



MEMORANDUM

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

FROM: Timothy M. Melton, Assistant General Counsel
Taylor Matyi, Policy Development Analyst

DATE: April 25, 2024

RE: Summary of 2024 Administrative Rules Proposal

Upon review of the relevant North Carolina General Statutes (G.S.), Department of State Treasurer (DST) staff recommends the approval of the following proposed Administrative Rules:

(1) Disability Retirement Reexamination Flexibility

G.S. § 128-27(e) provides for the reexamination of beneficiaries retired on account of disability. The statute states, in pertinent part, as follows:

“Once each year during the first five years following retirement of a member on a disability allowance, and once in every three-year period thereafter, the Board of Trustees may, and upon his application shall, require any disability beneficiary who has not yet attained the age of 60 years to undergo a medical examination...”

The proposal contains a recommended administrative rule clarifying that where the LGERS Board has discretion due to the use of the word "may" in G.S. 128-27(e), the LGERS Board does not require medical re-examinations of disability retirees who have provided Retirement Systems Division (RSD) with documentation of their approval for primary Social Security disability benefits. The administrative rule would allow RSD to not require a medical reexamination to continue receiving benefits through Disability Retirement if the member is in receipt of primary Social Security benefits. The relevant impact analysis and proposed rule text (Appendix B of the impact analysis) are included in the Board materials for this agenda item.

(2) Employer Refunds through Credits

RSD has utilized subsection (c) of 20 NCAC 02B .0401 to refund employers in the form of a credit who made an additional contribution to the pension accumulation fund as the result of the Contribution-Based Benefit Cap (CBBC) provisions. The proposal contains recommended administrative rules expanding the use of credits to refund employers in all instances when RSD is required to refund contributions to any TSERS or LGERS employer. The relevant impact analysis and proposed rule text (Appendix A of the impact analysis) are included in the Board materials for this agenda item.



(3) Inactive Status Extension Request Requirements

G.S. 128-23.1 and 135-5.5 provides that, not later than April 30 of each calendar year, RSD shall make a report to the Board of Trustees on all employers who were determined to be inactive employers in that preceding calendar year. An employer may request to become inactive if it has no employees qualifying for membership service in the respective Retirement System and has made no employer contributions for at least one month. Additionally, an employer automatically becomes inactive if the employer fails to report any qualifying employees for six consecutive months. The statutes further provide that an employer reported as inactive can request the Board to extend its “inactive” status by submitting “clear and convincing evidence” to the respective Retirement System on or before June 30 of the same calendar year.

The proposal contains recommended administrative rules to define what information the employer is required to provide to RSD for the Board to review. The relevant impact analysis and proposed rule text (Appendix A of the impact analysis) are included in the Board materials for this agenda item.

The proposed rule text and impact analysis proposals were sent to the North Carolina Office of State Budget and Management (OSBM) for review. Each impact analysis was subsequently approved by OSBM for each proposal.

The next step of the permanent rulemaking process calls for the Boards to approve the proposed rule texts and the accompanying Regulatory and Fiscal Impact Analysis. Once approved by the respective Board, DST staff will submit them to the Office of Administrative Hearings to be published in the North Carolina Register. The publication will start the 60-day public comment period and the 15-day period in which a member of the public can request a public hearing.

Staff recommends the following Board actions:

TSERS Board

As the rulemaking body, the TSERS Board hereby approves the proposed rule text and the Regulatory and Fiscal Impact Analysis related to 20 NCAC 02B .0401 and 20 NCAC 02B .0216, and further authorizes DST staff to take all additional necessary steps required to complete the permanent rulemaking process in accordance with N.C. Gen. Stat. § 150B-21.2.

LGERS Board

As the rulemaking body, the LGERS Board hereby approves the proposed rule text and the Regulatory and Fiscal Impact Analysis related to 20 NCAC 02C .0505, 20 NCAC 02C .0403 and 20 NCAC 02C .0213, and further authorizes DST staff to take all additional necessary steps required to complete the permanent rulemaking process in accordance with N.C. Gen. Stat. § 150B-21.2.