

Sixty-first
Legislative Assembly
of North Dakota

Introduced by

(At the request of the Public Employees Retirement System Board)

1 A BILL for an Act to create and enact a new subsection to section 54-52-17.4 of the North
2 Dakota Century Code, relating to purchase of service credit under the public employees
3 retirement system; and to amend and reenact sections 39-03.1-10, 39-03.1-11(9), 39-03.1-11.3,
4 54-52-06, 54-52-17.5, 54-52-17.11, 54-52-17.13, and 54-52.6-09(2) of the North Dakota
5 Century Code, relating to employer contributions, cost-of-living adjustments, and supplemental
6 retiree payments under the highway patrolmen's retirement system and the public employees
7 retirement system.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 39-03.1-10 is amended:

10 **39-03.1-10. Contributions by the state.** The state shall contribute to the fund a sum
11 equal to sixteen and seventy-hundredths percent of the monthly salary or wage of a
12 participating member; however, the state shall contribute an amount equal to twenty-two
13 percent of the monthly salary or wage of a participating member from July 1, 2009, through
14 June 30, 2011. If the member's contribution is paid by the state under subsection 2 of section
15 39-03.1-09, the state shall contribute, in addition, an amount equal to the required member's
16 contribution. The state shall pay the associated employer contribution for those members who
17 elect to exercise their rights under subsection 3 of section 39-03.1-10.1.

18 **SECTION 2. AMENDMENT.** Section 39-03.1-11(9) is amended:

19 9. The board shall adopt rules providing for the receipt of retirement benefits in the
20 following optional forms:
21 a. An actuarially equivalent joint and survivor one hundred percent option.
22 b. An actuarially equivalent life with ten-year or twenty-year certain options.
23 c. An actuarially equivalent partial lump sum distribution option with a
24 twelve-month maximum lump sum distribution.

Unless a contributor requests that the contributor receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a lifetime monthly pension, with a ~~fifty~~ one hundred percent option to the surviving spouse.

SECTION 3. AMENDMENT. Section 39-03.1-11.3 is amended:

39-03.1-11.3. Supplemental retiree benefit payment. ~~If the board determines that the fund has obtained a total return on investments of nine and six hundredths percent or higher for the fiscal year ending June 30, 2007, or June 30, 2008, the~~ The board shall authorize an additional increase the monthly payment equal to seventy five percent of the January retirement allowance following the fiscal yearend to each eligible retiree in pay status as of that January, including joint and survivor and term certain beneficiaries, under this chapter. The board may only make one payment under this section. individual or the individual's beneficiary receiving benefit payments under this chapter by two percent of the individual's present benefits with the increase payable beginning January 2011. The board shall also authorize a one-time supplemental retiree benefit to each eligible retiree in pay status as of January 1, 2010, including joint and survivor and term certain beneficiaries, based on one of the following options:

1. No additional payment if the board determines that the fund has obtained a total return on investments equal to, or less than, eight percent for the fiscal year ending June 30, 2009, or the highway patrolmen's retirement system funding ratio is equal to or less than a market value of one hundred five percent.
2. An additional payment equal to fifty percent of the January retirement allowance following the fiscal yearend if the board determines that the fund has obtained a total return on investments greater than eight percent for the fiscal year ending June 30, 2009, and the highway patrolmen's retirement system funding ratio is greater than a market value of one hundred five percent.
3. An additional payment equal to seventy-five percent of the January retirement allowance following the fiscal yearend if the board determines that the fund has obtained a total return on investments greater than nine percent for the fiscal year ending June 30, 2009, and the highway patrolmen's retirement system funding ratio is greater than a market value of one hundred ten percent.

1 4. An additional payment equal to one hundred percent of the January retirement
2 allowance following the fiscal yearend if the board determines that the fund has
3 obtained a total return on investments greater than ten percent for the fiscal year
4 ending June 30, 2009, and the highway patrolmen's retirement system funding
5 ratio is greater than a market value of one hundred fifteen percent.

6 **SECTION 4. AMENDMENT.** Section 54-52-06 is amended:

7 **54-52-06. Employer's contribution to retirement plan.** Each governmental unit shall
8 contribute an amount equal to four and twelve-hundredths percent of the monthly salary or
9 wage of a participating member; however, each governmental unit shall contribute an amount
10 equal to five and twenty-five hundredths percent of the monthly salary or wage of a participating
11 member from July 1, 2009, through June 30, 2011. For those members who elect to exercise
12 their rights under section 54-52-17.14, the employing governmental unit, or in the case of a
13 member not presently under covered employment the most recent employing governmental
14 unit, shall pay the associated employer contribution. If the employee's contribution is paid by
15 the governmental unit under subsection 3 of section 54-52-05, the employer unit shall
16 contribute, in addition, an amount equal to the required employee's contribution. Each
17 governmental unit shall pay the contribution monthly, or in the case of an election made
18 pursuant to section 54-52-17.14 a lump sum, into the retirement fund from its funds
19 appropriated for payroll and salary or any other funds available for these purposes. ~~Any A~~
20 governmental unit failing to pay the contributions monthly, or in the case of an election made
21 pursuant to section 54-52-17.14 a lump sum, is subject to a civil penalty of fifty dollars and, as
22 interest, one percent of the amount due for each month of delay or fraction thereof after the
23 payment became due. In lieu of assessing a civil penalty or one percent per month, or both,
24 interest at the actuarial rate of return may be assessed for each month the contributions are
25 delinquent. If contributions are paid within ninety days of the date they became due, penalty
26 and interest to be paid on delinquent contributions may be waived. An employer is required to
27 submit contributions for any past eligible employee who was employed after July 1, 1977, for
28 which contributions were not made if the employee would have been eligible to become vested
29 had the employee participated and if the employee elects to join the public employees
30 retirement system. Employer contributions may not be assessed for eligible service that an
31 employee has waived pursuant to subsection 1 of section 54-52-05. The board shall report to

each session of the legislative assembly the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

SECTION 5. A new subsection to section 54-52-17.4 is created

A member who possesses vested employer contributions in accordance with section 54-52-11.1 may purchase one month of service credit for each year of vested employer contributions at termination of employment. The employee shall pay nine and twelve hundredths percent of salary for a purchase made under this subsection. Purchases under this subsection are limited to two years of service credit. Service credit purchased under this subsection will not be recognized as service credit for the purpose of computing retirement dates under section 54-52-17.

SECTION 6. AMENDMENT. Section 54-52-17.5 is amended:

54-52-17.5. Postretirement adjustments. An individual or the individual's beneficiary who, on ~~July 31, 2004~~ January 1, 2011, is receiving retirement benefits under subdivision a, c, d, or e of subsection 4 of section 54-52-17 is entitled to receive an increase in benefits equal to ~~six~~ two percent of the individual's present benefits with the increase payable beginning ~~August 1, 2004~~ January 2011. Participation by political subdivision employers under this section is optional, at the discretion of each political subdivision. If a political subdivision employer chooses not to participate under this section, the employer contribution will not increase during the period from July 1, 2009, through June 30, 2011, as provided under section 54-52-06, and the retirees and beneficiaries of the political subdivision are not entitled to receive increased benefits under this section. A political subdivision employer election to participate under this section must be made on or before July 1, 2009. If an election is not made by July 1, 2009, the political subdivision employer is presumed to have made an election not to participate.

SECTION 7. AMENDMENT. Section 54-52-17.11 is amended:

54-52-17.11. Judges postretirement adjustments. A supreme or district court judge or that person's beneficiary who, on ~~December 31, 2007~~ January 1, 2011, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning ~~January 1, 2008. A supreme or district court judge or that person's~~

beneficiary who, on December 31, 2008, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 2009 January 2011. The increases allowed by this section may only be given if the public employees retirement board determines there is actuarial margin sufficient to pay the increases.

SECTION 8. AMENDMENT. Section 54-52-17.13 is amended:

54-52-17.13. Supplemental retiree benefit payment. ~~If the board determines that the fund has obtained a total return on investments of nine and six hundredths percent or higher for the fiscal year ending June 30, 2007, or June 30, 2008, the board shall authorize an additional payment equal to seventy five percent of the January retirement allowance following the fiscal yearend to each eligible retiree in pay status as of that January, excluding judicial retirees and beneficiaries, but including joint and survivor and term certain beneficiaries, under this chapter. The board may only make one payment to each retiree under this section.~~ The board shall authorize a one-time supplemental retiree benefit to each eligible retiree in pay status as of January 1, 2010, including judicial retirees and beneficiaries, and also including joint and survivor and term certain beneficiaries, based on one of the following options:

1. No additional payment if the board determines that the fund has obtained a total return on investments equal to, or less than, eight percent for the fiscal year ending June 30, 2009, or the public employees retirement system funding ratio is equal to or less than a market value of one hundred five percent.
2. An additional payment equal to fifty percent of the January retirement allowance following the fiscal yearend if the board determines that the fund has obtained a total return on investments greater than eight percent for the fiscal year ending June 30, 2009, and the public employees retirement system funding ratio is greater than a market value of one hundred five percent.
3. An additional payment equal to seventy-five percent of the January retirement allowance following the fiscal yearend if the board determines that the fund has obtained a total return on investments greater than nine percent for the fiscal year ending June 30, 2009, and the public employees retirement system funding ratio is greater than a market value of one hundred ten percent.

- 1 3. An additional payment equal to one hundred percent of the January retirement
2 allowance following the fiscal yearend if the board determines that the fund has
3 obtained a total return on investments greater than ten percent for the fiscal year
4 ending June 30, 2009, and the public employees retirement system funding ratio is
5 greater than a market value of one hundred fifteen percent.

6 **SECTION 9. AMENDMENT.** Section 54-52.6-09(2) is amended:

- 7 2. The employer shall contribute an amount equal to four and twelve-hundredths
8 percent of the monthly salary or wage of a participating member; however, an
9 employer shall contribute an amount equal to five and twenty-five hundredths
10 percent of the monthly salary or wage of a participating member from July 1, 2009,
11 through June 30, 2011. If the employee's contribution is paid by the employer
12 under subsection 3, the employer shall contribute, in addition, an amount equal to
13 the required employee's contribution. The employer shall pay monthly such
14 contribution into the participating member's account from its funds appropriated for
15 payroll and salary or any other funds available for such purposes. If the employer
16 fails to pay the contributions monthly, it is subject to a civil penalty of fifty dollars
17 and, as interest, one percent of the amount due for each month of delay or fraction
18 thereof after the payment became due.