



**North Dakota
Public Employees Retirement System**
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March 14, 2024

Ms. Liz Fordahl
Assistant Code Reviser
Legislative Council
600 East Boulevard, 2nd Floor
Bismarck, ND 58505-0360

Via email lfordahl@ndlegis.gov

Dear Ms. Fordahl:

The Notice of Intent to Adopt, Amend, and Repeal Administrative Rules and a copy of the proposed rules are enclosed as required by N.D.C.C. §28-32-10(1).

Sincerely,

Rebecca Fricke
Executive Director

Enclosures

NOTICE OF INTENT TO ADOPT, AMEND, REPEAL ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Public Employees Retirement System will hold a public hearing to address proposed new rules, amendments to, and repeal of N.D.A.C. Articles 71-01, 71-02, 71-03, 71-04, 71-05, and 71-08. The proposed rulemaking implements House Bill 1040 enacted during the 2023 regular legislative session relating to the closure of the North Dakota Public Employees Retirement System (NDPERS) main plan, the deferred compensation program, and expansion of the defined contribution retirement plan; HB 1547 enacted during the 2023 special legislative session relating to the membership of the public employees retirement system board; and rules relating to procedure for completing and filing petitions, special elections, conversion of sick leave, disability benefits, insurance enrollment, continuation of life insurance after retirement, premium billing, employee contribution, deferred compensation enrollment and deferral changes. The hearing will be held at 11:00 A.M. on Monday, April 29, 2024, in the NDPERS Conference Room at 1600 East Century Avenue, Suite 2, Bismarck, North Dakota. The hearing will continue until 12:00 P.M. or until no further testimony is offered, whichever occurs last. The proposed rules may be viewed online at <https://www.ndpers.nd.gov/about/notice-of-hearing> or at the NDPERS office at the following location:

North Dakota Public Employees Retirement System
1600 East Century Avenue, Suite 2
Bismarck, ND 58503

Written or oral comments on the proposed rules submitted to the above address or below referenced telephone number and received by May 13, 2024, will be fully considered. The proposed rule changes are not expected to have an impact on the regulated community in excess of \$50,000. A copy of the proposed rules may also be obtained by accessing them on the NDPERS website at <https://www.ndpers.nd.gov/about/notice-of-hearing>, or by writing to PO Box 1657, Bismarck ND 58502-1657, or by calling the North Dakota Public Employees Retirement System at 701-328-3900. If you plan to attend the public hearing and will need special accommodations or assistance relating to a disability, please contact the Public Employees Retirement System at the above address or telephone number at least three business days prior to the public hearing. Specific sections affected and explanations for proposed revisions are summarized below.

Section	Description	Reason
71-01-01-01(2). Organization of public employees retirement board.	Modify language regarding board membership to be consistent with 54-52-03.	Comply with state law, HB 1547

Section	Description	Reason
71-01-02-02(2). Eligible voters.	Remove reference to retirees being eligible to cast a vote for a retiree member on the board.	Comply with state law, HB 1547
71-01-02-03(2). Candidate eligibility.	Remove reference of eligible voter for retiree member of the board.	Comply with state law, HB 1547
71-01-02-04(1). Election notification.	Clarify that communication of active members of active member vacancy and election will be provided twenty-one calendar days prior to the due date to file nomination petitions. Remove reference of retiree board member notice.	Comply with state law, HB 1547
71-01-02-05(1). Petition format.	Remove reference of nomination petition for the retiree member of the board.	Comply with state law, HB 1547
71-01-02-06(5). Procedure for completing and filing petitions.	Modified requirements for submitting a candidate photograph for board election.	Clarification
71-01-02-08(1). Election.	Remove reference to election of a retiree member of the board.	Comply with state law, HB 1547
71-01-02-11. Special elections.	Allows board option rather than requirement to hold special election	Clarification
71-01-02-13. Election voting.	Clarify that canvassing rules apply if electronic ballots used. Also, remove reference of retiree candidate.	Clarification and to comply with state law, HB 1547
71-02-03-06. Conversion of sick leave.	Modify language regarding the calculation of unused sick leave related to the final average salary to be used.	Clarification
71-02-05-03. Cancellation of disability benefits.	Repeal cancellation of disability benefit as new section added with additional detail on calculation of benefit.	Clarification
71-02-05-10. Converting disability retirement benefit to normal unreduced retirement benefit.	New section added regarding a member's eligibility to convert a disability benefit to a normal unreduced benefit, including clarification on interest accrual and benefit option factors.	Clarification
71-02-08-01. Participation.	Repeal as employer groups will no longer be able to join the Defined Benefit Plan as of closure date.	Comply with state law, HB 1040

Section	Description	Reason
71-03-03-01. Enrollment.	Ensure consistency to 71-03-06-01 between state agency employees and political subdivision employees.	Clarification
71-03-03-08. Continuation of life insurance after retirement.	Clarify eligibility to continue life insurance after retirement and that individual must have continuous coverage as they transition from active employment to retirement.	Clarification
71-03-05-01. Premium billing.	Simplify language to reference NDCC 54-52.1.	Clarification
71-03-06-01. Enrollment.	Ensure consistency to 71-03-03-01 between state agency employees and political subdivision employees.	Clarification
71-03-06-08. Employee contribution.	Clarify employee's responsible for paying part of insurance premium must pay premium to their employer.	Clarification
71-04-01-01. Definitions.	Updates number of members on board to eleven and adds definition of wages and salary for 457 plan to be consistent with other retirement definitions.	Comply with state law and clarification, HB 1547 & HB 1040
71-04-03-01. Enrollment.	Allows employees to participate with up to three providers and for the deferral election to be filed with NDPERS office of with the Board's selected vendor.	Clarification
71-04-03-03. Change in monthly deferral.	Allows deferral election to be filed with NDPERS office of with the Board's selected vendor.	Clarification
71-05-02-06. Cancellation of disability benefit.	Clarifies interest accrual ends and benefit option factors to be used for normal retirement benefit for highway patrol members.	Clarification
71-05-04-08. Conversion of sick leave.	Modify language for Highway Patrol Retirement System regarding the calculation of unused sick leave related to the final average salary to be used.	Clarification
71-08-01-01. Ability to elect to transfer into the defined contribution plan.	Repeal due to special enrollment window outlined in HB 1040 for state employees with no more than 5 years of service.	Comply with state law, HB 1040
71-08-01-05. Transfer amount of persons transferring into eligible employment	Add clarification that calculation identified in rule expires as of closure date due to different calculation for special window outlined in HB 1040.	Comply with state law, HB 1040

Section	Description	Reason
after December 31, 1999.		
71-08-01-07. Late election opportunity.	Repeal as late election opportunities are no longer applicable.	Comply with state law, HB 1040
71-08-08-01. Temporary employee participation.	Add language regarding temporary participation after defined benefit plan closure to clarify new temporary employee must participate in new defined contribution.	Comply with state law, HB 1040
71-08-10-01. Permanent employee participation.	Add new section to rules related to permanent employee participation and allow NDPERS to auto enroll eligible employees.	Comply with state law, HB 1040 and IRC requirements related to governmental 401(a) plans and contribution elections
71-08-10-02. Contribution.	Add new section to specify additional contribution requirements due to federal restrictions.	Comply with federal law
71-08-10-03. Designation of beneficiary.	Add new section clarifying designation of beneficiary provisions.	Clarification
71-08-11-01. Contributions.	Add new section regarding employer reporting requirements to be consistent with reporting between defined benefit plan and defined contribution plan members, specifically related to bonuses, calculating contributions, employer payment of employee contributions, reporting for individuals working less than a forty hour week and employee incentive payments.	Comply with state law, HB 1040 and clarification for consistency between plan administration
71-08-11-02. Basis for calculating contributions – salary reduction – salary deferral arrangements.	Add new section regarding employer reporting requirements to be consistent with reporting between defined benefit plan and defined contribution plan members, specifically related to calculating contributions.	Clarification for consistency between plan administration
71-08-11-03. Employer payment of employee contributions.	Add new section regarding employer reporting requirements to be consistent with reporting between defined benefit plan and defined contribution plan members, specifically related to employer payment of employee contributions.	Clarification for consistency between plan administration
71-08-11-04. Retirement contributions for individuals working less than a forty-hour workweek.	Add new section regarding employer reporting requirements to be consistent with reporting between defined benefit plan and defined contribution plan members, specifically related to reporting for individuals working less than a forty hour week.	Clarification for consistency between plan administration

Section	Description	Reason
71-08-11-05. Individual employee incentive payments.	Add new section regarding employer reporting requirements to be consistent with reporting between defined benefit plan and defined contribution plan members, specifically related to employee incentive payments under NDCC 54-06-24.	Clarification for consistency between plan administration
71-08-11-06. Contributions transferred from defined benefit retirement plan.	Add new section providing clarification regarding contributions transferred from the defined benefit plan to the defined contribution plan.	Comply with state law, HB 1040
71-08-11-07. Employer paid additional contribution for transferees.	Add new section for provisions of employer payment of additional contribution for eligible employees who elect to transfer from the defined benefit plan to the defined contribution plan under provisions of NDCC 54-52.6-02.2(3).	Comply with state law, HB 1040
71-08-11-08. Employer obligations; employee eligibility.	Add new section to define state governmental unit and state employer for purposes of administering NDCC 54-52.6-02.2, NDCC 54-52.6-09.5 and NDCC 54-52.6-02.2.	Comply with state law, HB 1040 and clarification for administration of these provisions

Dated this 14th day of March, 2024

Rebecca Fricke, NDPERS Executive Director