

## **Decennial Rules Review**

In the 2013 legislative session, the General Assembly enacted N.C.G.S. § 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 agency is required to review its rules to determine whether each rule is unnecessary, necessary with substantive public interest, or necessary without substantive public interest. For rules classified as unnecessary, the Codifier of Rules will remove the rule from the NCAC without any further action of the agency. The Retirement Rules can be found at: <http://reports.oah.state.nc.us/ncac.asp?folderName=\Title 20 - State Treasurer\Chapter 02 - Retirement Systems>.

The review process consists of steps described in N.C.G.S. § 150B-21.3A(c)(1)-(3) and NCAC Title 26, Chapter 05, Section .0200. The steps in the process are: (1) agency reviews existing rules; (2) agency makes initial determination of rule classifications at an agency meeting; (3) agency accepts public comments for 60 days (report is posted on DST's website and RRC's website); (4) agency reviews and responds to public comments; (5) second agency meeting to review comments and make final determination of the rule classifications; (6) agency submits report, written comments and classifications to the RRC; (7) RRC reviews the final report; and (8) RRC consults with the Joint Legislative Administrative Procedure Oversight Committee for finalization. The RRC's review of the final report on retirement rules is currently scheduled for August of 2018. If the final report is not reviewed by the RRC at its August 2018 meeting, all rules subject to review automatically expire.

Session Law 2015-164 (Retirement Administrative Changes Act of 2015) amended the Administrative Procedure Act by adding N.C.G.S. § 150B-21.3A(e1) to create an exception for rules deemed by the Board of Trustees of the Retirement Systems to protect inchoate or accrued rights of retirement system members. The provision states that these rules shall not expire.

### **Staff recommends the following Board actions:**

- 1) As the rulemaking body, the Board hereby makes the determination classifying each rule in the Decennial Rules Review Initial Report pursuant to N.C.G.S. § 150B-21.3A, and authorizes Department of State Treasurer staff to take all additional necessary steps required to complete the decennial rules review process, in accordance with N.C.G.S. § 150B-21.3A.
- 2) The Board hereby makes the determination that the rules in the Retirement Inchoate Rules Report protect inchoate or accrued rights of retirement system members in accordance with N.C.G.S. § 150B-21.3A(e1).



Prepared by Staff of the Office of the State Treasurer  
October 26, 2017

**G.S. 150B-21.3A Report for 20 NCAC 02, RETIREMENT SYSTEMS**

Agency - Teachers' and State Employees' Retirement System Board of Trustees; Local Government Employees' Retirement System Board of Trustees

Comment Period - Filled in by Agency

Date Submitted to APO - Filled in by RRC staff

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation
SUBCHAPTER 2A - DIVISIONAL RULES	SECTION .0100 - ORGANIZATIONAL RULES	20 NCAC 02A .0101	ORGANIZATION: AUTHORITY	Amended Eff. October 1, 1993	Necessary without substantive public interest	No	
		20 NCAC 02A .0102	EXERCISE OF AUTHORITY	Amended Eff. October 29, 1979	Necessary without substantive public interest	No	
		20 NCAC 02A .0103	DELEGATION OF AUTHORITY TO DIRECTOR	Amended Eff. October 29, 1979	Necessary with substantive public interest	No	
		20 NCAC 02A .0104	EXERCISE OF EMPLOYER OPTIONS	Eff. November 9, 1979	Necessary with substantive public interest	No	
		20 NCAC 02A .0105	REPAYMENT FOR RIGHT TO RETIRE	Eff. December 1, 1983	Unnecessary	No	
	SECTION .0200 - RULE- MAKING PROCEDURES	20 NCAC 02A .0201	ESTABLISHMENT OF PROCEDURAL RIGHTS	Amended Eff. October 1, 1993	Necessary without substantive public interest	No	
		20 NCAC 02A .0202	DEFINITIONS	Amended Eff. October 1, 1993	Necessary without substantive public interest	No	
	SECTION .0300 - DECLARATORY RULINGS	20 NCAC 02A .0301	ESTABLISHMENT OF PROCEDURAL RIGHTS	Amended Eff. October 1, 1993	Necessary with substantive public interest	No	
		20 NCAC 02A .0302	DEFINITIONS	Amended Eff. October 1, 1993	Necessary without substantive public interest	No	
		20 NCAC 02A .0303	RECONSIDERATION OF DECLARATORY RULINGS	Eff. October 29, 1979	Necessary with substantive public interest	No	
	SECTION .0400 - CONTESTED CASE PROCEDURES	20 NCAC 02A .0401	ESTABLISHMENT OF PROCEDURAL RIGHTS	Amended Eff. October 1, 1993	Necessary with substantive public interest	No	
		20 NCAC 02A .0402	DEFINITIONS	Amended Eff. October 1, 1993	Unnecessary	No	
		20 NCAC 02A .0403	HEARING OFFICERS	Amended Eff. December 1, 1982	Unnecessary	No	
		20 NCAC 02A .0504	DIRECT DEPOSIT OF MONTHLY BENEFIT PAYMENTS	Eff. March 1, 1992	Necessary with substantive public interest	No	
SUBCHAPTER 2B - TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM	SECTION .0100 - GENERAL PROVISIONS	20 NCAC 02B .0101	GENERAL INFORMATION	Readopted Eff. September 21, 1977	Necessary without substantive public interest	No	
		20 NCAC 02B .0202	ACTUARIAL TABLES: RATES AND ASSUMPTIONS	Amended Eff. August 1, 1981	Necessary with substantive public interest	No	
		20 NCAC 02B .0209	DISCLOSURE OF INFORMATION	Amended Eff. March 1, 1985	Unnecessary	No	

**G.S. 150B-21.3A Report for 20 NCAC 02, RETIREMENT SYSTEMS**

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		20 NCAC 02B .0210	MEDICAL BOARD	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0211	OPTIONAL RETIREMENT PROGRAM	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0212	SURVIVOR'S ALTERNATE BENEFIT	Readopted Eff. September 21, 1977	Unnecessary	No	
		20 NCAC 02B .0214	RETROACTIVE MEMBERSHIP SERVICE	Eff. June 1, 1984	Unnecessary	No	
	<b>SECTION .0300 - BENEFICIARIES</b>	20 NCAC 02B .0301	DESIGNATION	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0302	PRINCIPAL BENEFICIARY	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0303	CONTINGENT BENEFICIARY	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0304	NO LIVING BENEFICIARY	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0305	BENEFICIARY WHO IS A MINOR	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0307	CHANGE IN BENEFICIARY	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0308	SPECIAL RULE: BENEFICIARY BEFORE JULY 1, 1967	Eff. October 29, 1979	Necessary with substantive public interest	No	
	<b>SECTION .0400 - EMPLOYER CONTRIBUTIONS</b>	20 NCAC 02B .0401	REFUNDS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0402	FORWARDING OF EMPLOYER CONTRIBUTIONS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0404	DUE DATE OF CONTRIBUTIONS	Eff. March 1, 1992	Necessary with substantive public interest	No	
	<b>SECTION .0500 - TYPES OF RETIREMENT</b>	20 NCAC 02B .0501	DISABILITY RETIREMENT EXAMINATION	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0502	DISABILITY RETIREMENT REPORTS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0503	FEES: INDEPENDENT MEDICAL EXAMS - DISABILITY RETIREMENTS	Amended Eff. August 1, 1981	Necessary with substantive public interest	No	
		20 NCAC 02B .0504	INTEREST CREDITS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0508	FAILURE TO RESPOND	Readopted Eff. September 21, 1977	Unnecessary	No	
		20 NCAC 02B .0510	PENSIONS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
	<b>SECTION .0700 - LEAVES OF ABSENCE</b>	20 NCAC 02B .0701	EDUCATIONAL LEAVES OF ABSENCE	Amended Eff. March 1, 1982	Necessary with substantive public interest	No	

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		20 NCAC 02B .0706	WORKERS' COMPENSATION LEAVES OF ABSENCE	Amended Eff. August 1, 1988	Necessary with substantive public interest	No	
	<b>SECTION .0800 - MILITARY SERVICE (INCHOATE RIGHTS ONLY)</b>	20 NCAC 02B .0801	FEE	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0802	QUALIFYING FOR CREDIT	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0804	CIVIL SERVICE PARTICIPATION	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0805	SERVICE CONNECTED DISABILITY	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0806	RECALCULATION OF BENEFITS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0807	CHANGE IN BENEFITS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0810	RESTORING MEMBERSHIP	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0811	INITIAL PERIOD OF ACTIVE DUTY	Readopted Eff. September 21, 1977	Unnecessary	No	
	<b>SECTION .0900 - OUT-OF-STATE SERVICE (INCHOATE RIGHTS ONLY)</b>	20 NCAC 02B .0901	FEE	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0902	QUALIFYING FOR CREDIT	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0903	DEFINITION	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0904	COMPUTATION OF COST	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0905	RECALCULATION OF BENEFITS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .0906	CHANGE IN BENEFITS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
	<b>SECTION .1000 - PRIOR SERVICE</b>	20 NCAC 02B .1001	PUBLIC SCHOOL TEACHERS	Readopted Eff. September 21, 1977	Unnecessary	No	
		20 NCAC 02B .1003	PRIOR SERVICE WITH GENERAL ASSEMBLY	Eff. October 29, 1979	Necessary with substantive public interest	No	
		20 NCAC 02B .1004	TEMPORARY SERVICE PURCHASE	Amended Eff. March 1, 1985	Necessary with substantive public interest	No	
		20 NCAC 02B .1005	TEMPORARY SERVICE PURCHASE: FULL ACTUARIAL LIABILITY	Amended Eff. August 1, 1988	Necessary with substantive public interest	No	
		20 NCAC 02B .1006	PART-TIME SERVICE PURCHASE: FULL ACTUARIAL LIABILITY	Eff. March 1, 1985	Necessary with substantive public interest	No	
		20 NCAC 02B .1007	LOCAL GOVERNMENT SERVICE PURCHASE: FULL ACTUARIAL LIABILITY	Eff. March 1, 1985	Necessary with substantive public interest	No	

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	SECTION .1100 - VOLUNTARILY WITHDRAWN CONTRIBUTIONS	20 NCAC 02B .1101	FEE	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .1102	QUALIFICATION	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .1103	COMPUTATION OF COST	Amended Eff. June 1, 1984	Unnecessary	No	
		20 NCAC 02B .1104	RECALCULATION OF BENEFITS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02B .1105	CHANGE IN BENEFITS	Readopted Eff. September 21, 1977	Unnecessary	No	
		20 NCAC 02B .1108	WILDLIFE PROTECTORS	Eff. March 1, 1985	Unnecessary	No	
	SECTION .1200 - DELAYED PURCHASE OF SERVICE CREDITS	20 NCAC 02B .1201	APPLICATION OF SECTION	Amended Eff. March 1, 1985	Unnecessary	No	
		20 NCAC 02B .1204	DEFINITIONS	Amended Eff. March 1, 1985	Necessary with substantive public interest	No	
		20 NCAC 02B .1205	COMPUTATION OF COST	Amended Eff. June 1, 1982	Necessary with substantive public interest	No	
		20 NCAC 02B .1207	SPECIAL RULE FOR RETIRED APPLICANTS	Amended Eff. March 1, 1985	Necessary with substantive public interest	No	
SUBCHAPTER 2C - LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM	SECTION .0100 - GENERAL PROVISIONS	20 NCAC 02C .0101	GENERAL INFORMATION	Readopted Eff. September 21, 1977	Necessary without substantive public interest	No	
	SECTION .0200 - ADMINISTRATION	20 NCAC 02C .0201	ACTUARIAL TABLES: RATES AND ASSUMPTIONS	Amended Eff. August 1, 1981	Necessary with substantive public interest	No	
		20 NCAC 02C .0203	DISCLOSURE OF INFORMATION	Amended Eff. March 1, 1985	Unnecessary	No	
		20 NCAC 02C .0204	FACILITY OF PAYMENT	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0205	MEDICAL BOARD	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0206	SURVIVOR'S ALTERNATE BENEFIT	Readopted Eff. September 21, 1977	Unnecessary	No	
		20 NCAC 02C .0209	RETROACTIVE MEMBERSHIP SERVICE	Eff. June 1, 1984	Unnecessary	No	
	SECTION .0300 - BENEFICIARIES	20 NCAC 02C .0301	DESIGNATION	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0302	PRINCIPAL BENEFICIARY	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0303	NO LIVING BENEFICIARY	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0304	PAYMENTS TO BENEFICIARIES	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0306	BENEFICIARY CHANGE	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	

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	<b>SECTION .0400 - CONTRIBUTIONS</b>	20 NCAC 02C .0402	EMPLOYER'S CONTRIBUTIONS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0403	REFUNDS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0404	DUE DATE OF CONTRIBUTIONS	Eff. March 1, 1992	Necessary with substantive public interest	No	
	<b>SECTION .0500 - DISABILITY RETIREMENT</b>	20 NCAC 02C .0501	DISABILITY EXAMINATION	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0502	DISABILITY RETIREMENT REPORTS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0503	FEES: INDEPENDENT MEDICAL EXAMS- DISABILITY RETIREMENTS	Amended Eff. August 1, 1981	Necessary with substantive public interest	No	
		20 NCAC 02C .0504	REINSTATEMENT TO ACTIVE SERVICE	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
	<b>SECTION .0700 - LEAVES OF ABSENCE</b>	20 NCAC 02C .0701	EDUCATIONAL LEAVES OF ABSENCE	Amended Eff. March 1, 1982	Unnecessary	No	
		20 NCAC 02C .0704	WORKERS' COMPENSATION LEAVES OF ABSENCE	Amended Eff. August 1, 1988	Necessary with substantive public interest	No	
	<b>SECTION .0800 - MEMBERSHIP</b>	20 NCAC 02C .0801	PARTICIPATION	Readopted Eff. September 21, 1977	Unnecessary	No	
		20 NCAC 02C .0802	REGULARLY EMPLOYED	Readopted Eff. September 21, 1977	Unnecessary	No	
		20 NCAC 02C .0803	TRANSFERRED SERVICE	Amended Eff. March 1, 1985	Unnecessary	No	
	<b>SECTION .0900 - MILITARY SERVICE (INCHOATE RIGHTS ONLY)</b>	20 NCAC 02C .0901	LEAVE	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0902	FEE	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0903	QUALIFYING FOR CREDIT	Readopted Eff. September 21, 1977	Unnecessary	No	
		20 NCAC 02C .0906	CIVIL SERVICE PROGRAM	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0907	EXCLUSION	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0908	RECALCULATION OF BENEFITS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0909	CHANGE IN BENEFITS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .0912	INITIAL PERIOD OF ACTIVE DUTY	Readopted Eff. September 21, 1977	Unnecessary	No	
	<b>SECTION .1000 - OUT-OF-STATE SERVICE (INCHOATE RIGHTS ONLY)</b>	20 NCAC 02C .1001	FEE	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	

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		20 NCAC 02C .1002	QUALIFYING FOR CREDIT	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .1003	OTHER GOVERNMENTAL SUBDIVISION	Amended Eff. August 1, 1988	Necessary with substantive public interest	No	
		20 NCAC 02C .1004	COMPUTATION OF COST	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .1006	RECALCULATION OF BENEFITS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .1007	CHANGE IN BENEFITS	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
	<b>SECTION .1100 - PRIOR SERVICE</b>	20 NCAC 02C .1101	EMPLOYMENT BY A WATER WORKS	Readopted Eff. September 21, 1977	Unnecessary	No	
		20 NCAC 02C .1102	NURSES	Readopted Eff. September 21, 1977	Unnecessary	No	
	<b>SECTION .1200 - RETIREMENT ALLOWANCES</b>	20 NCAC 02C .1201	SERVICE RETIREMENT	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .1202	FAILURE TO RESPOND	Readopted Eff. September 21, 1977	Unnecessary	No	
		20 NCAC 02C .1203	MEMBERSHIP IN BOTH SYSTEMS	Readopted Eff. September 21, 1977	Unnecessary	No	
	<b>SECTION .1300 - VOLUNTARILY WITHDRAWN CONTRIBUTIONS</b>	20 NCAC 02C .1301	FEE	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .1302	QUALIFYING FOR CREDIT	Readopted Eff. September 21, 1977	Necessary with substantive public interest	No	
		20 NCAC 02C .1303	COMPUTATION OF COST	Amended Eff. June 1, 1984	Unnecessary	No	
		20 NCAC 02C .1305	RECALCULATION OF BENEFITS	Readopted Eff. September 21, 1977	Unnecessary	No	
		20 NCAC 02C .1306	CHANGE IN BENEFITS	Readopted Eff. September 21, 1977	Unnecessary	No	
	<b>SECTION .1500 - DELAYED PURCHASE OF SERVICE CREDITS</b>	20 NCAC 02C .1501	APPLICATION OF SECTION	Amended Eff. March 1, 1985	Necessary with substantive public interest	No	
		20 NCAC 02C .1503	DEFINITIONS	Amended Eff. March 1, 1985	Necessary with substantive public interest	No	
		20 NCAC 02C .1504	COMPUTATION OF COST	Amended Eff. June 1, 1982	Necessary with substantive public interest	No	
		20 NCAC 02C .1505	EXTENT OF SERVICE TO BE PURCHASED	Eff. December 1, 1981	Necessary with substantive public interest	No	
		20 NCAC 02C .1506	SPECIAL RULE FOR RETIRED APPLICANTS	Amended Eff. March 1, 1985	Necessary with substantive public interest	No	

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Agency - Teachers' and State Employees' Retirement System Board of Trustees; Local Government Employees' Retirement System Board of Trustees

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	SECTION .1600 - PURCHASE OF SERVICE CREDITS FOR PROBATIONARY REGULAR EMPLOYMENT	20 NCAC 02C .1601	APPLICATION OF SECTION	Eff. June 1, 1986	Unnecessary	No	
		20 NCAC 02C .1602	ELIGIBILITY	Eff. June 1, 1986	Unnecessary	No	
		20 NCAC 02C .1603	COMPUTATION OF COST	Amended Eff. August 1, 1988	Unnecessary	No	
SUBCHAPTER 2F - CONSOLIDATED JUDICIAL RETIREMENT SYSTEM OF NORTH CAROLINA		20 NCAC 02F .0101	GENERAL INFORMATION	Amended Eff. March 1, 1985	Necessary with substantive public interest	No	
		20 NCAC 02F .0104	ACTUARIAL TABLES: RATES AND ASSUMPTIONS	Amended Eff. August 1, 1981	Necessary with substantive public interest	No	
		20 NCAC 02F .0105	SERVICE AS SUPERIOR COURT SOLICITOR OR DISTRICT ATTORNEY	Amended Eff. March 1, 1985	Unnecessary	No	
		20 NCAC 02F .0107	FINAL COMPENSATION FOR THREE-FOURTHS LIMITATION	Eff. June 1, 1984	Necessary with substantive public interest	No	
		20 NCAC 02F .0108	FULL ACTUARIAL COST	Eff. March 1, 1985	Necessary with substantive public interest	No	
SUBCHAPTER 2L - SEPARATE INSURANCE BENEFIT PLAN FOR STATE AND LOCAL GOVERNMENTAL LAW ENFORCEMENT OFFICERS	SECTION .0100 - GENERAL PROVISIONS	20 NCAC 02L .0101	GENERAL INFORMATION	Eff. August 1, 1983	Necessary with substantive public interest	No	
		20 NCAC 02L .0103	DEFINITIONS	Amended Eff. August 1, 1988	Necessary with substantive public interest	No	
		20 NCAC 02L .0105	PROCEDURAL RIGHTS	Eff. August 1, 1983	Unnecessary	No	
	SECTION .0200 - PARTICIPATION	20 NCAC 02L .0201	ACTIVE MEMBERS	Eff. August 1, 1983	Unnecessary	No	
		20 NCAC 02L .0202	RETIRED MEMBERS	Eff. August 1, 1983	Necessary with substantive public interest	No	
		20 NCAC 02L .0203	INACTIVE MEMBERS	Eff. August 1, 1983	Unnecessary	No	
		20 NCAC 02L .0204	DETERMINATION OF MEMBERSHIP	Eff. August 1, 1983	Unnecessary	No	
	SECTION .0300 - BENEFITS	20 NCAC 02L .0301	DEATH BENEFITS	Eff. August 1, 1983	Unnecessary	No	
		20 NCAC 02L .0302	ACCIDENT AND HOSPITAL BENEFITS	Eff. August 1, 1983	Necessary with substantive public interest	No	



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SUBCHAPTER 2N - FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND	SECTION .0100 - ORGANIZATION OF THE FUND	20 NCAC 02N .0105	DEFINITIONS	Amended Eff. October 1, 1993	Unnecessary	No	
		20 NCAC 02N .0106	OFFICE OF THE DIRECTOR	Amended Eff. October 1, 1993	Necessary without substantive public interest	No	
		20 NCAC 02N .0107	BOARD OF TRUSTEES	Amended Eff. October 1, 1993	Unnecessary	No	
		20 NCAC 02N .0108	DIVISIONAL RULES	Eff. October 1, 1993	Necessary with substantive public interest	No	
	SECTION .0200 - GENERAL PROVISIONS	20 NCAC 02N .0206	ELIGIBLE FIREMEN	Amended Eff. December 1, 1993	Unnecessary	No	
		20 NCAC 02N .0207	ELIGIBLE RESCUE SQUAD WORKERS	Amended Eff. December 1, 1993	Unnecessary	No	
		20 NCAC 02N .0208	APPLYING FOR MEMBERSHIP	Amended Eff. December 1, 1993	Necessary with substantive public interest	No	
		20 NCAC 02N .0209	PRIOR SERVICE CREDIT	Amended Eff. December 1, 1993	Unnecessary	No	
		20 NCAC 02N .0210	ANNUAL CERTIFICATION OF FIREMEN	Amended Eff. October 1, 1993	Unnecessary	No	
		20 NCAC 02N .0211	ANNUAL CERTIFICATION OF RESCUE SQUAD WORKERS	Amended Eff. October 1, 1993	Unnecessary	No	
		20 NCAC 02N .0212	MONTHLY PAYMENTS	Amended Eff. December 1, 1993	Unnecessary	No	
		20 NCAC 02N .0213	DELINQUENT MONTHLY PAYMENTS	Amended Eff. December 1, 1993	Unnecessary	No	
		20 NCAC 02N .0214	LEAVES OF ABSENCE	Recodified from 3 NCAC 3 Eff. May 1, 1993	Unnecessary	No	
		20 NCAC 02N .0215	MILITARY SERVICE	Amended Eff. December 1, 1993	Necessary with substantive public interest	No	
		20 NCAC 02N .0216	REFUNDS	Amended Eff. December 1, 1993	Unnecessary	No	
		20 NCAC 02N .0217	APPLICATIONS FOR DISABILITY BENEFITS	Amended Eff. December 1, 1993	Unnecessary	No	
		20 NCAC 02N .0218	RETIREMENT BENEFITS	Amended Eff. December 1, 1993	Necessary with substantive public interest	No	
		20 NCAC 02N .0219	REFUNDS OF DECEASED MEMBERS' PAYMENTS	Amended Eff. December 1, 1993	Necessary with substantive public interest	No	

### Retirement Inchoate Rules Report

Subchapter	Rule Section	Rule Citation	Rule Name
SUBCHAPTER 2A - DIVISIONAL RULES	SECTION .0500 - GENERAL PROCEDURES	20 NCAC 02A .0503	DUAL MEMBERSHIP - COMPUTATION OF SERVICE AND BENEFITS
SUBCHAPTER 2B - TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM	SECTION .0200 - ADMINISTRATION	20 NCAC 02B .0201	AVERAGE FINAL COMPENSATION
SUBCHAPTER 2B - TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM	SECTION .0200 - ADMINISTRATION	20 NCAC 02B .0208	DEATH OF RETIRED MEMBER
SUBCHAPTER 2B - TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM	SECTION .0200 - ADMINISTRATION	20 NCAC 02B .0213	DISABILITY RETIREMENT ALLOWANCE DEFINED
SUBCHAPTER 2B - TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM	SECTION .0800 - MILITARY SERVICE (INCHOATE RIGHTS ONLY)	20 NCAC 02B .0803	COMPUTATION OF COST
SUBCHAPTER 2C - LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM	SECTION .0200 - ADMINISTRATION	20 NCAC 02C .0202	DEATH OF RETIRED MEMBER
SUBCHAPTER 2C - LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM	SECTION .0900 - MILITARY SERVICE (INCHOATE RIGHTS ONLY)	20 NCAC 02C .0904	COMPUTATION OF COST
SUBCHAPTER 2C - LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM	SECTION .1200 - RETIREMENT ALLOWANCES	20 NCAC 02C .1204	AVERAGE FINAL COMPENSATION
SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS	SECTION .0100 - DEFINITIONS AND GENERAL PROVISIONS	20 NCAC 02M .0101	DEFINITIONS
SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS	SECTION .0100 - DEFINITIONS AND GENERAL PROVISIONS	20 NCAC 02M .0102	AGENCY AND AUTHORITY OF DIRECTOR
SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS	SECTION .0100 - DEFINITIONS AND GENERAL PROVISIONS	20 NCAC 02M .0103	CONTRIBUTORY DEATH BENEFIT TRUST FOR RETIRED MEMBERS

<b>Subchapter</b>	<b>Rule Section</b>	<b>Rule Citation</b>	<b>Rule Name</b>
<b>SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS</b>	<b>SECTION .0100 - DEFINITIONS AND GENERAL PROVISIONS</b>	20 NCAC 02M .0104	TIME AND DATE
<b>SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS</b>	<b>SECTION .0200 - ELECTION AND CANCELLATION OF COVERAGE</b>	20 NCAC 02M .0201	ELIGIBILITY TO ELECT COVERAGE
<b>SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS</b>	<b>SECTION .0200 - ELECTION AND CANCELLATION OF COVERAGE</b>	20 NCAC 02M .0202	WHEN FIRST ELIGIBLE
<b>SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS</b>	<b>SECTION .0200 - ELECTION AND CANCELLATION OF COVERAGE</b>	20 NCAC 02M .0203	FORM OF ELECTION
<b>SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS</b>	<b>SECTION .0200 - ELECTION AND CANCELLATION OF COVERAGE</b>	20 NCAC 02M .0204	EFFECTIVE DATE OF COVERAGE
<b>SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS</b>	<b>SECTION .0200 - ELECTION AND CANCELLATION OF COVERAGE</b>	20 NCAC 02M .0205	CANCELLATION OF COVERAGE
<b>SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS</b>	<b>SECTION .0200 - ELECTION AND CANCELLATION OF COVERAGE</b>	20 NCAC 02M .0206	REINSTATEMENT
<b>SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS</b>	<b>SECTION .0300 - CONTRIBUTIONS AND BENEFITS</b>	20 NCAC 02M .0301	CONTRIBUTION RATES
<b>SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS</b>	<b>SECTION .0300 - CONTRIBUTIONS AND BENEFITS</b>	20 NCAC 02M .0302	MEMBER CONTRIBUTION
<b>SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS</b>	<b>SECTION .0300 - CONTRIBUTIONS AND BENEFITS</b>	20 NCAC 02M .0303	PAYMENT OF CONTRIBUTION
<b>SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS</b>	<b>SECTION .0300 - CONTRIBUTIONS AND BENEFITS</b>	20 NCAC 02M .0304	AMOUNT OF BENEFIT PAYABLE
<b>SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS</b>	<b>SECTION .0300 - CONTRIBUTIONS AND BENEFITS</b>	20 NCAC 02M .0305	PAYMENT OF INTEREST ON BENEFIT

<b>Subchapter</b>	<b>Rule Section</b>	<b>Rule Citation</b>	<b>Rule Name</b>
<b>SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS</b>	<b>SECTION .0300 - CONTRIBUTIONS AND BENEFITS</b>	20 NCAC 02M .0306	PAYMENT OF BENEFIT
<b>SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS</b>	<b>SECTION .0300 - CONTRIBUTIONS AND BENEFITS</b>	20 NCAC 02M .0307	BENEFITS PAYABLE AFTER CANCELLATION
<b>SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS</b>	<b>SECTION .0300 - CONTRIBUTIONS AND BENEFITS</b>	20 NCAC 02M .0308	REFUNDS

**Retirement Systems Division Rules Deemed by the Board of Trustees  
to Protect Inchoate or Accrued Rights of Retirement Members  
Pursuant to NCGS § 150B-21.3A(e1)**

*Exempt from the Periodic Review Process at § 150B-21.3A*

**CHAPTER 2 – RETIREMENT SYSTEMS**

**SUBCHAPTER 2A - DIVISIONAL RULES**

**SECTION .0500 - GENERAL PROCEDURES**

**20 NCAC 02A .0503      DUAL MEMBERSHIP - COMPUTATION OF SERVICE AND BENEFITS**

(a) This Rule applies to any individual case in which the member had one or more periods of dual membership in those rare cases which are permitted by law. Dual membership means membership in two systems, at the same time, by virtue of the same position.

(b) Eligibility shall be established for the death benefit, survivor's alternate benefit, service, early or disability retirement or other benefits which are based on creditable membership service for both systems whenever eligibility is established in either one of the systems. A statute permitting transfer of membership and prior service shall apply when a person becomes a member of a retirement system to which the membership and prior service may be transferred from one or the other of the systems in which the member had dual membership. This shall apply only where the member is paid under only one retirement system for services rendered subsequent to the last day of service in a position in which the member had dual membership.

(c) Death benefit shall be limited to twenty thousand dollars (\$20,000) and shall be allocated pro rata between systems based on the total compensation paid during the eligibility period.

(d) Other benefits shall be calculated by:

- (1) Compute "Average Final Compensation" on the basis of compensation on which the member would have contributed had he not been earning "split" service as an employee with dual membership.
- (2) Compute creditable service as follows:
  - (A) the number of months of creditable service the member earned or acquired which were based on compensation for service in only one of the systems; plus
  - (B) the total of the fractional months earned by the member in each of the systems during periods of dual membership; where
  - (C) the fractional months during periods of dual membership is equal to the same fraction of a month that the compensation reported to the system bears to the total compensation reported to all systems.
- (3) Compute the annual allowance for a member by multiplying the average final compensation times the creditable service as computed in Subparagraphs (1) and (2) of this Paragraph.
- (4) Allocate the benefits to be paid from each system pro rata on share of creditable service in each system as computed in (d)(2) of this Rule.

(e) This Rule shall apply to any individual case in which a member with dual membership commenced retirement with one retirement system prior to the effective date of this Rule and continued in service under the other retirement system. In such cases, the retirement allowance of the member from the system with which he first retired shall be recomputed in accordance with this Rule and paid retroactively to the effective date of this Rule.

*History Note:* Authority G.S. 128-28(g); 135-6(f);  
Eff. December 1, 1981;  
Amended Eff. March 1, 1985.

## **SUBCHAPTER 2B - TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM**

### **SECTION .0200 - ADMINISTRATION**

#### **20 NCAC 02B .0201 AVERAGE FINAL COMPENSATION**

The term "consecutive calendar years" is defined for the purpose of determining retirement allowances as a period of time consisting of a number of calendar months of creditable service equal to 12 times the number of years specified by statute during which the highest total compensation was earned, adjusted proportionally to the regular term of annual employment.

*History Note:* Authority G.S. 135-6(f); 135-1(5);  
Eff. February 1, 1976;  
Readopted Eff. September 21, 1977.

#### **20 NCAC 02B .0208 DEATH OF RETIRED MEMBER**

During the month a retired member dies, the legal representative of the deceased shall be entitled to a full check for the month in which the death occurred.

*History Note:* Authority G.S. 135-6(f);  
Eff. February 1, 1976;  
Readopted Eff. September 21, 1977.

#### **20 NCAC 02B .0213 DISABILITY RETIREMENT ALLOWANCE DEFINED**

A member shall be deemed to have been "entitled to receive a disability retirement allowance" if a proper application for disability retirement allowance was received before his death, if he had five or more years of creditable service, if the medical board, after a medical examination of such member pursuant to G.S. 135-5(c), shall certify that such member was mentally or physically incapacitated for the further performance of duty, that such incapacity was incurred at the time of active employment and was continuous thereafter, that such incapacity was likely to be permanent, and that such member should be or should have been retired, and if all other requirements for disability retirement pursuant to G.S. 135-5(c) had been met except that the member need not live to the actual date of retirement.

*History Note:* Authority G.S. 135-5(1)(3);  
Eff. October 29, 1979.

## **SECTION .0800 - MILITARY SERVICE (INCHOATE RIGHTS ONLY)**

### **20 NCAC 02B .0803      COMPUTATION OF COST**

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

- (1) 1/12 of the annualized rate of compensation the member earned when he first entered membership; times
- (2) the employee contribution rate at that time; 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. 135-4(f); 135-6(f);  
Eff. February 1, 1976;  
Readopted September 21, 1977.

## **SUBCHAPTER 2C - LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM**

### **SECTION .0200 - ADMINISTRATION**

### **20 NCAC 02C .0202      DEATH OF RETIRED MEMBER**

During the month a retired member dies, the legal representative of the deceased shall be entitled to a full check for the month in which death occurred.

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

## **SECTION .0900 - MILITARY SERVICE (INCHOATE RIGHTS ONLY)**

### **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 he first entered membership; times
- (2) the contribution rate at time he first entered membership; 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.

## **SECTION .1200 - RETIREMENT ALLOWANCES**

### **20 NCAC 02C .1204 AVERAGE FINAL COMPENSATION**

The term "consecutive calendar years" is defined for the purpose of determining retirement allowances as a period of time consisting of a number of calendar months of creditable service equal to 12 times the number of years specified by statute during which the highest total compensation was earned, adjusted proportionally to the regular term of annual employment.

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

## **SUBCHAPTER 2M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS**

### **SECTION .0100 - DEFINITIONS AND GENERAL PROVISIONS**

#### **20 NCAC 02M .0101 DEFINITIONS**

The following definitions apply to the Contributory Death Benefit for Retired Members:

- (1) "Retired member" shall mean a former teacher, employee or official in receipt of a monthly retirement allowance or who has a terminated retirement allowance resulting from reemployment or an optional payment selection (Option 4) from the Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement System, Consolidated Judicial Retirement System, Legislative Retirement System or Legislative Retirement Fund; however, retired member shall not mean any beneficiary in receipt of a monthly retirement allowance by reason of the death of a retired member or former teacher, employee or official.
- (2) "Member" shall mean a retired member of the Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement System, Consolidated Judicial Retirement System, Legislative Retirement System or Legislative Retirement Fund who has elected coverage and who makes continuous contributions under the Contributory Death Benefit for Retired Members.
- (3) "Surviving spouse" shall mean a living person who is legally married to a member covered under the Contributory Death Benefit for Retired Members at the date of death of the member.
- (4) "Legal representative" shall mean the administrator or executor of the estate of a member or the collector of funds for the estate of the member.
- (5) "Retirement system" shall mean the Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement System, Consolidated Judicial Retirement System, Legislative Retirement System or Legislative Retirement Fund.
- (6) "Board of Trustees" of the Contributory Death Benefit for Retired Members shall mean the Board of Trustees of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System.

*History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g);  
135-5(l); 135-6(f); 135-64(g);  
Eff. February 1, 1989.*



## **20 NCAC 02M .0102 AGENCY AND AUTHORITY OF DIRECTOR**

(a) The agency acting on behalf of the Board of Trustees of the Contributory Death Benefit for Retired Members is the Department of State Treasurer, Retirement Systems Division, 325 North Salisbury Street, Raleigh, North Carolina 27611.

(b) The Director of the Retirement Systems Division shall make decisions administratively as it relates to the Contributory Death Benefit for Retired Members in accordance with the statutes and rules and regulations adopted by the Board of Trustees and previous decisions of the Board of Trustees. Appeals may be made from the decisions of the director under the same procedures used for contested cases.

*History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-28(g);  
135-5(l); 135-6(f); 135-64(g);  
Eff. February 1, 1989.*

## **20 NCAC 02M .0103 CONTRIBUTORY DEATH BENEFIT TRUST FOR RETIRED MEMBERS**

(a) A trust entitled the Contributory Death Benefit Trust for Retired Members shall be established for the purpose of collecting all member contributions, investment of contributions, and payment of benefits and expenses.

(b) Funds deposited in the Contributory Death Benefit Trust Retired Members shall be invested in accordance with law and all investment earnings shall accrue to the Contributory Death Benefit Trust for Retired Members.

(c) The funds in the Contributory Death Benefit Trust for Retired Members shall be used for the sole purpose of paying the benefits and expenses of the Contributory Death Benefit for Retired Members.

(d) Members of the Contributory Death Benefit for Retired Members do not gain any rights or interest in the earnings on the investments in the Contributory Death Benefit Trust for Retired Members nor share in any gains or losses resulting from the mortality experience for the trust beyond the benefits set forth.

*History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-28(g);  
135-5(l); 135-6(f); 135-64(g);  
Eff. February 1, 1989.*

## **20 NCAC 02M .0104 TIME AND DATE**

"Date and time" shall be the equivalent date and time for Raleigh, North Carolina, where and when it becomes necessary to establish a date and time for payment of benefits, payment or collection of contributions, effective dates of coverage and cancellation, and other matters related to the Contributory Death Benefit for Retired Members.

*History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-28(g);  
135-5(l); 135-6(f); 135-64(g);  
Eff. April 1, 1989.*

# **SECTION .0200 - ELECTION AND CANCELLATION OF COVERAGE**

## **20 NCAC 02M .0201 ELIGIBILITY TO ELECT COVERAGE**

(a) A retired member in receipt of a monthly retirement allowance as a former teacher, employee or official of more than one of the retirement systems is eligible to elect coverage under each retirement system from which the member receives a retirement benefit; however, if a retired member is receiving more than one retirement benefit from the same retirement system, he may elect coverage only on the basis of one retirement benefit.

(b) A former teacher, employee or official in receipt of disability benefits from the Disability Income Plan of North

Carolina is not in receipt of a retirement allowance and is not eligible to elect coverage under the Contributory Death Benefit for Retired Members until such time as the disability benefit is converted to an unreduced service retirement allowance.

*History Note:* Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g);  
135-5(l); 135-6(f); 135-64(g);  
Eff. February 1, 1989.

## **20 NCAC 02M .0202 WHEN FIRST ELIGIBLE**

A retired member's eligibility to make an election for coverage is based on the following:

- (1) If retired on or before June 1, 1988, the words "when first eligible" to make an election for coverage will mean 60 days from July 1, 1988 or no later than September 1, 1988.
- (2) If retiring on or after July 1, 1988, the words "when first eligible" to make an election for coverage will mean 60 days from the effective date of retirement under the retirement system.

*History Note:* Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g);  
135-5(l); 135-6(f); 135-64(g);  
Eff. February 1, 1989.

## **20 NCAC 02M .0203 FORM OF ELECTION**

A retired member's election must be made on a Notice of Election form as provided by the Retirement Systems Division or in lieu thereof by written notice clearly stating the election of the retired member and providing all information necessary for the determination of rates and payment of benefits.

*History Note:* Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g);  
135-5(l); 135-6(f); 135-64(g);  
Eff. February 1, 1989.

## **20 NCAC 02M .0204 EFFECTIVE DATE OF COVERAGE**

Coverage under the Contributory Death Benefit for Retired Members is not to be delayed beyond the 60 days from the effective date of retirement or if retired prior to July 1, 1988, not beyond September 1, 1988 and shall become effective:

- (1) the first of the month in which election of coverage is made provided that the election is received by the Retirement Systems Division by the 15th of a month but not earlier than July 1, 1988, or
- (2) the first of the month following the month in which the election of coverage is made if the election is received by the Retirement Systems Division after the 15th of a month but not earlier than July 1, 1988.

*History Note:* Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g);  
135-5(l); 135-6(f); 135-64(g);  
Eff. February 1, 1989.

## **20 NCAC 02M .0205 CANCELLATION OF COVERAGE**

Cancellation of coverage under the Contributory Death Benefit for Retired Members shall be:

- (1) By written notice of cancellation of coverage to the Board of Trustees with cancellation of coverage becoming effective :
  - (a) the first day of the month in which the member's written notice of cancellation is received and no contribution will be due in that month if written notice of cancellation is received in the offices of the Retirement Systems Division between the first and the tenth of a month.
  - (b) the first day of the month following the month in which written notice of cancellation is received with contributions due for the month in which written notice is received if the written notice of cancellation is received in the offices of the Retirement Systems Division after the tenth of a month.
- (2) By non-payment of monthly contributions if payment for any month is not received in the offices of the Retirement Systems Division by the 25th of the month following the month for which the contribution is due and payable with coverage to be cancelled automatically effective the first day of the month for which the contribution was due and payable.
- (3) By death of a member.

*History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g); 135-5(l); 135-6(f); 135-64(g); Eff. February 1, 1989.*

## **20 NCAC 02M .0206 REINSTATEMENT**

Upon cancellation of coverage, coverage cannot be reinstated nor can a retired member reapply for coverage.

*History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g); 135-5(l); 135-6(f); 135-64(g); Eff. February 1, 1989.*

## **SECTION .0300 - CONTRIBUTIONS AND**

### **BENEFITS 20 NCAC 02M .0301 CONTRIBUTION RATES**

(a) The monthly contribution rates shall be established by resolution of the Boards of Trustees as recommended by the consulting actuary. The consulting actuary in making a recommended schedule of monthly contribution rates shall take into consideration mortality experience, selection experience, actuarial interest rate assumption which may be different from the interest rate assumption used in the valuation of the liabilities of the retirement system, administrative and investment costs, and such other factors as may be appropriate in establishing such schedule of monthly contribution rates.

(b) The schedule of monthly contribution rates established by resolution of the Boards of Trustees adopted on March 19, 1988, is as follows:

Age at Effective	Monthly Rate For Life
Less than 50	\$8
50	8
51	9
52	10
53	10
54	11
55	12
56	12
57	13
58	14
59	15
60	16
61	17
62	18
63	20
64	21
65	22
66	24
67	26
68	27
69	29
70	31
71	33
72	35
73	38
74	40
75	43
76	46
77	49
78	52
79	56
80	59
81	63
82	67
83	71
84	75
85	80
86	84
87	89
88	94
89	99
90	105
91	110
92	115
93	120
94	125
95	130
96	140
97	150

98  
99  
100 and over

160  
170  
200

The schedule of monthly contribution rates shall be applicable for members electing coverage effective on or after July 1, 1988 and shall remain in effect until such resolution, as duly adopted by the Boards of Trustees, revises such schedule of monthly contribution rates.

(c) The Boards of Trustees may from time to time revise by resolution the schedule of monthly contribution rates as may be recommended by the consulting actuary for teachers, employees and officials retiring and electing an effective date of coverage after the effective date of the revision. Such revision may be, but is not required to be, applicable to members electing coverage prior to the effective date of the revision provided that such revised rates shall not be greater than the rates in effect at the effective date of coverage for those members electing an effective date of coverage prior to the effective date of the revision.

*History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-28(g); 135-5(1); 135-6(f); 135-64(g);  
Eff. February 1,  
1989.*

## **20 NCAC 02M .0302 MEMBER CONTRIBUTION**

(a) The monthly contribution rate paid by a member shall be based on the member's nearest age as of the effective date of coverage and the applicable rates as of that date as set by the Boards of Trustees and will remain the same as long as the coverage is in effect.

(b) Any misstatement as to the age of the member which causes the contribution of the member to have been paid at a higher or lower rate during the period of the coverage of the member not paid or refunded prior to the death of the member will result in any underpayment of contributions being offset against the death benefit and any overpayment of contributions being paid to the surviving spouse or legal representative for the correct age of the member.

*History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-28(g);  
135-5(1); 135-6(f); 135-64(g);  
Eff. February 1,  
1989.*

## **20 NCAC 02M .0303 PAYMENT OF CONTRIBUTION**

(a) The monthly contributions of members covered under the Contributory Death Benefit for Retired Members are to be paid monthly to the Contributory Death Benefit Trust for Retired Members beginning in the month in which coverage becomes effective and shall continue each month thereafter.

(b) Payment of the monthly contributions shall be deducted from a member's net monthly retirement allowance from the retirement system if member's net monthly retirement allowance, after other required deductions, is sufficient to cover the cost of the contribution; however, if the net monthly retirement allowance from the retirement system is not sufficient to cover the cost of the contribution, the Retirement Systems Division shall provide the member a Notice of Contribution Due within ten days after the determination of insufficiency with payment of monthly contributions due not later than the 25th of the month following the determination of insufficiency, and thereafter a Notice of Contribution Due shall be provided between the first and the fifth of each month with payment due on or before the 25th of that month.

- (c) The contribution due for the month in which the member's death occurs is to be paid from the final monthly retirement benefit due in the month of death, or by payment from the member's surviving spouse or legal representative; provided that, if member's death occurs during the 24-month period from the effective date of coverage, the deduction and/or payment of the contribution for the month in which death occurs may be waived.
- (d) Once coverage is elected, the required monthly contribution must be paid in order to maintain coverage regardless of any condition which might occur that would terminate or diminish the retirement benefit the retired member is receiving such as reemployment and the reduction or termination of retirement benefits by reason of an optional payment plan selected by the retired member at retirement.

*History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g); 135-5(l); 135-6(f); 135-64(g);  
Eff. February 1, 1989.*

#### **20 NCAC 02M .0304 AMOUNT OF BENEFIT PAYABLE**

- (a) If the member's death occurs on or after the first day of the month following the 24th month of coverage for which the member has paid the required contributions, the amount of the benefit payable shall be five thousand dollars (\$5,000.00).
- (b) If the member's death occurs prior to the first day of the month following the 24th month of coverage for which the member has made the required contributions, the amount of the benefit payable shall be the total of the monthly contributions made by the member plus interest as set by the Board of Trustees.

*History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g); 135-5(l); 135-6(f); 135-64(g);  
Eff. February 1, 1989.*

#### **20 NCAC 02M .0305 PAYMENT OF INTEREST ON BENEFIT**

Interest payable on the monthly contributions of a member where member's death occurs prior to the first day of the month following the 24th month of coverage:

- (1) The annual rate of interest shall be set from time to time by resolution of the Board of Trustees and, in setting such annual rate of interest, the Board of Trustees may take into consideration the actuarial interest rate assumption, yields realized and anticipated on short-term investments, cost of investing and administration, and such other factors affecting interest rates as may be appropriate.
- (2) Such interest as set by the Board of Trustees shall be computed on each monthly payment from the end of the month in which the monthly payment is paid and on the balance of the monthly contributions and interest at the beginning of the calendar year to the end of the month in which the member dies.
- (3) The interest rate established by resolution of the Boards of Trustees, adopted on January 28, 1988, is 6 1/2 percent.

*History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g); 135-5(l); 135-6(f); 135-64(g);  
Eff. February 1, 1989.*

## **20 NCAC 02M .0306 PAYMENT OF BENEFIT**

Upon the death of a member, a certified death certificate and such other documentation as deemed necessary in order to initiate payment of the death benefit is to be furnished by the member's spouse or legal representative if not survived by a spouse.

*History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g); 135-5(l); 135-6(f); 135-64(g); Eff. February 1, 1989.*

## **20 NCAC 02M .0307 BENEFITS PAYABLE AFTER CANCELLATION**

Should death of a former member occur on or after the effective date of cancellation of coverage, benefits under the Contributory Death Benefit for Retired Members shall not be due and payable.

*History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g); 135-5(l); 135-6(f); 135-64(g); Eff. February 1, 1989.*

## **20 NCAC 02M .0308 REFUNDS**

- (a) No refund of contributions or interest shall be made if coverage is cancelled by reason of non-payment of contributions or if written notice of cancellation is received 90 or more days after the effective date of coverage.
- (b) Refund of contributions without interest may be made if coverage is cancelled by written notice of cancellation received prior to 90 days after the effective date of coverage.

*History Note: Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g); 135-5(l); 135-6(f); 135-64(g); Eff. February 1, 1989.*