

**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: 20 NCAC 02L .0101

**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:

*Item (1) should be put into the format of a definition. See the above formatting.*

*Additionally, for clarity, place reference to the definition for "Director" being applicable to this Section.*

*In Item (3), insert the zip code in the address.*

*Include G.S. 128-28(g) or 135-6(f) as authority, whichever is applicable, for general rulemaking authority.*

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

Lawrence R. Duke  
Commission Counsel

Date submitted to agency: December 7, 2022

**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: 20 NCAC 02L .0103

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

*Regarding Item (1), how is the regulated public mean to distinguish between each of the three cited medical boards when "Medical Board" is referenced? Are they clearly indicated when referenced within this Subchapter?*

*In Item (3), lined 12, capitalize "state".*

*In Items (4) and (6), "officer" and "officer trainee" should be capitalized, as they are defined terms and would eliminate confusion. This should continue through the Subchapter.*

*Include G.S. 128-28(g) or 135-6(f) as authority, whichever is applicable, for general rulemaking authority.*

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

*In Item (1), insert an Oxford comma after "employee" in line 12.*

*Also, per our Style Guide, deletion of a word connected to punctuation means the punctuation is deleted and should be reinserted. In line 16, was the semi-colon meant to be deleted?*

*Additionally, insert an Oxford comma after "employee" in line 18.*

*Consider updating the Authority G.S. 128-27(12) and including (13) through (16) if it is desired for this Rule to affect more than January 1, 1999 through July 1, 2004.*

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AGENCY: Teachers' and State Employees' Retirement System Board of Trustees AND  
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RULE CITATION: 20 NCAC 02M .0102

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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 does it mean for the Board to “make... decisions administratively”?*

*What “previous decisions of this Board” is the Director bound to?*

*Which decisions may be appealed under this Rule? Only those decisions made “administratively” and covering “specific findings in specific matters relating to specific persons”?*

*What procedures for contested cases apply? Consider making reference to Section .0400 of Title 20, Chapter 02.*

*Consider updating the Authority G.S. 128-27(12) and including (13) through (16) if it is desired for this Rule to affect more than January 1, 1999 through July 1, 2004.*

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**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: Teachers' and State Employees' Retirement System Board of Trustees AND  
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RULE CITATION: 20 NCAC 02M .0201

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

*Insert an Oxford comma after "employee" in lines 7 and 12.*

*As (a) is written, it does not cover the scenario of an employee choosing coverage under a third retirement benefit, separate from the first two which are under the same Retirement System. For example, retirement benefit #1 and #2 are under the same System, while #3 is under another. Lines 9 through 11 do not give the employee the option of choosing #3. Is this a possibility?*

*Consider updating the Authority G.S. 128-27(l2) and including (l3) through (l6) if it is desired for this Rule to affect more than January 1, 1999 through July 1, 2004.*

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Commission Counsel

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**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: Teachers' and State Employees' Retirement System Board of Trustees AND  
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RULE CITATION: 20 NCAC 02M .0202

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

*In items (1) and (2), what is "when first eligible" referencing? This should be included in the Rule.*

*Are the requirements and 60 day effective dates within items (1) and (2) within statute? Why is this Rule necessary?*

*Consider updating the Authority G.S. 128-27(l2) and including (l3) through (l6) if it is desired for this Rule to affect more than January 1, 1999 through July 1, 2004.*

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RULE CITATION: 20 NCAC 02M .0206

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

*Is there a statute which the cancellation is pursuant to? This would clarify questions, such as who shall be the party doing the cancellation.*

*What coverage is applicable to this Rule? Presumably, the subsection covers Contributory Death Benefit for Retired Members which should be referenced.*

*Consider updating the Authority G.S. 128-27(12) and including (13) through (16) if it is desired for this Rule to affect more than January 1, 1999 through July 1, 2004.*

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**REQUEST FOR § 150B-21.10 CHANGES**

AGENCY: Teachers' and State Employees' Retirement System Board of Trustees AND  
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RULE CITATION: 20 NCAC 02M .0301

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

*Insert an Oxford comma after "employees" in line 27 of page 2.*

*Regarding the rates within (b), how does the Board's revision of the rates affect the Rule, if at all? Does a resolution by the Board changing the rates affect this Rule's text, or is the schedule more of a placeholder?*

*In (c), clarify whether the revision "may be" or "shall be" "applicable to members electing coverage prior to the effective date..." Who makes such a determination and on what bases?*

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Commission Counsel

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RULE CITATION: 20 NCAC 02M .0302

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

*\*Legal representative was defined in 02M .0101.*

*What does "nearest age" mean in (a)? Is this statutorily defined or in reference to a specific statute?*

*The last sentence in (b) should be set up as a list with each of the three possibilities of overpayment listed as (1), (2), and (3). This would clear up any formatting issues and clearly lay out options for paying out overpayments.*

*Consider updating the Authority G.S. 128-27(l2) and including (l3) through (l6) if it is desired for this Rule to affect more than January 1, 1999 through July 1, 2004.*

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**REQUEST FOR § 150B-21.10 CHANGES**

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RULE CITATION: 20 NCAC 02M .0303

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

*In (b), what "other required deductions" are referenced?*

*What is the effect of the final clause in (b)? For each month the net monthly retirement allowance is insufficient, a notice will be sent 10 days after determination and the payment will be due by the 25<sup>th</sup> of the same month. What does the "thereafter" portion actually require?*

*Also, how are the due dates different between the same month and subsequent months?*

*In line 19, change "and/or" to either "and" or "or".*

*Also, clarify the "may be waived" requirement. Who may waive the contribution payment and under what circumstances or criteria?*

*In line 20, change "must" to "shall". Use active voice.*

*Correct the added paragraph in Authority.*

*Consider updating the Authority G.S. 128-27(12) and including (13) through (16) if it is desired for this Rule to affect more than January 1, 1999 through July 1, 2004.*

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RULE CITATION: 20 NCAC 02M .0304

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

*Correct the added paragraph in Authority.*

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

*Insert "the", or another appropriate article, after "where" in line 5.*

*The introductory language of the paragraph does not transition into item (1) and seemingly has no correlation until (2). Rewrite to clarify.*

*In (2), is interest computed twice – each monthly payment and balance of the monthly contributions and interest?*

*Can the Board alter the interest rate in (3) and does this affect the Rule?*

*Correct the added paragraph in Authority.*

*Consider updating the Authority G.S. 128-27(12) and including (13) through (16) if it is desired for this Rule to affect more than January 1, 1999 through July 1, 2004.*

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RULE CITATION: 20 NCAC 02M .0307

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

*Is this rule effectively stating benefits or payments need not be made to a former member which dies on or after cancellation? Is this not statutorily covered, or at least implicit?*

*Correct the added paragraph in Authority.*

*Consider updating the Authority G.S. 128-27(12) and including (13) through (16) if it is desired for this Rule to affect more than January 1, 1999 through July 1, 2004.*

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