

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 .0216

DEADLINE FOR RECEIPT: Wednesday, November 27, 2024.

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 the Rule name, line 3, consider adding to the beginning, "Standard for..." or "Evidence Required for..."

In line 4, consider replacing "means" with "includes" since this doesn't appear to be a definition.

In (1), line 5, is there a reason to capitalize "Descriptions"? If not, please make it lowercase. Also, consider starting with "Job Descriptions of all vacant positions...."

In (2), line 7, consider changing it to "The date the positions are expected to be filled or the status of recruitment."

In (3), line 8, how should the employing unit provide "confirmation"? Can the funding be confirmed by simply providing a copy of the most recent budget? Please clarify.

Also, in (3), consider deleting the parenthesis in "position(s)". Does "Employer's" need to be capitalized? If not, please make it lowercase.

In (4), make "Employer" lowercase. Does the "Statement" need to be signed by the head of the employing unit? If so, please include that requirement in the Rule. Also, where are "governmental accounting standards" found? Please cite or cross-reference the location of the standards so the regulated public understands how to comply.

In the History Note, please include the desired effective date.

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

Travis Wiggs
Rules Review Commission Counsel
Submitted November 13, 2024

20 NCAC 02B .0216 is proposed for adoption as follows:

20 NCAC 02B .0216 INACTIVE EMPLOYER EXTENSION REQUEST

“Clear and Convincing Evidence” means all of the following:

- (1) Job Description(s) of vacant position(s) requiring membership in the Teachers’ and State Employees’ Retirement System.
- (2) The date the position is expected to be filled or status of recruitment.
- (3) Confirmation that the position(s) are funded in the Employer’s most recent budget.
- (4) Statement that the Employer will continue to issue financial statements recognizing its share of the Teachers’ and State Employees’ Retirement System costs, if any, under governmental accounting standards.

*History Note: Authority G.S. 135-5.5(d); 135-6(f);
Eff. MONTH DD, YYYY*

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: Wednesday, November 27, 2024.

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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 5, is it necessary to include "in the amount equal to a percentage of the actual compensation of each member". It appears unnecessary since the paragraph says the System "will make no refunds".

In (c), add a comma after "cap" on line 12.

In (d), line 16, add a comma after "required".

In the History Note, please include the desired effective date.

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

20 NCAC 02B .0401 is proposed for amendment as follows:

20 NCAC 02B .0401 REFUNDS

(a) The Retirement System will make no refunds of employer contributions paid into the pension accumulation fund by the employer in the amount equal to a percentage of the actual compensation of each member in cases of erroneous employee deductions except those which are corrected by the employing unit on a subsequent payroll within the calendar year in which the errors occur.

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

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

(d) If an employer makes a contribution to the pension accumulation fund that was not required or the Retirement System must repay or reimburse an employer for any reason, then the funds shall be refunded or paid in the form of a credit to be used toward future required employer contributions.

History Note: Authority G.S. 135-2; 135-6(f); 135-8(f);

Eff. February 1, 1976;

Readopted Eff. MONTH DD, YYYY; March 1, 2023; September 21, 1977.

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

AGENCY: Local Governmental Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02C .0213

DEADLINE FOR RECEIPT: Wednesday, November 27, 2024.

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

In the Rule name, line 3, consider adding to the beginning, "Standard for..." or "Evidence Required for..."

In line 4, consider replacing "means" with "includes" since this doesn't appear to be a definition.

In (1), line 5, is there a reason to capitalize "Descriptions"? Also, consider starting with "Job Descriptions of all vacant positions...."

In (2), line 7, consider changing to "The date the positions are expected to be filled or the status of recruitment."

In (3), line 8, how should the employing unit provide "confirmation"? Can the funding be confirmed by simply providing a copy of the most recent budget?

Also, in (3), consider deleting the parenthesis in "position(s)". Does "Employer's" need to be capitalized?

In (4), make "Employer" lowercase. Does the "Statement" need to be signed by the head of the employing unit? Also, where are "governmental accounting standards" found?

In the History Note, please include the desired effective date.

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

Travis Wiggs
Rules Review Commission Counsel
Submitted November 13, 2024

20 NCAC 02C .0213 is proposed for adoption as follows:

20 NCAC 02C .0213 INACTIVE EMPLOYER EXTENSION REQUEST

“Clear and Convincing Evidence” means all of the following:

- (1) Job Description(s) of vacant position(s) requiring membership in the Local Governmental Employees’ Retirement System.
- (2) The date the position is expected to be filled or status of recruitment.
- (3) Confirmation that the position(s) are funded in the Employer’s most recent budget.
- (4) Statement that the Employer will continue to issue financial statements recognizing its share of the Local Governmental Employees’ Retirement System costs, if any, under governmental accounting standards.

*History Note: Authority G.S. 128-23.1(d); 128-28(g);
Eff. MONTH DD, YYYY*

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

AGENCY: Local Governmental Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02C .0403

DEADLINE FOR RECEIPT: Wednesday, November 27, 2024.

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

In (a), line 4, should "Pension Accumulation Fund" be capitalized? You didn't capitalize these words in .0401. Please be consistent

In (a), line 5, is it necessary to include "in the amount equal to a percentage of the actual compensation of each member". It appears unnecessary since the paragraph says the System "will make no refunds".

In (c), add a comma after "cap" on line 12.

In (d), line 16, add a comma after "required".

In the History Note, please include the desired effective date.

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

20 NCAC 02C .0403 is proposed for amendment as follows:

20 NCAC 02C .0403 REFUNDS

(a) The Retirement System will make no refunds of employer contributions, paid into the Pension Accumulation Fund by the employer in the amount equal to a percentage of the actual compensation of each member, in cases of erroneous employee deductions except those which are corrected by the employing unit on a subsequent payroll within the calendar year in which the errors occur.

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

(c) If an employer makes an additional contribution to the pension accumulation fund as a result of the contribution-based benefit cap and the Retirement System receives information which alters the calculation of the retirement benefit used to determine the contribution under the provisions of G.S. 128-30(g)(2)b., any contribution not required based on the new information will be refunded to the employer in the form of a credit toward future required employer contributions.

(d) If an Employer makes a contribution to the pension accumulation fund that was not required or the Retirement Systems Division must repay or reimburse an employer for any reason, then the funds shall be refunded or paid in the form of a credit to be used toward future required employer contributions.

History Note: Authority G.S. 128-22; 128-28(g); 128-30(g);

Eff. February 1, 1976;

Readopted Eff. MONTH DD, YYYY; March 1, 2023; September 21, 1977.

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

AGENCY: Local Governmental Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02C .0505

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

In line 6, there appears to be an extra space in "G.S. 128-27(c)". Please delete it.

In line 7, consider adding "their" before "eligibility".

In line 8, there appears to be an extra space in "G.S. 128-27(e)". Please delete it.

In the History Note, please include the desired effective date.

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

Travis Wiggs
Rules Review Commission Counsel
Submitted November 13, 2024

20 NCAC 02C .0505 is proposed for adoption as follows:

20 NCAC 02C .0505 LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM
DISABILITY RETIREMENT REEXAMINATION

(a) A beneficiary in receipt of disability retirement benefits under G.S. 128-27(c), who has submitted to the Retirement System a letter from the Social Security Administration confirming eligibility for primary Social Security disability benefits, shall not be subject to medical reexamination set forth in G.S. 128-27(e).

History Note: Authority G.S. 128-27(e); 128-28(g);
Eff. MONTH DD, YYYY