



MEMORANDUM

TO: Teachers' and State Employees' Retirement System and Local Governmental Employees' Retirement System Boards of Trustees

FROM: Timothy M. Melton, Assistant General Counsel

DATE: October 27, 2022

RE: Decennial Rules Readoption Summary

In 2013, the General Assembly enacted N.C. Gen. Stat. § 150B-21.3A, which established a process and schedule for agencies to decennially review their active rules codified in the North Carolina Administrative Code (NCAC) with oversight by the Rules Review Commission (RRC). The NCAC contains Rules related to the administration of the Teachers' and State Employees' Retirement System (TSERS) and Local Governmental Employees' Retirement System (LGERs) under Title 20—State Treasurer, Chapter 02—Retirement Systems.

During the regular quarterly meeting on January 31, 2019, the TSERS and LGERs Boards of Trustees (Boards) unanimously voted to approve the proposed readoption date of December 31, 2022 for the relevant rules to be presented for formal approval by the RRC. Pursuant to N.C. Gen. Stat. § 150B-21.3A(d)(2), the RRC established on February 19, 2022 that the rules shall be readopted no later than December 31, 2022.

Department of State Treasurer (DST) staff subsequently reviewed the rules under 20 NCAC 02 and prepared a proposal of recommendations for maintaining, amending, or repealing the respective rules. DST staff also prepared a Regulatory and Fiscal Impact Analysis regarding such proposal. On April 7, 2022, the North Carolina Office of State Budget and Management approved the impact analysis for publication. Since the impact analysis identified rule changes affecting local government funds, notice and a copy of the Regulatory and Fiscal Impact Analysis was provided to the North Carolina League of Municipalities, the Association of County Commissioners and Fiscal Research Division on April 20, 2022, as required under N.C. Gen. Stat. § 150B-21.4(b). During the regular quarterly meeting on April 28, 2022, the Boards unanimously voted to approve the proposed rule text and impact analysis. The Boards further authorized DST staff to take all additional necessary steps required to complete the Decennial Rules Review process in accordance with N.C. Gen. Stat. § 150B-21.3A.

The proposed rule text and impact analysis were published in the North Carolina Register (Volume 36, Issue 23) on June 1, 2022, and on DST's N.C. Administrative Code webpage. This publication started the 60-day public comment period as well as the 15-day period in which a member of the public can request a public hearing. On June 1, 2022, DST staff also submitted a request for consultation regarding the administrative fee rule under proposed new Rule 20 NCAC 02A. 0505 to the Joint Legislative Commission on Governmental Operations (Commission) and the Fiscal Research Division of the General Assembly pursuant to N.C. Gen. Stat. § 12-3.1(a).



This request started the 90-day period for the Commission to hold a meeting to hear the consultation. N.C. Gen. Stat. § 12-3.1(a1) provides that the consultation requirement is satisfied if the Commission does not hold a meeting to hear the consultation within 90 days after the proposed rule text was published and the consultation request was submitted.

The 15-day public hearing request period expired on June 16, 2022, without any hearing requests having been made. The 60-day public comment period closed on August 1, 2022, without any written or verbal comments on the proposed rule text having been received. Additionally, the 90-day consultation period concluded on August 30, 2022, without the Commission having held a meeting to hear the consultation regarding the administrative fee rule thereby satisfying the consultation requirement.

The next step of the Decennial Rules Review process calls for the Boards' approval and official adoption of the final rule text and the Regulatory and Fiscal Impact Analysis. If the Boards approve the final rule text and the impact analysis related to 20 NCAC 02, DST staff will then submit the final rule text to the RRC for review at their meeting on December 15, 2022.

Staff recommends the following Board actions:

TSERS Board

As the rulemaking body, the TSERS Board hereby approves and adopts the final rule text and the Regulatory and Fiscal Impact Analysis related to 20 NCAC 02 and authorizes DST staff to take all additional necessary steps required to complete the Decennial Rules Review process in accordance with N.C. Gen. Stat. § 150B-21.3A.

LGERS Board

As the rulemaking body, the LGERS Board hereby approves and adopts the final rule text and the Regulatory and Fiscal Impact Analysis related to 20 NCAC 02 and authorizes DST staff to take all additional necessary steps required to complete the Decennial Rules Review process in accordance with N.C. Gen. Stat. § 150B-21.3A.