

TITLE 20 – OFFICE OF THE STATE TREASURER

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Local Governmental Employees' Retirement System Board of Trustees intends to adopt the rule cited as 20 NCAC 02C .0307, amend the rules cited as 20 NCAC 02C .0101, .0904; 02N .0106, repeal the rule cited as 20 NCAC 02C .0405, readopt with substantive changes the rules cited as 20 NCAC 02C .0201, .0205, .0302, .0304, .0306, .0403, .0704, .1006; 02N .0208, .0215, readopt without substantive changes the rules cited as 20 NCAC 02C .0204, .0301, .0303, .0402, .0404, .0501, .0502, .0504, .0901, .0906- .0909, .1002- .1004, .1007; 02N .0108, .0219 and repeal through readoption the rules cited as 20 NCAC 02C .0503, .0902, .1001, .1201, .1301, .1302, .1501, .1503-.1506; and 02N .0218.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.nctreasurer.com/about/transparency/commitment-transparency/nc-administrative-code-rules>

Proposed Effective Date: January 1, 2023

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Submit a written request for public hearing within 15 days after publication of the Notice of Text to: Dept of State Treasurer, Attn: Rulemaking Coordinator, 3200 Atlantic Avenue, Raleigh, NC 27604 or DST.NCAC@nctreasurer.com.*

Reason for Proposed Action: *These proposed rule changes are being made as part of the Local Governmental Employees' Retirement System (LGERS) Board of Trustees' readoption phase of the decennial review process. Those rules administered by the LGERS Board of Trustees and identified as being "necessary" requiring readoption by December 31, 2022 are included in this rules action. Those rules are either being 1) readopted 'as is;' 2) readopted with substantive changes; 3) readopted without substantive changes; or 4) repealed.*

In addition, the LGERS Board of Trustees, as part of a joint action with the Teachers' and State Employees' Retirement System (TSERS) Board of Trustees, is seeking to simplify rules related to statutory provisions requiring that service purchases include an administrative fee to be set by the LGERS Board. The Boards are seeking to do this by adopting a new single rule covering all such situations of service purchases. As part of this simplification, the LGERS Board of Trustees is seeking to repeal, through readoption, current rules it administers that cover service purchases.

The LGERS Board of Trustees is seeking to adopt a new rule for contingent beneficiaries that is similar to a current TSERS rule. The proposed LGERS rule allows members to designate beneficiaries for various purposes similar to the TSERS rule. Some LGERS rules (not identified as 'necessary' in the first phase of decennial review) are proposed for amendment to provide clarification. An additional rule is proposed for repeal.

Comments may be submitted to: Laura Rowe, Rulemaking Coordinator, 3200 Atlantic Avenue, Raleigh, NC 27604; email DST.NCAC@nctreasurer.com

Comment period ends: August 1, 2022

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☒ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

CHAPTER 02 - RETIREMENT SYSTEMS

SUBCHAPTER 02C - LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

SECTION .0100 - GENERAL PROVISIONS

20 NCAC 02C .0101 GENERAL INFORMATION

General information about the Local Governmental Employees' Retirement System includes the following:

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

History Note: Authority G.S. 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21, 2018;
Amended Eff. September 1, ~~2019~~; 2019;
Amended Eff. January 1, 2023.

SECTION .0200 - ADMINISTRATION

20 NCAC 02C .0201 ACTUARIAL TABLES: RATES AND ASSUMPTIONS

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

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

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

- ~~(1) interest rate assumptions;~~
- ~~(2) salary increase assumptions;~~
- ~~(3) required contribution rates;~~
- ~~(4) mortality assumptions;~~
- ~~(5) separation and retirement assumptions;~~
- ~~(6) joint and survivor tables;~~
- ~~(7) reserve transfer tables.~~

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

History Note: Authority G.S. 128-27(m); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Amended Eff. August 1, ~~1981~~; 1981;
Readopted Eff. January 1, 2023.

20 NCAC 02C .0204 FACILITY OF PAYMENT (READOPTION WITHOUT SUBSTANTIVE CHANGES)

20 NCAC 02C .0205 MEDICAL BOARD

In accordance with the authority contained in G.S. 128-28(l) membership of the Medical Board consists of ~~The Director of the Retirement Systems and the chairman of the board of trustees are authorized to increase the membership of the medical board from three to five physicians with a quorum of three being required at meetings approving applications for disability retirement.~~

History Note: Authority G.S. 128-28(1);
Eff. February 1, 1976;
Readopted Eff. September 21, ~~1977~~; 1977;
Readopted Eff. January 1, 2023.

SECTION .0300 - BENEFICIARIES

20 NCAC 02C .0301 DESIGNATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

20 NCAC 02C .0302 PRINCIPAL BENEFICIARY

(a) More than one principal beneficiary may be ~~named~~ designated for the return of accumulated contributions under the provisions of G.S. 128-27(f) to share equally. In the event of the death of any so ~~named~~ designated for the return of accumulated contributions, those surviving shall share equally in the total benefits. However, if there is only one living designated principal beneficiary for the return of accumulated contributions at the member's death and the member has met all other requirements under the provisions of G.S. 128-27(m), the designated principal beneficiary may elect to receive the alternative benefit under the provisions of G.S. 128-27(m).

(b) More than one principal beneficiary may be designated for the death benefit of an active member or a retired member under the provisions of G.S. 128-27(l), 128-27(11), or 128-27(16) to share equally. In the event of the death of any so designated principal

beneficiary(ies) for the death benefit of an active member or retired member, those surviving principal beneficiary(ies) shall share equally in the total benefits.

~~(b)~~(c) More than one principal beneficiary may be designated for the guaranteed refund under the provisions of G.S. 128-27(g1) to share equally. In the event of the death of any so designated principal beneficiary(ies) for the guaranteed refund, those surviving principal beneficiary(ies) shall share equally in the total benefits. A principal beneficiary may be named with the stipulation that should he predecease the member, payment of the amount due, if any, will be made to a designated contingent beneficiary. It is permissible to name more than one contingent beneficiary. In the event of the death of any so named, those surviving shall share equally in the total benefits. If more than one principal beneficiary is named, the naming of a contingent beneficiary or beneficiaries will not be permitted.

History Note: Authority G.S. 128-27(f); ~~128-27(g);~~ 128-27(g1); 128-27(l); 128-27(l1); 128-27(l6); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, ~~1977;~~ 1977;
Readopted Eff. January 1, 2023.

20 NCAC 02C .0303 NO LIVING BENEFICIARY (READOPTION WITHOUT SUBSTANTIVE CHANGES)

20 NCAC 02C .0304 PAYMENTS TO BENEFICIARIES

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

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

History Note: Authority G.S. 128-27(g); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, ~~1977;~~ 1977;
Readopted Eff. January 1, 2023.

20 NCAC 02C .0306 BENEFICIARY CHANGE

Prior to retirement, the member ~~may, has the right~~ at any time, ~~and from time to time,~~ to change any beneficiaries designated for the return of accumulated contributions under the provisions of G.S. 128-27(f) or the death benefit for active members under the provisions of G.S. 128-27(l) or 128-27(l1). ~~without the knowledge or consent of the beneficiaries.~~ A retired member may, at any time, change any beneficiaries designated for:

- (1) The guaranteed refund under the provisions of G.S. 128-27(g1) until such time as the funds have been depleted; or
- (2) The death benefit for active members under the provisions of G.S. 128-27(l) or 128-27(l1) until such time as the retired member's last day of active service is greater than 180 days prior to the change; or
- (3) The death benefit for retired members under the provisions of G.S. 128-27(l6).

Any such change must be submitted to the ~~board~~ Board of trustees, Trustees, using the appropriate form.

History Note: Authority G.S. 128-27(g); ~~128-27(g1);~~ 128-27(l); 128-27(l1); 128-27(l6); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, ~~1977;~~ 1977;
Readopted Eff. January 1, 2023.

20 NCAC 02C .0307 CONTINGENT BENEFICIARY

(a) Designating a contingent beneficiary for the return of accumulated contributions under the provisions of G.S. 128-27(f):

- (1) A principal beneficiary may be designated for the return of accumulated contributions with the stipulation that should the principal beneficiary(ies) predecease the member, payment of the amount due, if any, shall be made to the designated contingent beneficiary(ies) for the return of accumulated contributions.
- (2) If more than one principal beneficiary is designated for the return of accumulated contributions, payment of the amount due, if any, shall be paid to any surviving principal beneficiary(ies) designated for the return of accumulated contributions, sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.
- (3) It is permissible to designate more than one contingent beneficiary for the return of accumulated contributions. Payment of the amount due, if any, shall be paid to the surviving contingent beneficiary(ies) designated for the return of accumulated contributions, sharing equally in the total benefits, only in the event that there is no surviving principal beneficiary designated for the return of accumulated contributions.

(b) Designating a contingent beneficiary for the death benefit under the provisions of G.S. 128-27(l), 128-27(l1), or 128-27(l6):

- (1) A principal beneficiary may be designated for the death benefit of an active member or retired member with the stipulation that should the principal beneficiary(ies) predecease the member, payment of the amount due, if any, shall be made to the designated contingent beneficiary(ies) for the death benefit.
- (2) If more than one principal beneficiary is designated for the death benefit, payment of the amount due, if any, shall be paid to any surviving principal beneficiary(ies) designated for the death benefit, sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.

- (3) It is permissible to designate more than one contingent beneficiary for the death benefit. Payment of the amount due, if any, shall be paid to the surviving contingent beneficiary(ies) designated for the death benefit, sharing equally in the total benefits, only in the event that there is no surviving principal beneficiary designated for the death benefit.
- (c) Designating a contingent beneficiary for the guaranteed refund under the provisions of G.S. 128-27(g1):
- (1) A principal beneficiary may be designated for the guaranteed refund with the stipulation that should the principal beneficiary(ies) predecease the member, payment of the amount due, if any, shall be made to the designated contingent beneficiary(ies) for the guaranteed refund.
- (2) If more than one principal beneficiary is designated for the guaranteed refund, payment of the amount due, if any, shall be paid to any surviving principal beneficiary(ies) designated for the guaranteed refund, sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.
- (3) It is permissible to designate more than one contingent beneficiary for the guaranteed refund. Payment of the amount due, if any, shall be paid to the surviving contingent beneficiary(ies) designated for the guaranteed refund, sharing equally in the total benefits, only in the event that there is no surviving principal beneficiary designated for the guaranteed refund.

History Note: Authority G.S. 128-27(f); 128-27(g1); 128-27(l); 128-27(l1); 128-27(l6); 128-28(g);
Eff. January 1, 2023.

SECTION .0400 - CONTRIBUTIONS

20 NCAC 02C .0402 EMPLOYER'S CONTRIBUTIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

20 NCAC 02C .0403 REFUNDS

- (a) The ~~retirement~~ Retirement system System will make no refunds of employer ~~contributions~~ 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. The only exception to this Rule is that an error occurring in December may be corrected (without loss of the employer contribution) by submission of a revised payroll with checks for the correct amount before January 31, of the following year.
- (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.

History Note: Authority G.S. 128-22; 128-30(g); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, 1977; 1977;
Readopted Eff. January 1, 2023.

20 NCAC 02C .0404 DUE DATE OF CONTRIBUTIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

20 NCAC 02C .0405 ANTI-PENSION SPIKING CONTRIBUTION-BASED BENEFIT CAP FACTOR (LGERS)

The contribution-based benefit cap factor for the Local Governmental Employees' Retirement System is 4.7.

History Note: Authority G.S. 128-26(y); 128-27(a3); 128-28(g);
Eff. May 1, 2018; 2018;
Repealed Eff. January 1, 2023.

SECTION .0500 - DISABILITY RETIREMENT

20 NCAC 02C .0501 DISABILITY EXAMINATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

20 NCAC 02C .0502 DISABILITY RETIREMENT REPORTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

20 NCAC 02C .0503 FEES: INDEPENDENT MEDICAL EXAMS-DISABILITY RETIREMENTS

Physicians employed upon the recommendations of the Medical Board to examine and report on special cases of disability retirement applicants and re-examination of disability beneficiaries shall be paid fees commensurate with usual, customary and reasonable charges for such tests, examinations, procedures and reports as the Medical Board might request; and, the amounts of such fees shall be predetermined by mutual agreement between the Director and the physicians so employed, with the advice of the Medical Board as to the amounts, provided that no fee for any one applicant or beneficiary shall exceed the sum of one hundred and fifty dollars (\$150.00).

History Note: Authority G.S. 128-27(c); 128-28(g);
Eff. February 1, 1976;

Readopted Eff. September 21, 1977;
Amended Eff. August 1, ~~1981~~, 1981;
Repealed Eff. January 1, 2023.

20 NCAC 02C .0504 REINSTATEMENT TO ACTIVE SERVICE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0700 - LEAVES OF ABSENCE

20 NCAC 02C .0704 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 2C .1500 02C .1500, 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 Teachers' and State 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 Local Governmental 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. 128-26(1); 128-28(g);
Eff. December 1, 1983;
Amended Eff. August 1, ~~1988~~, 1988;
Readopted Eff. January 1, 2023.

SECTION .0900 - MILITARY SERVICE (INCHOATE RIGHTS ONLY)

20 NCAC 02C .0901 LEAVE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

20 NCAC 02C .0902 FEE

~~A fee in the amount of twenty five dollars (\$25.00) for each payment, for obtaining military service credit, will be assessed each individual at the time of payment to help defray the expense of handling.~~

History Note: Authority G.S. 128-26(a); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, ~~1977~~, 1977;
Repealed Eff. January 1, 2023.

20 NCAC 02C .0904 COMPUTATION OF COST

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

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

History Note: Authority G.S. 128-26(a); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, ~~1977~~, 1977;
Amended Eff. January 1, 2023.

20 NCAC 02C .0906 CIVIL SERVICE PROGRAM (READOPTION WITHOUT SUBSTANTIVE CHANGES)

20 NCAC 02C .0907 EXCLUSION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

20 NCAC 02C .0908 RECALCULATION OF BENEFITS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

20 NCAC 02C .0909 CHANGE IN BENEFITS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .1000 - OUT-OF-STATE SERVICE (INCHOATE RIGHTS ONLY)

20 NCAC 02C .1001 FEE

~~A fee in the amount of twenty five dollars (\$25.00) for each payment, for obtaining out of state service credit, will be assessed each individual at the time of payment to help defray the expense of handling.~~

History Note: Authority G.S. 128-26(j); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, ~~1977~~. 1977;
Repealed Eff. January 1, 2023.

20 NCAC 02C .1002 QUALIFYING FOR CREDIT (READOPTION WITHOUT SUBSTANTIVE CHANGES)

20 NCAC 02C .1003 OTHER GOVERNMENTAL SUBDIVISION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

20 NCAC 02C .1004 COMPUTATION OF COST (READOPTION WITHOUT SUBSTANTIVE CHANGES)

20 NCAC 02C .1006 RECALCULATION OF BENEFITS

For members already retired who ~~avail themselves of the provisions for obtaining credit for out of state service,~~ purchase service under G.S. 128-26(j), any recalculation of benefits shall be based on the law in effect at the time of the individual's retirement including the additional service credit and effect shall be given for all benefit increases subsequent to the date of retirement which shall be a part of the total cost of providing the additional service credit.

History Note: Authority G.S. 128-26(j); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, ~~1977~~. 1977;
Readopted Eff. January 1, 2023.

20 NCAC 02C .1007 CHANGE IN BENEFITS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .1200 - RETIREMENT ALLOWANCES

20 NCAC 02C .1201 SERVICE RETIREMENT

~~(a) Policemen and firemen who attain age 55 while in service and are subsequently discharged or leave service without filing application for service retirement, will be permitted to do so at a later date since they have a vested right to a retirement allowance.~~

~~(b) Benefits will begin at the proper time after the application is filed and will not be retroactive to the date of separation. The same rule applies to general employees who attain age 60 while in service and leave service thereafter without filing application for retirement.~~

History Note: Authority G.S. 128-24(4)a.; 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, ~~1977~~. 1977;
Repealed Eff. January 1, 2023.

SECTION .1300 - VOLUNTARILY WITHDRAWN CONTRIBUTIONS

20 NCAC 02C .1301 FEE

~~A fee in the amount of twenty five dollars (\$25.00) for each payment will be assessed each individual at the time of payment for voluntarily withdrawn contributions to help defray the expense of handling.~~

History Note: Authority G.S. 128-26(i); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, ~~1977~~. 1977;
Repealed Eff. January 1, 2023.

20 NCAC 02C .1302 QUALIFYING FOR CREDIT

~~In order to qualify to obtain credit, each individual must restore all accounts previously withdrawn on a voluntary basis.~~

History Note: Authority G.S. 128-26(i); 128-28(g);
Eff. February 1, 1976;
Readopted Eff. September 21, ~~1977~~. 1977;
Repealed Eff. January 1, 2023.

SECTION .1500 - DELAYED PURCHASE OF SERVICE CREDITS

20 NCAC 02C .1501 APPLICATION OF SECTION

~~This Section applies to purchase of creditable service whenever a statutory provision prescribes that a payment by a member shall equal the full liability/cost of the service calculated on the basis of the assumptions used for purposes of the actuarial valuation of the Retirement System's liabilities, and shall take into account the retirement allowance arising on account of the additional service credit at the earliest age at which a member could retire on an unreduced service retirement allowance. An applicant shall be eligible to purchase creditable service under this Section only after having met all requirements of eligibility for purchase as defined by law and on rules duly adopted.~~

History Note: Authority G.S. 128-26(k); 128-28(g);
Eff. December 1, 1981;
Amended Eff. March 1, ~~1985~~; 1985;
Repealed Eff. January 1, 2023.

20 NCAC 02C .1503 DEFINITIONS

~~The following words and phrases have the meaning indicated when used in this Section, unless the context clearly requires another meaning:~~

- ~~(1) "earliest retirement date" is the first date at which the member could retire with an unreduced allowance;~~
- ~~(2) "nearest age" is the year and whole month of the age of the member which is closest to the date specified;~~
- ~~(3) "estimated allowance (with purchase)" is the estimated retirement allowance computed in the normal manner at the earliest retirement date and the years of service the member would have if the purchase is made;~~
- ~~(4) "estimated allowance (without purchase)" is the estimated allowance computed in the normal manner at the earliest retirement date and the years of service which the member would have at that time if no purchase is made.~~

History Note: Authority G.S. 128-26(k); 128-28(g);
Eff. December 1, 1981;
Amended Eff. March 1, 1985; June 1, ~~1982~~; 1982;
Repealed Eff. January 1, 2023.

20 NCAC 02C .1504 COMPUTATION OF COST

~~The cost of a delayed purchase of service credit is computed as follows:~~

- ~~(1) Determine earliest retirement dates;~~
- ~~(2) Determine estimated average final compensation (with purchase) and (without purchase) by multiplying the total compensation actually paid for the period for which 12 months' service credit will have been earned through the current month by the factor determined from the table of Salary Factors using the member's nearest age on the last day of the current month and at the earliest retirement date (with purchase) and (without purchase). Provided that if the member is out of service but not retired, has passed his 65th birthday, or has 30 years of service credit without the purchase, the estimated average final compensation will be calculated in the normal manner for the compensation and service recorded by the Retirement System;~~
- ~~(3) Determine estimated allowance (with purchase);~~
- ~~(4) Determine required reserve on estimated allowance (with purchase) by multiplying the estimated allowance (with purchase) by the reserve factor found in the Table of Reserve Factors for the nearest ages at purchase date and at earliest retirement date;~~
- ~~(5) Determine estimated allowance (without purchase);~~
- ~~(6) Determine available reserve on estimated allowance (without purchase) by multiplying the estimated allowance (without purchase) by the reserve factor for the nearest ages at purchase date and at earliest retirement date;~~
- ~~(7) The cost of purchasing service credit is the difference between the required reserve (with purchase) and the available reserve (without purchase). Provided that if the difference between the required reserve and the available reserve is zero, the cost of purchasing the service credit is the estimated average final compensation (with purchase) times the number of years service purchased, times the statutory service factor, times the reserve factor for the nearest ages at the last day of the last month for which the compensation used was recorded and at earliest retirement date (with purchase).~~

History Note: Authority G.S. 128-26(k); 128-28(g);
Eff. December 1, 1981;
Amended Eff. June 1, ~~1982~~; 1982;
Repealed Eff. January 1, 2023.

20 NCAC 02C .1505 EXTENT OF SERVICE TO BE PURCHASED

~~The extent of a delayed purchase of service credit by a member is all or such portion in full years as the member elects and for which he is eligible.~~

History Note: Authority G.S. 128-26(k); 128-28(g);
Eff. December 1, ~~1981~~; 1981;
Repealed Eff. January 1, 2023.

20 NCAC 02C .1506 SPECIAL RULE FOR RETIRED APPLICANTS

The cost of a delayed purchase of service credit for a person currently receiving a retirement allowance is computed as follows:

- (1) ~~Determine the estimated allowance (with purchase), what is the monthly amount that the applicant would be receiving, if he had retired at his original retirement date for his present option, with his current creditable service plus the service to be purchased, by using the factors applicable at his actual retirement date, and including all cost of living and special percentage increases which he had actually received since his first monthly retirement benefits;~~
- (2) ~~Determine the difference between his estimated allowance (with purchase) and his present monthly retirement benefit;~~
- (3) ~~Determine the cost of purchasing the service credit by multiplying the difference in monthly benefit by twelve, and then dividing by the option factor from the Table of Options Factors for his current option, and then multiplying by the reserve factor from the Table of Reserve Factors for his current age and retirement age.~~

History Note: Authority G.S. 128-26(k); 128-28(g);
Eff. June 1, 1982;
Amended Eff. March 1, ~~1985~~, 1985;
Repealed Eff. January 1, 2023.

SUBCHAPTER 02N - FIREFIGHTERS' FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND

SECTION .0100 - ORGANIZATION OF THE FUND

20 NCAC 02N .0106 OFFICE OF THE DIRECTOR

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

History Note: Authority G.S. 58-86-10;
Eff. June 1, 1988;
Recodified from 3 NCAC 3 Eff. May 1, 1993;
Amended Eff. October 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21, 2018;
Amended Eff. September 1, ~~2019~~, 2019;
Amended Eff. January 1, 2023.

20 NCAC 02N .0108 DIVISIONAL RULES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0200 - GENERAL PROVISIONS

20 NCAC 02N .0208 APPLYING FOR MEMBERSHIP

- (a) Only eligible firefighters ~~firemen~~ or eligible rescue squad workers may join the pension fund. In order to join the pension fund they must complete the application for membership and return it to the office of the ~~director~~, Director.
- (b) Applications for membership may be obtained from the office of the ~~director~~, Director at the address shown in Rule .0106 of this Subchapter. The application asks for general information, including the applicant's name, address, social security number, fire department or rescue squad, and his or her ~~length of service~~ first employment date with that department or squad.
- (c) ~~After receipt of a completed application, the director shall determine if the applicant is an eligible fireman or an eligible rescue squad worker. The director shall notify the applicant in writing of the determination.~~
- (d)(c) ~~If the director determines that the applicant is eligible to join the pension fund and after~~ After the director Director has received the monthly payment required by G.S. 58-86-35 or 58-86-40, the ~~director~~ Director shall enroll the applicant in the pension ~~fund~~ fund, and ~~issue the applicant a membership identification card which contains the member's register number.~~

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

20 NCAC 02N .0215 MILITARY SERVICE

- (a) Any member who enters the armed forces may take a military leave of absence as provided by Paragraph (b) of this Rule, continue to receive service credit as provided by Paragraph (c) of this Rule, or withdraw from the ~~he~~ pension fund and seek a refund ~~refund~~. ~~under Rule .0216 of this Section.~~
- (b) To take a military leave of absence a member must provide written notice to the office of the ~~director~~, Director that ~~the member he~~ or she is taking such leave. The member shall specify in the notice the branch of the armed forces the member is entering and the expected dates of entry and discharge. The notice must be delivered to the office of the ~~director~~, Director no later than six months after the member ceases service as an eligible firefighter ~~fireman~~ or an eligible rescue squad worker, whichever is applicable, or the member will be deemed to have withdrawn from the pension fund. No member may remain on military leave of absence for more than one normal draft or enlistment period, whichever is applicable. Any member who has taken a military leave of absence must commence service as either an eligible firefighter ~~fireman~~ or an eligible rescue squad worker within six months after the expiration of a normal

draft or enlistment period, whichever is applicable or within six months after the member's discharge if that occurs earlier, or the member will be deemed to have withdrawn from the pension fund. ~~The provisions of Rule .0214(c) of this Section are applicable to members on military leaves of absence.~~

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

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

20 NCAC 02N .0218 RETIREMENT BENEFITS

(a) ~~In order to receive retirement benefits under G.S. 58-86-55 a member must submit to the office of the director an application for service retirement and the certification of retirement form. The applications and certifications will be processed at the end of the month; therefore, the application and certification must be filed with the office of the director at least 30 days prior to the last day worked if the applicant is to receive retirement benefits by the first of the month following his retirement.~~

(b) ~~The application for service retirement is used to determine when benefits commence and the amount of benefits. The signature of the applicant must be notarized. The application asks for personal identification information including the member's name, his register number, age and designated beneficiary.~~

(c) ~~The certification of retirement form asks the retiring member's fire chief or rescue squad captain to certify the date of retirement. The form asks for personal identification information such as the retiree's name, last date of employment, and the chief's or captain's certification of retirement.~~

(d) ~~A member who has met all the requirements for receipt of a pension as set out in G.S. 58-86-55, and whose 20 years of service as an "eligible fireman" or "eligible rescue squad worker" were rendered exclusively through volunteer service, shall be deemed to be terminated and retired and therefore eligible to receive the monthly pension provided by G.S. 58-86-55 regardless of any capacity in which he/she may be employed or reemployed, including salaried positions as firemen or rescue squad workers.~~

(e) ~~The forms described in Paragraphs (b) and (c) of this Rule may be obtained from the office of the director at the address shown in Rule .0106 of this Subchapter.~~

History Note: Authority G.S. 58-86-10; 58-86-55;
Eff. June 1, 1988;
Recodified from 3 NCAC 3 Eff. May 1, 1993;
Amended Eff. December 1, ~~1993~~, 1993;
Repealed Eff. January 1, 2023.

20 NCAC 02N .0219 REFUNDS OF DECEASED MEMBERS' PAYMENTS (READoption WITHOUT SUBSTANTIVE CHANGES)