



## RETIREMENT SYSTEMS DIVISION

STEVEN C. TOOLE  
EXECUTIVE DIRECTOR

**To: Supplemental Retirement Board of Trustees**

**From: Reid Chisholm, Assistant General Counsel, Supplemental Plans**

**Date: September 1, 2017**

**Re: Revisions to the NC 403(b) Plan Document and Adoption Agreement**

---

At its upcoming September 21<sup>st</sup> meeting, the Supplemental Retirement Board of Trustees (Board) will be asked to adopt revisions to the NC 403(b) Plan Document and Adoption Agreement. The revisions were made as part of the process of obtaining an opinion from the Internal Revenue Service stating that the documents are acceptable under Section 403(b) of the Internal Revenue Code. Copies of the revised Plan Document and Adoption Agreement, with the changes tracked from the prior versions adopted by the Board, are included in the September 21<sup>st</sup> Board meeting materials.

Below is a summary of the key revisions:

### **1. Contributions**

- a. Roth rollovers. Roth rollovers into the Plan are permitted only if the Plan also allows Roth elective deferrals. See also Section 3.1(c).
- b. Transfers. Transfers into the Plan are not accepted. *Note*: Rollovers are still accepted. See Section 3.1(d).
- c. Roth elective deferrals. Clarifications. See Section 3.2 (b).
- d. Limitations. Annual contributions cannot exceed includible compensation, as required by the IRC. See Section 3.2 (e) and Appendix B.
- e. Contribution agreement. An employee has at least 60 days from becoming eligible to complete the initial contribution agreement. See Section 3.4(a).
- f. Crediting accounts. Contributions become Plan assets no later than is reasonable for the proper administration of the Plan (as required by IRS regulations), but no later than the 15<sup>th</sup> business day of the month following the month in which the amounts were received by the employer. See Section 3.5(a).
- g. Aggregation of Plans. Elective and catch-up contributions are aggregated across all of the Plans of the same employer for purposes of the annual limitation. See Section 3.6(a) and (b).



## RETIREMENT SYSTEMS DIVISION

STEVEN C. TOOLE  
EXECUTIVE DIRECTOR

- h. Limitations: Section 415 limitations are currently incorporated by reference. Now they are also described in Appendix B. See also Section 3.6(c) and the new defined term “Year of Service.”
  - i. Separate accounting. The portion of an account that is not vested is accounted for separately and treated as a contract to which section 403(c) (or another applicable provision of the Internal Revenue Code) applies.
- 2. **Forfeitures**. Forfeitures can be used to offset employer’s contributions or to pay administrative expenses but cannot be used to increase benefits.
- 3. **Distributions**
  - a. Reasons. Distribution reasons are differentiated by employee’s contributions, employer’s contribution to a custodial account (mutual fund), and employer’s contribution to an annuity contract. The only substantive change involves employer’s contribution to an annuity contract, which are not offered in the NC 403(b) Program.
  - b. Purchase of service credit. The additions generally incorporate the regulatory requirements of 1-403(b)-(b) regarding Plan-to-Plan transfers to purchase service credits from a governmental defined benefit Plan.
  - c. Rollovers. The minimum rollover distribution amount is \$500.
- 4. **Domestic Relations Orders (DROs)**
  - a. “QDRO” changed to DRO because governmental DROs are not required to meet all of the qualifications of general QDROs.
  - b. Provides a general rule that reflects IRC 414(p). See Section 8.1(a).
- 5. **Loans**. The additions generally incorporate the requirements of IRC 72(p). See Section 9.1(b)-(d).
- 6. **Plan amendments**. The Plans cannot be amended by the Department to make it an individually-designed Plan. See Section 11.1(b).
- 7. **Plan merger**. The employer may merge the Plan with another Plan so long as participants’ benefits are not reduced. See Section 11.3.



## RETIREMENT SYSTEMS DIVISION

8. Non-alienation. Each investment contract in the Plan is non-transferable, as required by IRS regulation. See Section 12.11. STEVEN C. TOOLE  
EXECUTIVE DIRECTOR

9. Missing participants/beneficiaries. The account of a missing participant/beneficiary is forfeited and will be re-instated (including any employer contributions) upon application of the participant/beneficiary. Currently, the provision provides that the account is handled as provided in Prudential's policy. See Section 12.14.

10. Federal tax levy. The Plan administrator can pay a Federal tax levy against a participant/beneficiary from the participant's/beneficiary's account. See Section 12.16.

### 11. Definitions

- a. Related Employer (new term). Defined in terms of common control pursuant to IRC 414(b) 414(c).
- b. Roth Elective Deferral Contributions (revised term). Revised term. Must be accounted for separately, irrevocable, vested, and includible in income at the time the amount could have been received in cash.
- c. Severance from Employment (revised term). Revised term. Uses the new defined term for related employer. Severance applies if either the related employer or the employee's role at the related employer is not eligible for the Plan.
- d. Year of Service (new term). Used for purposes of determining includible compensation and Qualified Organization Catch-Up Contributions.