



North Carolina
Total Retirement Plans



Dale R. Folwell, CPA
STATE TREASURER OF NORTH CAROLINA
DALE R. FOLWELL, CPA

MEMORANDUM

TO: Supplemental Retirement Board of Trustees

FROM: Reid Chisholm, Assistant General Counsel

DATE: August 24, 2023

SUBJECT: Amendments to NC 457 Plan (SECURE Act 2.0)

SECURE Act 2.0, enacted in December 2022, removed the so called “first-day-of-the-month rule” for governmental 457(b) plans. The rule required an employee’s contribution to a 457(b) plan to be made no sooner than the first of the month following the employee’s election to defer compensation into the plan. For example, if a governmental employee enrolled in a 457(b) plan in August, or changed a deferral amount, the employee’s first contribution, or new deferral amount, could not occur before September 1, regardless of the employer’s payroll cycle.

The amendments necessary to eliminate the “first-day-of-the-month rule” in the NC 457 Plan are attached.

The change will be effective November 1, 2023, the first implementation date available from Empower.

Recommendation

Staff recommends the Board adopt the amendments to the NC 457 Plan attached to this memo.

Attachment – Amendments to the NC 457 Plan

Section 2.14 Entry Date

~~Any day~~ ~~The first day~~ of ~~a each~~ calendar month during the Plan Year.

3.1 Initial Participation

An Employee of a Participating Employer becomes a Participant by entering into an Enrollment Agreement ~~before prior to~~ (a) ~~the Compensation is currently available to the Employee the beginning of the calendar month in which the Enrollment Agreement is to become effective to defer compensation not yet earned~~; or (b) such other date as may be permitted under the Code. An Enrollment Agreement may be entered into effective as of any Entry Date.

Section 3.2 Amendment of Enrollment Agreement

A Participant may amend an Enrollment Agreement to change the amount of Includible Compensation not yet earned which is to be deferred or to change his or her investment preference, subject to policies and procedures of the Plan Administrator and Third-party Administrator and any restrictions of the Investment Options (as described in Section 7.3). Such amendment shall become effective as soon as administratively practicable but in no event sooner than ~~(a) the beginning of the calendar month commencing after the date that the amendment is executed; or (b) such other date as may be~~ permitted under the Code.

Section 3.3 Special Rule for Accumulated Sick, Vacation, and Back Pay

A Participant may enter into a separate Enrollment Agreement with respect to his or her accumulated sick, vacation, or back pay if such election is made consistent with the requirements set forth in Treasury Regulation § 1.457-4(d) and other Applicable Law. ~~If a separate Enrollment Agreement is not completed before the beginning of the month in which the amounts would otherwise be paid or made available, no amounts will be deferred with respect to such pay.~~

Section 7.3 Investment Options

(a) In accordance with uniform and nondiscriminatory policies and procures established by the Plan Administrator and the Third-party Administrator (including without limitation notice and market timing), a Participant may (1) direct his or her Account to be invested in one or more investment options available under the Plan ("Investment Options"); (2) change his or her Investment Options for future Annual Deferral Amounts; and (3) reallocate or transfer all or a portion of his or her Account among the Investment Options. The investment of Deferred Compensation and the reallocation/transfer among Investment Options must be in multiples of one percent, subject to (1) any minimum percentage requirement established by the Investment Option; and (2) such other percentage as the Plan Administrator may permit. Elections and changes of future Annual Deferral Amounts by Participants shall be effective as soon as administratively practicable ~~but not sooner than the first day of the month~~ following the election or change.