



North Carolina Retirement Systems

NC 401(k) & NC 457 Plans

MEMORANDUM

TO: Supplemental Retirement Board of Trustees

FROM: Reid Chisholm, Assistant General Counsel

DATE: February 26, 2026

SUBJECT: Plan document amendments

Staff requests amendments to the [NC 401\(k\) Plan](#) and the [NC 457 Plan](#) as described below.

More flexible employer contributions in the NC 401(k) Plan

In the NC 401(k) Plan, an employer is generally required to provide the same matching or across-the-board contributions to all employees, subject to a long-standing, but narrow, exception that allows the limited grouping of employees by years of service. However, in recent years, staff has recommended, and the Board has approved, greater flexibility for employers to tailor contributions to their needs, while still maintaining reasonable requirements to treat employees uniformly. In 2024, tiered matching contributions were added to the NC 401(k) Plan. An employer is permitted to decrease its percentage match as employees contribute higher percentages of their compensation, so long as employees are divided into only two tiers and employees are otherwise treated the same. Likewise, at the last meeting, the Board approved a provision allowing an employer to provide special contributions pursuant to an employment contract that has been approved by the employer's governing board.

In addition, state legislation in 2024 expanded NC 401(k) Plan eligibility to part-time and other employees; however, employers that provide employer contributions are not required to provide the same, or any, contributions to the newly eligible employees.

Staff recommends three additional provisions to provide more flexibility for employer contributions to the NC 401(k) Plan. The recommendations are based in part on requests from employers.

First, an employer would have the option to provide special contributions to part-time and other law enforcement officers, regardless of their eligibility for contributions under N.C.G.S. § 143-166.30 or N.C.G.S. § 143-166.50, which require an employer to contribute five percent of a law enforcement officer's compensation.

Second, an employer would have the option to provide special contributions to firefighters and rescue squad workers.

Third, an employer would be allowed to group employees by job classifications, skills, or duties, subject to the following restrictions:

1. Employees can be divided into no more than three groups;
2. Each group must contain at least 20% of employees;
3. The contribution amount or percentage of a group cannot exceed three times the contribution amount or percentage of another group; and
4. Contributions must be calculated the same for all employees within a group.

The proposed provisions are in the attachment.

Roth catch-up contributions

The SECURE 2.0 Act amended the Internal Revenue Code to require certain catch-up contributions to be made on a Roth basis instead of a pre-tax basis, and the U.S. Treasury issued regulations on Roth catch-up contributions last September. Following a two-year implementation delay by the U.S. Treasury, the requirement for Roth catch-up contributions went into effect this year.

As a result, if an employee received FICA compensation in excess of a certain threshold in the prior year, the employee's catch-up contributions must be made as Roth contributions to the extent that an employee has not made standard contributions on a Roth basis. The threshold for 2026 (i.e., 2025 FICA compensation) is \$150,000 and is subject to future cost-of-living adjustments. The Roth requirement applies only if the prior-year compensation was paid by the employee's current-year employer. Also, the Roth requirement applies only to catch-up contributions made because an employee is age 50 or older; special retirement age-based catch-up contributions in 457(b) plans are not subject to the Roth requirement.

The regulations allow a plan to deem applicable catch-up contributions as Roth regardless of an employee's election. The regulations also allow a plan to correct errors through an in-plan Roth conversion or recharacterization of pre-tax contributions as Roth

Empower has implemented Roth catch-up contributions for the NC 401(k) and NC 457 Plans; however, the Treasury Regulations require plan sponsors to amend their plan documents to incorporate Roth catch-up contributions.

Recommendation

Staff recommends the Board (1) adopt the amendments to the NC 401(k) Plan in the attachment; and (2) direct staff to amend the NC 401(k) and NC 457 Plans to incorporate Roth catch-up contributions.

Attachment – Additional subsections to Section 3.02 of the NC 401(k) Plan

(h) Notwithstanding subsections (a), (b), and (c) of this Section 3.02, an Employer may provide Special Contributions to law enforcement officers, regardless of eligibility for contributions under N.C.G.S. § 143-166.30 or N.C.G.S. § 143-166.50 (e.g., due to part-time status), without providing the same Special Contributions to Employees who are not law enforcement officers. Special Contributions provided pursuant to this subsection are separate from the contributions in, and are not considered in determining compliance with, subsections (a), (b), or (c) of this Section 3.02.

(i) Notwithstanding subsections (a) and (b) of this Section 3.02, an Employer may provide Special Contributions to firefighters and/or rescue squad workers without providing the same Special Contributions to other Employees. Special Contributions provided pursuant to this subsection are separate from the contributions in, and are not considered in determining compliance with, subsections (a) or (b) of this Section 3.02. For purposes of this subsection, a “firefighter” means an Employee who is an “eligible firefighter” as defined in N.C.G.S. § 58-86-2(5), and a “rescue squad worker” means an Employee who is an “eligible rescue squad worker” as defined in N.C.G.S. § 58-86-2(7).

(j) In lieu of grouping Employees by years of service in subsections (a) and (b) of this Section 3.02, an Employer may calculate Special Contributions differently for different groups of Employees based on job classifications, skills, or duties, subject to the following restrictions:

- (i) Employees shall be divided into no more than three groups;
- (ii) Each group shall contain at least 20% of Employees;
- (iii) Neither the dollar amount nor the percentage of Special Contributions, as applicable, received by Employees in one group exceeds three times the dollar amount or percentage of Special Contributions, as applicable, of another group; and
- (iv) The calculation of Special Contributions shall be uniform within each group of Employees.