

Title 22 STATE RETIREMENT AND PENSION SYSTEM

Subtitle 04 MEMBERSHIP

22.04.01 Reporting and Member Contribution Requirements of Participating Employers

Authority: State Personnel and Pensions Article, §§21-110 and 21-314, Annotated Code of Maryland

Notice of Proposed Action

[21-133-P]

The Board of Trustees for the State Retirement and Pension System proposes to amend and recodify existing Regulation .01 to be Regulation .02 and adopt new Regulations .01, .03, and .04 under COMAR 22.04.01 Reporting and Member Contribution Requirements of Participating Employers. This action was considered at the June 15, 2021, Board of Trustees meeting for the State Retirement and Pension System.

Statement of Purpose

The purpose of this action is to implement a 2019 statutory change to allow the State Retirement Agency to receive member contributions through the System's new online employer portal. Specifically, the Agency will be able to accept member contributions and payroll data simultaneously through a secure online employer portal, eliminating discrepancies and administrative burdens that occur through the existing paper-based process.

New Regulation .01 is being added to provide key definitions used to identify the parties involved; the type of electronic banking payment options available to participating employers; and the definition of the supporting employer payroll data that the participating employer is required to provide.

Regulation .02A is being amended to be consistent with the 2019 legislation (Ch. 203, Acts of 2019), to clarify that the required payroll data for each member must be certified by the participating employer as each payroll is paid, rather than following the end of each pay period.

Regulation .02C is being amended to clarify that information provided by participating employers shall be provided in the manner and format that the State Retirement Agency can accept for processing.

Regulation .02D is being added to inform participating employers that they will be liable for statutory penalties and interest if the information required under this regulation is not submitted as each payroll is paid, and in the manner and format required by the State Retirement Agency.

New Regulation .03 is being added to detail the re-engineered process for electronic payment of member contributions via ACH Debit.

New Regulation .04 provides a process and requirements by which participating employers can request an ACH Debit waiver from the requirement to pay contributions via ACH Debit from the Executive Director or the Executive Director's designee. Employers receiving a waiver pursuant to this regulation will be required to timely submit payroll data and pay member contributions via ACH credit.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Anne E. Gawthrop, Esq., Director, Legislative Affairs, State Retirement Agency, 120 E. Baltimore Street, 16th Floor, Baltimore, MD 21202, or call 410-625-5602, or email to agawthrop@sra.state.md.us, or fax to 410-468-1710. Comments will be accepted through October 12, 2021. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Board of Trustees for the State Retirement and Pension System during a public meeting to be held on November 16, 2021, at 1 p.m., via live stream from the Agency's website.

.01 Definitions.

A. In this chapter, the following words have the meanings indicated.

B. Terms Defined.

(1) "ACH Credit" means a transaction through the Automated Clearing House Network originated by a participating employer to transmit payment of member contributions to an account at a financial institution designated by the Retirement Agency.

(2) "ACH Debit" means a transaction through the Automated Clearing House Network originated by the Retirement Agency to remove member contributions from a financial institution designated by a participating employer for payment into an account at a financial institution designated by the Retirement Agency.

(3) "Local employer" means a county board of education or the Baltimore City Board of School Commissioners.

(4) "Participating employer" has the meaning set forth in COMAR 22.01.01.01B(11).

(5) Participating Governmental Unit.

(a) "Participating governmental unit" means a governmental unit that participates in a State system under State Personnel and Pensions Article, Title 31, Annotated Code of Maryland.

(b) "Participating governmental unit" includes a governmental unit that has withdrawn from participation in a State system in accordance with State Personnel and Pensions Article, Title 31, Subtitle 3, Annotated Code of Maryland, but has employees that continue to participate in a State system.

(6) "Supporting payroll data" means the information required to be provided by a participating employer for each member of a State system as each payroll is paid in accordance with Regulation .02 of this chapter.

[.01] .02 Payroll Reporting Requirements of Participating Employers.

A. Subject to §§B and C of this regulation, [at the end of each pay period] *as each payroll is paid*, each participating employer shall certify to the Retirement Agency for each member of the State system the following information:

(1)—(10) (text unchanged)

B. (text unchanged)

C. The participating employer shall provide the information required under this regulation in a *manner and* format acceptable to the Retirement Agency.

D. *A participating employer that does not submit the information required under this regulation as each payroll is paid, and the in the manner and format required by the Retirement Agency, is liable for penalties and interest in accordance with State Personnel and Pensions Article, §21-314(d), Annotated Code of Maryland.*

.03 Electronic Payment of Member Contributions.

A. *This regulation applies only to a participating employer that:*

(1) *Is a local employer;*

(2) *Is a participating governmental unit; or*

(3) *Does not pay its employees through the Central Payroll Bureau of the Office of the State Comptroller.*

B. *Except for a participating employer that has been granted a waiver in accordance with Regulation .04 of this chapter, each participating employer shall designate an authorized account at a financial institution for the purpose of making payment of all required member contributions via ACH Debit.*

C. *Except as provided in §D of this regulation, as each payroll is paid and upon final submission of the supporting payroll data in the manner and format required by the Retirement Agency, the participating employer shall pay the amounts provided in Regulation .02A(10) of this chapter via an ACH Debit.*

D. *Payment via ACH Credit.*

(1) *This section applies only to a participating employer that has been granted a waiver in accordance with Regulation .04 of this chapter.*

(2) *As each payroll is paid, and immediately following final submission of the supporting payroll data in the manner and format required by the Retirement Agency, the participating employer shall pay the amounts provided in Regulation .02A(10) of this chapter via an ACH Credit.*

E. *A participating employer that does not pay the member contributions required by this regulation as each payroll is paid and in the manner prescribed by the Retirement Agency is liable for penalties and interest in accordance with State Personnel and Pensions Article, §21-314(d), Annotated Code of Maryland.*

.04 Requests for Waiver of the ACH Debit Requirement.

A. *A participating employer that is subject to Regulation .03 of this chapter may request a waiver from the requirement to pay contributions via ACH Debit.*

B. *A request for a waiver shall be made in writing to the Executive Director or the Executive Director's designee and shall detail the reasons why the participating employer is unable to comply with the ACH Debit requirement.*

C. *Upon receipt of a request for a waiver, the Executive Director or the Executive Director's designee may request, and the participating employer shall provide, any additional information or documentation that the Executive Director or the designee considers appropriate to substantiate the participating employer's request.*

D. *The Executive Director or the Executive Director's designee may grant the participating employer's request for a waiver on a temporary or indefinite basis if the participating employer demonstrates to the satisfaction of the Executive Director or the designee that the participating employer is unable to comply with the ACH Debit requirement.*

E. *If the Executive Director or the Executive Director's designee grants a participating employer's request for a waiver on a temporary basis, the Executive Director or the designee shall specify the time period for the waiver. Any granted waiver shall be effective on the date granted, and no retroactive waivers will be granted.*

F. *If the Executive Director or the Executive Director's designee grants a participating employer's request for a waiver on an indefinite basis, the Retirement Agency may require the participating employer to periodically submit documentation demonstrating the continued necessity of the waiver. If the Executive Director or the designee determines that a waiver is no longer needed, the Executive Director or the designee may rescind the waiver.*

G. *If the Executive Director or the Executive Director's designee grants a participating employer's request for a waiver and the participating employer fails to make timely member contribution payments in accordance with Regulation .03 of this chapter, or fails to submit the information required under Regulation .02 of this chapter as each payroll is paid, and in the manner and format required by the Retirement Agency, the Executive Director or the designee may rescind the waiver.*

H. *The denial of a request for a waiver from the ACH Debit requirement is not a contested case under State Government Article, §10-202, Annotated Code of Maryland, for which a hearing is required under COMAR 22.03.04.*

MARTIN M. NOVEN
Executive Director
State Retirement Agency