

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO.

Introduced by

Senator Lyson

1 A BILL for an Act to create and enact a new section to chapter 54-52 of the North Dakota
2 Century Code, relating to participation by peace officers and correctional officers in the defined
3 benefit retirement plan; and to amend and reenact sections 54-52-01(3) and (11), 54-52-05(3),
4 and 54-52-17(3) of the North Dakota Century Code, relating to participation by peace officers
5 and correctional officers in the defined benefit retirement plan.

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

7 **SECTION 1. AMENDMENT.** Section 54-52-01(3) and (11) is amended:

8 3. "Correctional officer" means a participating member who is certified by the
9 department of corrections and rehabilitation or the peace officer standards and
10 training board as a correctional officer and is employed by the department of
11 corrections and rehabilitation or is employed as a correctional officer by a political
12 subdivision.

13 11. "Peace officer" means a participating member who is a peace officer as defined in
14 section 12-63-01 and is employed as a peace officer by a governmental unit or by
15 a political subdivision and, notwithstanding subsection 12, for persons employed
16 after August 1, 2005, is employed thirty-two hours or more per week and at least
17 twenty weeks each year of employment. Participating members of the law
18 enforcement retirement plan created by this chapter who begin employment after
19 August 1, 2005, are ineligible to participate concurrently in any other retirement
20 plan administered by the public employees retirement system.

21 **SECTION 2. AMENDMENT.** Section 54-52-05(3) is amended:

22 3. Each employer, at its option, may pay all or a portion of the employee contributions
23 required by subsection 2 and sections 54-52-06.1, 54-52-06.2, ~~and~~ 54-52-06.3,
24 and section 3 of this Act or the employee contributions required to purchase

1 service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4.
2 Employees may not receive the contributed amounts directly once the employer
3 has elected to pay the employee contributions. The amount paid must be paid by
4 the employer in lieu of contributions by the employee. If the state determines not
5 to pay the contributions, the amount that would have been paid must continue to
6 be deducted from the employee's compensation. If contributions are paid by the
7 employer, they must be treated as employer contributions in determining tax
8 treatment under this code and the federal Internal Revenue Code. If contributions
9 are paid by the employer, they may not be included as gross income of the
10 employee in determining tax treatment under this code and the Internal Revenue
11 Code until they are distributed or made available. The employer shall pay these
12 employee contributions from the same source of funds used in paying
13 compensation to the employee or from the levy authorized by subsection 5 of
14 section 57-15-28.1. The employer shall pay these contributions by effecting an
15 equal cash reduction in the gross salary of the employee or by an offset against
16 future salary increases or by a contribution of a reduction in gross salary and offset
17 against future salary increases. If employee contributions are paid by the
18 employer, they must be treated for the purposes of this chapter in the same
19 manner and to the same extent as employee contributions made prior to the date
20 on which employee contributions were assumed by the employer. An employer
21 exercising its option under this subsection shall report its choice to the board in
22 writing.

23 **SECTION 3.** A new section to chapter 54-52 is created:

24 **Contribution by peace officers and correctional officers employed by a**
25 **governmental unit - Employer contribution.** Each peace officer or correctional officer who is
26 a member of the public employees retirement system is assessed and shall pay monthly four
27 percent of the employee's monthly salary. The assessment must be deducted and retained out
28 of the employee's salary in equal monthly installments. The peace officer's or correctional
29 officer's employer shall contribute an amount determined by the board to be actuarially required
30 to support the level of benefits specified in section 54-52-17. The employer's contribution must
31 be paid from funds appropriated for salary or from any other funds available for such purposes.

1 If the peace officer's or correctional officer's assessment is paid by the employer under
2 subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to
3 the required peace officer's or correctional officer's assessment.

4 **SECTION 4. AMENDMENT.** Section 54-52-17(3) is amended:

5 3. Retirement dates are defined as follows:

6 a. Normal retirement date, except for a national guard security officer or
7 firefighter or a peace officer or correctional officer employed by a
8 governmental unit or by a political subdivision, is:

9 (1) The first day of the month next following the month in which the
10 member attains the age of sixty-five years; or

11 (2) When the member has a combined total of years of service credit and
12 years of age equal to eighty-five and has not received a retirement
13 benefit under this chapter.

14 b. Normal retirement date for a national guard security officer or firefighter is the
15 first day of the month next following the month in which the national guard
16 security officer or firefighter attains the age of fifty-five years and has
17 completed at least three consecutive years of employment as a national guard
18 security officer or firefighter immediately preceding retirement.

19 c. Normal retirement date for a peace officer or correctional officer employed by
20 a political subdivision is:

21 (1) The first day of the month next following the month in which the peace
22 officer or correctional officer attains the age of fifty-five years and has
23 completed at least three consecutive years of employment as a peace
24 officer or correctional officer immediately preceding retirement; or

25 (2) When the peace officer or correctional officer has a combined total of
26 years of service credit and years of age equal to eighty-five and has not
27 received a retirement benefit under this chapter.

28 d. Normal retirement date for a peace officer or correctional officer employed by
29 a governmental unit is:

30 (1) The first day of the month next following the month in which the peace
31 officer or correctional officer attains the age of fifty-five years and has

1 completed at least three consecutive years of employment as a peace
2 officer or correctional officer immediately preceding retirement; or
3 (2) When the peace officer or correctional officer has a combined total of
4 years of service credit and years of age equal to eighty-five and has not
5 received a retirement benefit under this chapter.

6 e. Postponed retirement date is the first day of the month next following the
7 month in which the member, on or after July 1, 1977, actually severs or has
8 severed the member's employment after reaching the normal retirement date.

9 e- f. Early retirement date, except for a national guard security officer or firefighter
10 or a peace officer or correctional officer employed by a governmental unit or
11 by a political subdivision, is the first day of the month next following the month
12 in which the member attains the age of fifty-five years and has completed
13 three years of eligible employment. For a national guard security officer or
14 firefighter, early retirement date is the first day of the month next following the
15 month in which the national guard security officer or firefighter attains the age
16 of fifty years and has completed at least three years of eligible employment.
17 For a peace officer or correctional officer employed by a governmental unit or
18 by a political subdivision, early retirement date is the first day of the month
19 next following the month in which the peace officer or correctional officer
20 attains the age of fifty years and has completed at least three years of eligible
21 employment.

22 f- g. Disability retirement date is the first day of the month after a member
23 becomes permanently and totally disabled, according to medical evidence
24 called for under the rules of the board, and has completed at least one
25 hundred eighty days of eligible employment. For supreme and district court
26 judges, permanent and total disability is based solely on a judge's inability to
27 perform judicial duties arising out of physical or mental impairment, as
28 determined pursuant to rules adopted by the board or as provided by
29 subdivision a of subsection 3 of section 27-23-03. A member is eligible to
30 receive disability retirement benefits only if the member:

31 (1) Became disabled during the period of eligible employment; and

- 1 (2) Applies for disability retirement benefits within twelve months of the
2 date the member terminates employment.
- 3 A member is eligible to continue to receive disability benefits as long as the
4 permanent and total disability continues and the member submits the
5 necessary documentation and undergoes medical testing required by the
6 board, or for as long as the member participates in a rehabilitation program
7 required by the board, or both. If the board determines that a member no
8 longer meets the eligibility definition, the board may discontinue the disability
9 retirement benefit. The board may pay the cost of any medical testing or
10 rehabilitation services it deems necessary and these payments are
11 appropriated from the retirement fund for those purposes.