirs at law, successors or assigns of such beneficiary, waives all claims to or interest in
16 the return of the member's contributions;
- 17 (4) the member did not designate any other person for the return of contributions after making a
18 designation of beneficiary for the death benefit; and
- 19 (5) clear and convincing evidence is presented to the ~~retirement system~~Division showing that the
20 member thought ~~he~~the member had or intended to have designated for the return of contributions
21 the same person whom ~~he~~the member designated as beneficiary for the death benefit.

22 In such cases, the beneficiary shall be entitled to receive the survivor's alternate benefit pursuant to G.S. 135-5(m) to
23 the same extent that ~~he~~the beneficiary would have been entitled to receive the survivor's alternate benefit under G.S.
24 135-5(m) if the member had actually designated such beneficiary for the return of contributions in a duly executed
25 and filed form for the designation of beneficiary for return of contributions.

26
27 *History Note: Authority G.S. 135-5(m);*
28 *Eff. October 29, ~~1979~~1979;*
29 *Readopted Eff. January 1, 2023.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0401

DEADLINE FOR RECEIPT: Friday, December 9, 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:

In (a), remove the commas around the added language to avoid an unnecessary clause.

In (a), line 9, what are "erroneous employee deductions"?

In (a), line 9, is an "employing unit" defined? Is this different than "the employer"?

In (b), remove the parentheses around the phrase "and... contributions" and consider inserting commas.

In (c), line 17, remove the comma to avoid an unnecessary clause.

In line 18, delete the last set of parentheses around "(f.)".

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 20 NCAC 02B .0401 is readopted as published in 36:23 NCR, page 1845, as follows:

2
3 **SECTION .0400 - EMPLOYER CONTRIBUTIONS**

4
5
6 **20 NCAC 02B .0401 REFUNDS**

7 (a) The ~~retirement~~Retirement ~~system~~System will make no refunds of employer contributions, paid into the pension
8 accumulation fund by the employer in the amount equal to a percentage of the actual compensation of each member,
9 in cases of erroneous employee deductions except those which are corrected by the employing unit on a subsequent
10 payroll within the calendar year in which the errors occur. ~~The only exception to this Rule is that an error occurring~~
11 ~~in December may be corrected (without loss of the employer contribution) by submission of a revised payroll with~~
12 ~~checks for the correct amount before January 31 of the following year.~~

13 (b) Notwithstanding Paragraph (a) of this Rule, an error occurring in December may be corrected (and the associated
14 employer contribution be refunded in the form of a credit toward future required employer contributions) by the
15 employer's submission of a revised payroll report for the correct amount before January 31 of the following year.

16 (c) If an employer makes an additional contribution to the pension accumulation fund as a result of the contribution-
17 based benefit cap, and the Retirement System receives information which alters the calculation of the retirement
18 benefit used to determine the contribution under the provisions of G.S. 135-8(f)(2)(f.), any contribution not required
19 based on the new information will be refunded to the employer in the form of a credit toward future required employer
20 contributions.

21
22 *History Note: Authority G.S. 135-2; 135-6(f);135-8(f);*
23 *Eff. February 1, 1976;*
24 *Readopted Eff. September 21, ~~1977~~.1977;*
25 *Readopted Eff. January 1, 2023.*
26

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0402

DEADLINE FOR RECEIPT: Friday, December 9, 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:

On line 4, what is a "unit"?

On line 4, please change "should" to "shall".

In your History Note, consider either adding a reference to G.S. 135-8(f)(2), or simply deleting "(1)" so as to encompass all of subsection (f).

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 20 NCAC 02B .0402 is readopted with changes as published in 36:23 NCR, page 1846, as follows:

2

3 **20 NCAC 02B .0402 FORWARDING OF EMPLOYER CONTRIBUTIONS**

4 All units should forward to the ~~retirement~~Retirement system~~System~~ the employer's contributions monthly at the same
5 time the employee's contributions are forwarded.

6

7 *History Note: Authority G.S. 135-6(f);135-8(f)(1);*

8

Eff. February 1, 1976;

9

Readopted Eff. September 21, ~~1977~~.1977;

10

Readopted Eff. January 1, 2023.

11

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0404

DEADLINE FOR RECEIPT: Friday, December 9, 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 rule states "Raleigh **offices**" (emphasis added). Are there multiple offices which the contributions need to be sent to?*

Alternatively, are you referring to the address specified in Rule .0101?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 20 NCAC 02B .0404 is readopted as published in 36:23 NCR, page 1846, as follows:

2

3 **20 NCAC 02B .0404 DUE DATE OF CONTRIBUTIONS**

4 Both the employee and employer contributions are due in the Raleigh offices of the Retirement System no later than
5 the fifth State government working day of the month succeeding the month for which the contributions are required.

6 Contributions received after the fifth State government working day of the month are delinquent.

7

8 *History Note: Authority G.S. 135-6(f); 135-8(f);*

9

Eff. March 1, ~~1992~~.1992;

10

Readopted Eff. January 1, 2023.

11

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0501

DEADLINE FOR RECEIPT: Friday, December 9, 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 Rule for all disability retirements or only those falling within the purview of G.S. 135-5(c)'s threshold of prior to January 1, 1988?

Where is your statutory authority for this Rule? G.S. 135-5(c) and 135-5(e) give the Medical Board the power to examine and re-examine disability beneficiaries, but I don't see anything giving that power to the Director.

On line 8, what is the standard for whether a case is "doubtful"? Who makes that determination?

On lines 8-9, what does "condition of the disability" mean?

On line 8, what are the parameters of such "examination" by the Director? What details can be gathered and by what means?

Where is your statutory authority to allow payment for these examinations through the pension accumulation fund?

On line 9, I believe "pension accumulation fund" should be capitalized.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0501 is readopted with changes as published in 36:23 NCR, page 1846, as follows:

2

3

4

SECTION .0500 - TYPES OF RETIREMENT

5

6

20 NCAC 02B .0501 DISABILITY RETIREMENT EXAMINATION

8 The ~~director~~Director is authorized to conduct an examination in doubtful cases of disability to determine the condition
9 of the disability, paying the expense of the same from the pension accumulation fund.

10

11 *History Note: Authority G.S. 135-5(c); 135-6(f);*

12 *Eff. February 1, 1976;*

13 *Readopted Eff. September 21, ~~1977~~1977;*

14 *Readopted Eff. January 1, 2023.*

15

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0502

DEADLINE FOR RECEIPT: Friday, December 9, 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:

Remove the comma after "engaged in" in line 6.

Capitalize "state" in line 7.

On line 7, for clarity, remove the portion "relate back so as to".

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 20 NCAC 02B .0502 is readopted with changes as published in 36:23 NCR, page 1846, as follows:

2

3

4 **20 NCAC 02B .0502 DISABILITY RETIREMENT REPORTS**

5 When the ~~medical~~Medical board, Board, subsequent to a disability retirement, reports that the retired member is
6 engaged in, or is able to engage in a gainful occupation, any adjustment required by G.S. 135-5(e)(1) will be made
7 prospectively only and will not relate back so as to require any refund to the state of payments made during the period
8 before a report is made indicating changed status.

9

10 *History Note: Authority G.S. 135-5(e)(1); 135-6(f);*

11 *Eff. February 1, 1976;*

12 *Readopted Eff. September 21, ~~1977~~;*

13 *Readopted Eff. January 1, 2023.*

14

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0504

DEADLINE FOR RECEIPT: Friday, December 9, 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:

What is the authority to disallow interest regardless of whether the member is currently on disability retirement or newly reinstated to active service? G.S. 135-6(f), the only cited authority, does not appear to give authority to suspend interest payments. Moreover, G.S. 135-8 suggests that "regular interest" shall be paid on all accounts.

In the event a member on disability retirement is reinstated in the middle of the year, does interest accrue during the period for which the member was not on active service?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0504 is readopted as published in 36:23 NCR page, 1846, as follows:

2

3

4 **20 NCAC 02B .0504 INTEREST CREDITS**

5 When members on disability retirement are reinstated to active service, no interest shall be allowed on their accounts
6 during the year of reinstatement.

7

8 *History Note: Authority G.S. 135-6(f);*

9

Eff. February 1, 1976;

10

Readopted Eff. September 21, ~~1977~~.

11

Readopted Eff. January 1, 2023.

12

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0510

DEADLINE FOR RECEIPT: Friday, December 9, 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:

G.S. 135-14 was repealed by Session Laws 2020-48, s. 1.12(c), effective June 26, 2020.

Remove G.S. 135-14 as authority and provide additional relevant authority, if applicable.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0510 is readopted as published in 36:23 NCR page 1845, as follows:

2

3 **20 NCAC 02B .0510 PENSIONS**

4 Payment of a full month's benefit shall be made for the month in which death occurs, regardless of the date, with no
5 further benefits to be paid thereafter.

6

7 *History Note: Authority G.S. 135-6(f); 135-14;*

8

Eff. February 1, 1976;

9

Readopted Eff. September 21, ~~1977-1977~~;

10

Readopted Eff. January 1, 2023.

11

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0701

DEADLINE FOR RECEIPT: Friday, December 9, 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:

To format definitions consistently, remove the quotes around the definitional language in (a).

Is the definition of "stipend" in (a) a quote from another source?

What is the definition or usage of "other living expenses" in (a)?

What is the definition or usage of "full-time degree program" in (a)? Is this pursuant to another rule or statute?

I am not sure what you are requiring in (b). Please clarify.

In (c), what "entire payment" is being referred to?

In both (b) and (c), how are the employer and employee to "submit" the payment or contribution to the Retirement System?

In (d), line 34, please delete "said" and rephrase.

In (d), is the "last position" the position the member is currently on a leave of absence from?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0701 is readopted as published in 36:23 NCR, page 1846, as follows:

2
3
4 **SECTION .0700 - LEAVES OF ABSENCE**

5
6 **20 NCAC 02B .0701 EDUCATIONAL LEAVES OF ABSENCE**

7 ~~(a) All members, who request approval to purchase creditable service and who fulfill all of the requirements of law~~
8 ~~and the rules of the board, shall be allowed to purchase the service in accordance with the law and the rules of the~~
9 ~~board.~~

10 ~~(b) Payments to be made for purchases on account of current leave of absence shall be submitted on Form 224,~~
11 ~~Payment of Contributions for a Current Leave of Absence, which shall be submitted as required by law. If the~~
12 ~~employer will make the monthly contributions equal to the normal and accrued liability contribution, the employer~~
13 ~~shall submit the total payment. If the member will make the entire payment, the member shall submit the total~~
14 ~~payment. In any case in which the employer continues to make salary payments, in whole or part, the director may~~
15 ~~make an agreement with the employer on how to make the payments which is not inconsistent with the law or the~~
16 ~~rules of the board.~~

17 ~~(c) Contributions for purchase of service shall not be accepted unless the member has applied for permission to~~
18 ~~purchase the service not later than the due date of the payment for the first month for which credit is to be purchased.~~
19 ~~Applications after the last day of the first month for which service is to be purchased and the due date thereof shall be~~
20 ~~accompanied by a check in payment of the contribution for said month.~~

21 ~~(d) Payment shall be deemed to have been made on the date received by the board, provided that a payment made by~~
22 ~~mail which is clearly postmarked on or before the due date shall be deemed paid when due.~~

23 ~~(e) Purchases of service credit for leaves of absence prior to July 1, 1981 shall be made in the same manner as~~
24 ~~prescribed in 20 NCAC 2B .1200, DELAYED PURCHASE OF SERVICE CREDITS.~~

25 (a) For the purposes of G.S. 135-8(b)(5), "stipend" shall mean "a fixed sum of money paid periodically for services
26 and to defray the cost of travel, housing, meals, or other living expenses resulting from participation in a full-time
27 degree program."

28 (b) If the employer makes the monthly employer contribution equal to the normal and accrued liability contribution,
29 the employer shall submit the total employer payment to the Retirement System.

30 (c) If the member makes the entire payment, the member shall submit the total employer and employee contribution
31 to the Retirement System.

32 (d) A member, who is currently making contributions to purchase service for an educational leave of absence, and
33 whose position before the leave of absence was paid on a less than 12-month basis, shall make the payment in the
34 month after the regularly scheduled due date for payment of salary and shall earn service credits for said contributions
35 in the same manner ~~the member as he~~ would if ~~the member he~~ was currently being employed in that last position.

36
37
38 *History Note: Authority G.S. 135-6(f); 135-8(b)(5);*

1 *Eff. February 1, 1976;*
2 *Readopted Eff. September 21, 1977;*
3 *Amended Eff. March 1, ~~1982~~1982;*
4 *Readopted Eff. January 1, 2023.*
5

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0706

DEADLINE FOR RECEIPT: Friday, December 9, 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:

Throughout this Rule, what are the "requirements of law and the rules of the Board" or similar language meant to impose? Please be specific about what law and what rules you are enforcing here.

How is the regulated public meant to know the rules established prior to July 1, 1983? Are these rules published anywhere? If so incorporate by reference pursuant to G.S. 150B-21.6.

Why is (a) necessary? It seems to be stating the obvious, that those seeking to purchase creditable service have to comply with the law and these Rules.

In (b), line 9, I do not think you need "Section". The reference to .1200 is sufficient.

Based on the language "in a manner prescribed by law", is (c) reiterating already existing law? Is this stating said law verbatim or adding any new requirements?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0706 is readopted as published in 36:23 NCR, page 1847, as follows:

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20 NCAC 02B .0706 WORKERS' COMPENSATION LEAVES OF ABSENCE

(a) All members, who request approval to purchase creditable service and who fulfill all of the requirements of law and the rules of the ~~board,~~Board, shall be allowed to purchase the service in accordance with the law and rules of the ~~board,~~Board.

(b) Purchases of creditable service for leaves of absence prior to July 1, 1983 shall be made in the same manner as prescribed in Section 20 NCAC 2B .1200,1200, as then effective. ~~DELAYED PURCHASE OF SERVICE CREDITS. A fee in the amount of twenty five dollars (\$25.00) for each payment will be assessed members at the time of purchase as provided by law.~~

(c) Purchases of creditable service for leaves of absence on and after July 1, 1983 shall be paid in the manner prescribed in law equal to the sum of the total employer and employee percentage rates of contribution in effect at the time of purchase multiplied by the annual rate of compensation of the member immediately prior to the leave of absence applied to the period of the leave commencing on the first day and ending on the last day before return to service.

(d) Members who had leaves of absence which otherwise met all requirements of law for purchase as creditable service except that the leaves of absence interrupted membership in the Local Governmental Employees' Retirement System or the Law Enforcement Officers' Retirement System and whose membership service before and after the leaves of absence has become membership service in the Teachers' and State Employees' Retirement System, may purchase creditable service as in Paragraph (b) of this Rule.

(e) Members may purchase creditable service for leaves of absence only when they have membership service credits immediately prior to and immediately after the leaves of absence and such membership service is creditable service at the time of purchase.

*History Note: Authority G.S. 135-4(r); 135-6(f);
Eff. December 1, 1983;
Amended Eff. August 1, ~~1988-1988~~;
Readopted Eff. January 1, 2023.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0802

DEADLINE FOR RECEIPT: Friday, December 9, 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:

What does the term "individual" encompass? Is this different than "member" as is used elsewhere?

G.S. 135-4(f)(6) was repealed by Session Laws 1981, c. 636, s. 1. However, in the statute it says "For proviso as to inchoate or accrued rights, see Editor's note below". Can you shed light on this?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0802 is readopted with changes as published in 36:23 NCR, page 1847, as follows:

2

3 **20 NCAC 02B .0802 QUALIFYING FOR CREDIT**

4 In order to qualify, each individual must pay for the full period of military service for which the member~~he~~ is eligible.

5

6 *History Note: Authority G.S. 135-4(f)(6); 135-6(f);*

7 *Eff. February 1, 1976;*

8 *Readopted Eff. September 21, ~~1977~~1977;*

9 *Readopted Eff. January 1, 2023.*

10

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0803

DEADLINE FOR RECEIPT: Friday, December 9, 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:

In (1), line 5, what is meant by "when the member first entered service"? First year?

Similarly, in (2), line 7, what does "at that time" mean?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0803 is amended as published in 36:23 NCR, page 1847, as follows:

2

3 **20 NCAC 02B .0803 COMPUTATION OF COST**

4 The cost of purchasing credit for military service is calculated as follows:

- 5 (1) 1/12 of the annualized rate of compensation the member earned when the member~~he~~ first entered
6 membership; multiplied by~~times~~
7 (2) the employee contribution rate at that time; multiplied by~~times~~
8 (3) the number of months of military service for which credit is to be purchased; plus
9 (4) a factor equivalent to interest at the rate of six and one-half percent, compounded annually, from the
10 initial year of membership to the year of payment.

11

12 *History Note: Authority G.S. 135-4(f); 135-6(f);*

13 *Eff. February 1, 1976;*

14 *Readopted September 21, ~~1977-1977~~;*

15 *Amended Eff. January 1, 2023.*

16

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0804

DEADLINE FOR RECEIPT: Friday, December 9, 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:

G.S. 135-4(f)(6) was repealed by Session Laws 1981, c. 636, s. 1. However, in the statute it says "For proviso as to inchoate or accrued rights, see Editor's note below". Can you shed light on this?

Additionally what is the statutory authority for this rule? G.S. 135-6(f) is the general rulemaking authority, but where is the authority for permitting credit for military service that has already been credited in the Federal Civil Service Program?

On line 5, capitalize "state".

On line 8, should it be "Retirement System" rather than "Systems"?

On line 8, when you say "under civil service" do you mean under the "Federal Civil Service Program" as stated on line 6?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0804 is readopted with changes as published in 36:23 NCR, page 1847, as follows:

2
3

4 **20 NCAC 02B .0804 CIVIL SERVICE PARTICIPATION**

5 A member of the Teachers' and State Employees' Retirement System whose employment in this state requires ~~him~~ the
6 member to participate in the Federal Civil Service Program in lieu of the ~~social~~ Social ~~security~~ Security program shall
7 not be barred from receiving military service credit for which ~~he~~ the member is otherwise eligible in the
8 ~~retirement~~ Retirement ~~system~~ Systems, despite the fact that ~~he~~ the member may also receive credit under civil service
9 for the same period of military service, provided that ~~he~~ the member makes the required payment.

10

11 *History Note: Authority G.S. 135-4(f)(6); 135-6(f);*

12 *Eff. February 1, 1976;*

13 *Readopted Eff. September 21, ~~1977~~ 1977;*

14 *Readopted Eff. January 1, 2023.*

15

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0805

DEADLINE FOR RECEIPT: Friday, December 9, 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:

On line 5, it's not clear what the "exclusion" is. Please revise and clarify.

What are "service connected disability" and "longevity retirement" referring to? Are these terms defined elsewhere? If so, please incorporate by reference in compliance with G.S. 150B-21.6.

G.S. 135-4(f)(6) was repealed by Session Laws 1981, c. 636, s. 1. However, in the statute it says "For proviso as to inchoate or accrued rights, see Editor's note below". Can you shed light on this?

Additionally what is the statutory authority for this rule? G.S. 135-6(f) is the general rulemaking authority, but where is the authority for the substance of the Rule?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0805 is readopted as published in 36:23 NCR, page 1847, as follows:

2

3

4 **20 NCAC 02B .0805 SERVICE CONNECTED DISABILITY**

5 The exclusion, for purchase of service in the Armed Forces of the United States as it pertains to credit in any other
6 retirement system, shall not include "service connected disability" benefits received from the Veteran's Administration
7 of the Federal Government except when such benefits are a supplement of a "longevity retirement" benefit.

8

9 *History Note: Authority G.S. 135-4(f)(6); 135-6(f);*

10 *Eff. February 1, 1976;*

11 *Readopted Eff. September 21, ~~1977~~.1977;*

12 *Readopted Eff. January 1, 2023.*

13

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0806

DEADLINE FOR RECEIPT: Friday, December 9, 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:

G.S. 135-4(f)(6) was repealed by Session Laws 1981, c. 636, s. 1. However, in the statute it says "For proviso as to inchoate or accrued rights, see Editor's note below". Can you shed light on this?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0806 is readopted as published in 36:23 NCR, page 1847, as follows:

2

3

4 **20 NCAC 02B .0806 RECALCULATION OF BENEFITS**

5 For members already retired who ~~avail themselves of these provisions~~ purchase service under G.S. 135-4(f)(6), any
6 recalculation of benefits shall be based on the law in effect at the time of the individual's retirement including the
7 additional service credit and effect shall be given for all benefit increases subsequent to the date of retirement which
8 shall be a part of the total cost of providing the additional service credit.

9

10 *History Note: Authority G.S. 135-4(f)(6); 135-6(f);*

11 *Eff. February 1, 1976;*

12 *Readopted Eff. September 21, ~~1977~~ 1977;*

13 *Readopted Eff. January 1, 2023.*

14

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0807

DEADLINE FOR RECEIPT: Friday, December 9, 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:

What provisions are being referred to by "any change in benefits resulting from these provisions"? If this Section or Chapter is the relevant portion, then it needs to be referenced.

G.S. 135-4(f)(6) was repealed by Session Laws 1981, c. 636, s. 1. However, in the statute it says "For proviso as to inchoate or accrued rights, see Editor's note below". Can you shed light on this?

Additionally what is the statutory authority for this rule? G.S. 135-6(f) is the general rulemaking authority, but where is the authority for the substance of the Rule?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0807 is readopted as published in 36:23 NCR page, 1847, as follows:

2

3

4 **20 NCAC 02B .0807 CHANGE IN BENEFITS**

5 For members already retired, any change in benefits resulting from these provisions shall become effective as of the
6 first of the month following receipt of the required payment.

7

8 *History Note: Authority G.S. 135-4(f)(6); 135-6(f);*

9

Eff. February 1, 1976;

10

Readopted Eff. September 21, ~~1977~~1977;

11

Readopted Eff. January 1, 2023.

12

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0810

DEADLINE FOR RECEIPT: Friday, December 9, 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:

I have some statutory authority concerns here. I looked through G.S. 135-4(f), and I didn't see anything that looked on all fours with this Rule. Can you point to particular language, or a different statute?

How does this Rule relate to G.S. 135-4(k1)? That seems to cap the amount of creditable service that may be purchased at 5 years.

On line 5, please change "will" to "shall."

Insert an Oxford comma after "membership" in line 6.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0810 is readopted with changes as published in 36:23 NCR, page 1847, as follows:

2

3

4 **20 NCAC 02B .0810 RESTORING MEMBERSHIP**

5 When a member on military leave has withdrawn all of ~~his~~ the member's contributions, ~~he~~ the member will be
6 permitted to pay back the amount withdrawn, restore ~~his~~ membership and receive credit for the period of ~~his~~ military
7 leave.

8

9 *History Note: Authority G.S. 135-4(f); 135-6(f);*

10 *Eff. February 1, 1976;*

11 *Readopted Eff. September 21, ~~1977~~.1977;*

12 *Readopted Eff. January 1, 2023.*

13

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0902

DEADLINE FOR RECEIPT: Friday, December 9, 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:

On line 5, who does "individual" refer to? The "member"?

On line 5, the individual must pay for "all or such portion in full years..." Portion of what?

If I read this sentence right, it appears that you're saying that in order to qualify, the individual has to pay for the services. Is this any different from G.S. 135-4(l2)? Thus, is it necessary?

Similarly to previous rules, is the agency aware G.S. 135-4(l) was repealed? "Repealed by Session Laws 1981, c. 636, s. 1. For proviso as to inchoate or accrued rights, see Editor's note below." Can you shed light on this?

I suggest adding a reference to G.S. 135-4(l2) to the History Note.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0902 is readopted with changes as published in 36:23 NCR, page 1847, as follows:

2

3

4 **20 NCAC 02B .0902 QUALIFYING FOR CREDIT**

5 In order to qualify for out-of-state service credit, each individual must pay for all or such portion in full years as the
6 member~~he~~ desires of out-of-state service for which the member ~~he~~ is eligible.

7

8 *History Note: Authority G.S. 135-4(l); 135-6(f);*

9

Eff. February 1, 1976;

10

Readopted Eff. September 21, ~~1977~~.1977;

11

Readopted Eff. January 1, 2023.

12

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0903

DEADLINE FOR RECEIPT: Friday, December 9, 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:

Similarly to previous rules, is the agency aware G.S. 135-4(l) was repealed? "Repealed by Session Laws 1981, c. 636, s. 1. For proviso as to inchoate or accrued rights, see Editor's note below." Can you shed light on this?

I think the correct reference is to G.S. 135-4(l2), and there, the language is "governmental subdivision", not "subdivisions".

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0903 is readopted as published in 36:23 NCR, page 1847, as follows:

2

3

4 **20 NCAC 02B .0903 DEFINITION**

5 "Other governmental subdivisions of the United States," as used in G.S. 135-4(l), shall mean a state or territory and
6 its subdivisions but not the United States government, except as specifically provided by statute.

7

8 *History Note: Authority G.S. 135-4(l); 135-6(f);*

9

Eff. February 1, 1976;

10

Readopted Eff. September 21, 1977.

11

Readopted Eff. January 1, 2023.

12

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0904

DEADLINE FOR RECEIPT: Friday, December 9, 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:

In (1), line 6, what is meant by "when the member first entered membership"? First year?

Similarly, in (2), line 8, what does "at that time" mean?

Similarly to previous rules, is the agency aware G.S. 135-4(l) was repealed? I think the correct reference is to 135-4(l2).

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0904 is readopted with changes as published in 36:23 NCR, page 184,7 as follows:

2
3

4 **20 NCAC 02B .0904 COMPUTATION OF COST**

5 The cost of purchasing credit for out-of-state service is calculated as follows:

- 6 (1) the monthly compensation the member earned when the member~~he~~ first entered membership;
7 multiplied by~~times~~
8 (2) the employee contribution rate at that time; ~~times~~multiplied by
9 (3) the number of months of out-of-state service for which credit is to be purchased; multiplied by~~times~~
10 (4) two; plus
11 (5) a factor equivalent to interest at the rate of six and one-half percent, compounded annually, from the
12 initial year of membership to the year of payment.

13

14 *History Note: Authority G.S. 135-4(l); 135-6(f);*
15 *Eff. February 1, 1976;*
16 *Readopted Eff. September 21, ~~1977~~.1977;*
17 *Readopted Eff. January 1, 2023.*

18

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0905

DEADLINE FOR RECEIPT: Friday, December 9, 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:

This Rule is essentially one long run-on sentence. Can you rephrase for clarity?

On line 6, who does "individual" refer to? The "member"?

What is the portion "effect shall be given for all benefit increases... which shall be a part of the total cost of providing the additional service credit" attempting to impart? Please clarify.

Similarly to previous rules, is the agency aware G.S. 135-4(l) was repealed? What is the authority for this Rule?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0905 is readopted as published in 36:23 NCR, page 1848, as follows:

2

3

4 **20 NCAC 02B .0905 RECALCULATION OF BENEFITS**

5 For members already retired who ~~avail themselves of the provisions for out of state service~~ purchase service under
6 G.S. 135-4(1), any recalculation of benefits shall be based on the law in effect at the time of the individual's retirement
7 including the additional service credit and effect shall be given for all benefit increases subsequent to the date of
8 retirement which shall be a part of the total cost of providing the additional service credit.

9

10 *History Note: Authority G.S. 135-4(l); 135-6(f);*

11 *Eff. February 1, 1976;*

12 *Readopted Eff. September 21, ~~1977~~ 1977;*

13 *Readopted Eff. January 1, 2023.*

14

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .0906

DEADLINE FOR RECEIPT: Friday, December 9, 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:

Similarly to previous rules, is the agency aware G.S. 135-4(l) was repealed? What is the authority for this Rule?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .0906 is readopted as published in 36:23 NCR, page 1848, as follows:

2

3

4 **20 NCAC 02B .0906 CHANGE IN BENEFITS**

5 For members already retired, any change in benefits resulting from the provisions for out-of-state service shall become
6 effective as of the first of the month following receipt of the required payment.

7

8 *History Note: Authority G.S. 135-4(l); 135-6(f);*

9

Eff. February 1, 1976;

10

Readopted Eff. September 21, ~~1977~~1977;

11

Readopted Eff. January 1, 2023.

12

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .1004

DEADLINE FOR RECEIPT: Friday, December 9, 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:

In (a), how shall an eligible member "apply for the purchase"?

Also, what type of "certification" must be submitted, and who must submit it?

In (a), line 9, the Rule refers to an application. What must the member submit as part of the application?

Is "temporary employment" with the State or "Temporary State employment" defined by statute or otherwise outside of this Rule? The definition in (b) is circular.

In (c), on line 15, revise "the employer shall be equal". I think you erroneously deleted "cost".

Is (c) not circular? It sounds like you're saying the employer's cost is equal to the employer's contribution, plus the employee's contribution, minus the member's contribution. Unless I completely misunderstood Ch. 135, isn't the member the employee?

Is (d) not already covered by the requirements within G.S. 135-4(p)?

Also, must the 36 months be consecutive?

Correct the History Note "Amended" language regarding 1982.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .1004 is readopted as published in 36:23 NCR, page 1848, as follows:

2
3
4 **20 NCAC 02B .1004 TEMPORARY SERVICE PURCHASE (INCHOATE RIGHTS ONLY)**

5 (a) A member eligible under G.S. 135-4(p) to purchase service for temporary State employment shall ~~make the~~
6 ~~application on Form 222, apply for the purchase. Application to Purchase Service Credits for Full Time Temporary~~
7 ~~State Employment.~~ Employer certification of temporary State employment and the compensation received for such
8 service shall ~~be made on Form 222 A, Employer Certification of Full Time Temporary Service, and shall accompany~~
9 the application.

10 (b) Temporary State employment means employment under which the member would have been unconditionally
11 required to make contributions at the time of employment if not classified at the time of employment as a "temporary"
12 employee.

13 (c) ~~Since the actual cost to fund the liability created on account of the purchase has a direct relationship to the~~
14 ~~purchasing member's current level of compensation, the employer cost will be computed on the member's level of~~
15 ~~compensation at the time of purchase.~~ The employer cost, therefore, shall be equal to the total employee and employer
16 rates of contribution at the member's level of compensation at the time of purchase and for the period of service being
17 purchased, less the required member contribution.

18 (d) No purchases shall be allowed for 36 months or less.

19
20 *History Note: Authority G.S. 135-4(p); 135-6(f);*
21 *Eff. March 1, 1982;*
22 *Amended Eff. March 1, 1985; September 1, 1982;*
23 *Readopted Eff. January 1, 2023.*
24

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

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

RULE CITATION: 20 NCAC 02B .1006

DEADLINE FOR RECEIPT: Friday, December 9, 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:

To make the definition comply with format and avoid ambiguity, while keeping the reference, rewrite it as follows: "Part-time" as used in G.S. 135-4(p2) means..."

Similarly to 20 NCAC 02B .0701, what is the definition or usage of "full-time"? Is this pursuant to another rule or statutory construction? Without a definition of "full time" the definition of "part time" here does not really impart any information.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: 12/7/22

1 20 NCAC 02B .1006 is readopted as published in 36:23 NCR, page 1848, as follows:

2
3
4 **20 NCAC 02B .1006 PART-TIME SERVICE PURCHASE: FULL ACTUARIAL LIABILITY**

5 ~~(a) Members requesting approval to purchase creditable service shall make application on and acquire certification~~
6 ~~from the employer of the part time employment on the form designated for this purpose.~~

7 ~~(a) (b) The phrase "part-time" as used in G.S. 135-4(p2) 135-4(pl) shall refer to duties performed on less than a~~
8 ~~full-time basis.~~

9 ~~(c) The phrase "completed 10 years or more of membership service" as used in G.S. 135-4(pl) shall mean membership~~
10 ~~service completed after the "part time" state employment.~~

11 ~~(d) The amount of part time service to be purchased shall be computed as follows:~~

12 ~~(1) Determine the ratio of the actual gross compensation earned as a part time employee (numerator) to~~
13 ~~the gross compensation that would have been earned as a full time employee (denominator);~~

14 ~~(2) Apply the ratio (quotient) determined in (1) of this Paragraph to the period of service rendered in~~
15 ~~months.~~

16 ~~(e) Purchases of creditable service for part time state employment shall be made in the same manner as prescribed in~~
17 ~~20 NCAC 2B .1200.~~

18 ~~(f) A fee in the amount of twenty five dollars (\$25.00) for each payment shall be assessed members at the time of~~
19 ~~purchase as provided by law.~~

20
21 *History Note: Authority G.S. 135-4(p2)(p1); 135-6(f);*

22 *Eff. March 1, 1985-1985;*

23 *Readopted Eff. January 1, 2023.*

24