

10051.0200

Sixty-second
Legislative Assembly
of North Dakota

Introduced by

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

1 A BILL for an Act to amend and reenact sections 39-03.1-09, 54-52-02.9, 54-52-05, 54-52-06.1,
2 54-52-06.3, and 54-52-06.4, subsection 6 of section 54-52.6-02, and section 54-52.6-09 of the
3 North Dakota Century Code, relating to increased employee contributions under the highway
4 patrolmen's retirement plan and public employees retirement system.

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

6 **SECTION 1. AMENDMENT.** Section 39-03.1-09 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **39-03.1-09. Payments by contributors - Employer payment of employee**
9 **contribution.**

- 10 1. Every member, except as provided in section 39-03.1-07, shall contribute into the
11 fund ten and thirty-hundredths percent of the member's monthly salary, which sum
12 must be deducted from the member's salary and credited to the member's account
13 in the fund. Member contributions increase by two percent of the member's
14 monthly salary beginning with the monthly reporting period of January 2012, and
15 increase annually thereafter by an additional two percent, with the final increase
16 taking place beginning with the reporting period of January 2015.
- 17 2. The state of North Dakota, at its option, may pay the member contributions
18 required by subsection 1 for all compensation earned after June 30, 1983, and may
19 pay the member contributions required to purchase service credit on a pretax basis
20 pursuant to subsection 8 of section 39-03.1-08.2. The amount paid must be paid
21 by the state in lieu of contributions by the member. A member may not receive the
22 contributed amounts directly once the employer has elected to pay the member
23 contributions. If the state decides not to pay the contributions, the amount that
24 would have been paid will continue to be deducted from compensation. If

1 contributions are paid by the state, they must be treated as employer contributions
2 in determining tax treatment under this code and the federal Internal Revenue
3 Code. If contributions are paid by the state, they must not be included as gross
4 income of the member in determining tax treatment under this code and the
5 Internal Revenue Code until they are distributed or made available. The state shall
6 pay these member contributions from the same source of funds used in paying
7 compensation to the members. The state shall pay these contributions by effecting
8 an equal cash reduction in the gross salary of the employee or by an offset against
9 future salary increases or by a combination of a reduction in gross salary and offset
10 against future salary increases. If member contributions are paid by the state, they
11 must be treated for the purposes of this chapter in the same manner and to the
12 same extent as member contributions made prior to the date the contributions were
13 assumed by the state. The option given employers by this subsection must be
14 exercised in accordance with rules adopted by the board.

15 3. For compensation earned after August 1, 2009, all employee contributions required
16 under subsection 1, and not otherwise paid under subsection 2, must be paid by
17 the state in lieu of contributions by the member. All contributions paid by the state
18 under this subsection must be treated as employer contributions in determining tax
19 treatment under this code and the federal Internal Revenue Code. Contributions
20 paid by the state under this subsection may not be included as gross income of the
21 member in determining tax treatment under this code and the Internal Revenue
22 Code until the contributions are distributed or made available. Contributions paid
23 by the state in accordance with this subsection must be treated for the purposes of
24 this chapter in the same manner and to the same extent as member contributions
25 made before the date the contributions were assumed by the state. The state shall
26 pay these member contributions from the same source of funds used in paying
27 compensation to the members. The state shall pay these contributions by effecting
28 an equal cash reduction in the gross salary of the employee. The state shall
29 continue making payments under this section unless otherwise specifically
30 provided for under the agency's biennial appropriation or by law.

1 **SECTION 2. AMENDMENT.** Section 54-52-02.9 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-52-02.9. Participation by temporary employees.** A temporary employee may
4 elect, within one hundred eighty days of beginning employment, to participate in the public
5 employees retirement system and receive credit for service after enrollment. The temporary
6 employee shall pay monthly to the fund an amount equal to eight and twelve-hundredths
7 percent times the temporary employee's present monthly salary. The amount required to be
8 paid by a temporary employee increases by two percent times the temporary employee's
9 present monthly salary beginning with the monthly reporting period of January 2012, and
10 increases annually thereafter by an additional two percent, with the final increase taking place
11 beginning with the reporting period of January 2015. The temporary employee shall also pay
12 the required monthly contribution to the retiree health benefit fund established under section
13 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section
14 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary
15 employee may continue to participate as a temporary employee in the public employees
16 retirement system until termination of employment or reclassification of the temporary employee
17 as a permanent employee. A temporary employee may not purchase any additional credit,
18 including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

19 **SECTION 3. AMENDMENT.** Section 54-52-05 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **54-52-05. Membership and assessments - Employer payment of employee**
22 **contributions.**

23 1. Every eligible governmental unit employee concurring in the plan must so state in
24 writing and all future eligible employees are participating members. An employee
25 who was not enrolled in the retirement system when eligible to participate must be
26 enrolled immediately upon notice of the employee's eligibility, unless the employee
27 waives in writing the employee's right to participate for the previous time of
28 eligibility, to avoid contributing to the fund for past service. An employee who is
29 eligible for normal retirement who accepts a retirement benefit under this chapter
30 and who subsequently becomes employed with a participating employer other than
31 the employer with which the employee was employed at the time the employee

1 retired under this chapter may, before reenrolling in the retirement plan, elect to
2 permanently waive future participation in the retirement plan and the retiree health
3 program and maintain that employee's retirement status. An employee making this
4 election is not required to make any future employee contributions to the public
5 employees retirement system nor is the employee's employer required to make
6 any further contributions on behalf of that employee.

7 2. Each member must be assessed and required to pay monthly four percent of the
8 monthly salary or wage paid to the member, and such assessment must be
9 deducted and retained out of such salary in equal monthly installments
10 commencing with the first month of employment. Member contributions increase
11 by two percent of the monthly salary or wage paid to the member beginning with
12 the monthly reporting period of January 2012, and increase annually thereafter by
13 an additional two percent, with the final increase taking place beginning with the
14 reporting period of January 2015.

15 3. Each employer, at its option, may pay all or a portion of the employee contributions
16 required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and
17 54-52-06.4 or the employee contributions required to purchase service credit on a
18 pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not
19 receive the contributed amounts directly once the employer has elected to pay the
20 employee contributions. The amount paid must be paid by the employer in lieu of
21 contributions by the employee. If the state determines not to pay the contributions,
22 the amount that would have been paid must continue to be deducted from the
23 employee's compensation. If contributions are paid by the employer, they must be
24 treated as employer contributions in determining tax treatment under this code and
25 the federal Internal Revenue Code. If contributions are paid by the employer, they
26 may not be included as gross income of the employee in determining tax treatment
27 under this code and the Internal Revenue Code until they are distributed or made
28 available. The employer shall pay these employee contributions from the same
29 source of funds used in paying compensation to the employee or from the levy
30 authorized by subsection 5 of section 57-15-28.1. The employer shall pay these
31 contributions by effecting an equal cash reduction in the gross salary of the

1 employee or by an offset against future salary increases or by a contribution of a
2 reduction in gross salary and offset against future salary increases. If employee
3 contributions are paid by the employer, they must be treated for the purposes of
4 this chapter in the same manner and to the same extent as employee contributions
5 made prior to the date on which employee contributions were assumed by the
6 employer. An employer exercising its option under this subsection shall report its
7 choice to the board in writing.

8 4. For compensation earned after August 1, 2009, all employee contributions required
9 under section 54-52-06.1 and the job service North Dakota retirement plan, and not
10 otherwise paid under subsection 3, must be paid by the employer in lieu of
11 contributions by the member. All contributions paid by the employer under this
12 subsection must be treated as employer contributions in determining tax treatment
13 under this code and the Internal Revenue Code. Contributions paid by the
14 employer under this subsection may not be included as gross income of the
15 member in determining tax treatment under this code and the Internal Revenue
16 Code until the contributions are distributed or made available. Contributions paid
17 by the employer in accordance with this subsection must be treated for the
18 purposes of this chapter in the same manner and to the same extent as member
19 contributions made before the date the contributions were assumed by the
20 employer. The employer shall pay these member contributions from the same
21 source of funds used in paying compensation to the employee. The employer shall
22 pay these contributions by effecting an equal cash reduction in the gross salary of
23 the employee. The employer shall continue making payments under this section
24 unless otherwise specifically provided for under the agency's biennial appropriation
25 or by amendment to law.

26 **SECTION 4. AMENDMENT.** Section 54-52-06.1 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **54-52-06.1. Contribution by supreme and district court judges - Employer**
29 **contribution.** Each judge of the supreme or district court who is a member of the public
30 employees retirement system must be assessed and required to pay monthly five percent of the
31 judge's monthly salary. Member contributions increase by two percent of the judge's monthly

1 salary beginning with the monthly reporting period of January 2012, and increase annually
2 thereafter by an additional two percent, with the final increase taking place beginning with the
3 reporting period of January 2015. The assessment must be deducted and retained out of the
4 judge's salary in equal monthly installments. The state shall contribute an amount equal to
5 fourteen and fifty-two one-hundredths percent of the monthly salary of a supreme or district
6 court judge who is a participating member of the system, which matching contribution must be
7 paid from its funds appropriated for salary, or from any other funds available for such purposes.
8 If the judge's contribution is paid by the state under subsection 3 of section 54-52-05, the state
9 shall contribute, in addition, an amount equal to the required judge's contribution.

10 **SECTION 5. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **54-52-06.3. Contribution by peace officers and correctional officers employed by**
13 **political subdivisions - Employer contribution.** Each peace officer or correctional officer
14 employed by a political subdivision that enters into an agreement with the retirement board on
15 behalf of its peace officers and correctional officers separately from its other employees and
16 who is a member of the public employees retirement system is assessed and shall pay monthly
17 four percent of the employee's monthly salary. Peace officer or correctional officer
18 contributions increase by one percent of the member's monthly salary beginning with the
19 monthly reporting period of January 2012, and increase annually thereafter by an additional one
20 percent, with the final increase taking place beginning with the reporting period of January
21 2015. The assessment must be deducted and retained out of the employee's salary in equal
22 monthly installments. The peace officer's or correctional officer's employer shall contribute an
23 amount determined by the board to be actuarially required to support the level of benefits
24 specified in section 54-52-17. If the peace officer's or correctional officer's assessment is paid
25 by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in
26 addition, an amount equal to the required peace officer's or correctional officer's assessment.

27 **SECTION 6. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **54-52-06.4. Contribution by peace officers employed by the bureau of criminal**
30 **investigation - Employer contribution.** Each peace officer employed by the bureau of
31 criminal investigation who is a member of the public employees retirement system is assessed

1 and shall pay monthly four percent of the employee's monthly salary. Peace officer
2 contributions increase by one percent of the member's monthly salary beginning with the
3 monthly reporting period of January 2012, and increase annually thereafter by an additional one
4 percent, with the final increase taking place beginning with the reporting period of January
5 2015. The assessment must be deducted and retained out of the employee's salary in equal
6 monthly installments. The peace officer's employer shall contribute an amount determined by
7 the board to be actuarially required to support the level of benefits specified in section 54-52-17.
8 The employer's contribution must be paid from funds appropriated for salary or from any other
9 funds available for such purposes. If the peace officer's assessment is paid by the employer
10 under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount
11 equal to the required peace officer's assessment.

12 **SECTION 7. AMENDMENT.** Subsection 6 of section 54-52.6-02 of the North Dakota
13 Century Code is amended and reenacted as follows:

14 6. A participating member who becomes a temporary employee may still participate in
15 the defined contribution retirement plan upon filing an election with the board within
16 one hundred eighty days of transferring to temporary employee status. The
17 participating member may not become a member of the defined benefit plan as a
18 temporary employee. The temporary employee electing to participate in the
19 defined contribution retirement plan shall pay monthly to the fund an amount equal
20 to eight and twelve-hundredths percent times the temporary employee's present
21 monthly salary. The amount required to be paid by a temporary employee
22 increases by two percent times the temporary employee's present monthly salary
23 beginning with the monthly reporting period of January 2012, and increases
24 annually thereafter by an additional two percent, with the final increase taking place
25 beginning with the reporting period of January 2015. The temporary employee
26 shall also pay the required monthly contribution to the retiree health benefit fund
27 established under section 54-52.1-03.2. This contribution must be recorded as a
28 member contribution pursuant to section 54-52.1-03.2. An employer may not pay
29 the temporary employee's contributions. A temporary employee may continue to
30 participate as a temporary employee until termination of employment or
31 reclassification of the temporary employee as a permanent employee.

1 **SECTION 8. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-52.6-09. Contributions - Penalty.**

- 4 1. Each participating member shall contribute monthly four percent of the monthly
5 salary or wage paid to the participant, and this assessment must be deducted from
6 the participant's salary in equal monthly installments commencing with the first
7 month of participation in the defined contribution retirement plan established under
8 this chapter. Participating member contributions increase by two percent of the
9 monthly salary or wage paid to the participant beginning with the monthly reporting
10 period of January 2012, and increase annually thereafter by an additional two
11 percent, with the final increase taking place beginning with the reporting period of
12 January 2015.
- 13 2. The employer shall contribute an amount equal to four and twelve-hundredths
14 percent of the monthly salary or wage of a participating member. If the employee's
15 contribution is paid by the employer under subsection 3, the employer shall
16 contribute, in addition, an amount equal to the required employee's contribution.
17 The employer shall pay monthly such contribution into the participating member's
18 account from its funds appropriated for payroll and salary or any other funds
19 available for such purposes. If the employer fails to pay the contributions monthly,
20 it is subject to a civil penalty of fifty dollars and, as interest, one percent of the
21 amount due for each month of delay or fraction thereof after the payment became
22 due.
- 23 3. Each employer, at its option, may pay the employee contributions required by this
24 section for all compensation earned after December 31, 1999. The amount paid
25 must be paid by the employer in lieu of contributions by the employee. If the
26 employer decides not to pay the contributions, the amount that would have been
27 paid will continue to be deducted from the employee's compensation. If
28 contributions are paid by the employer, they must be treated as employer
29 contributions in determining tax treatment under this code and the federal Internal
30 Revenue Code. Contributions paid by the employer may not be included as gross
31 income of the employee in determining tax treatment under this code and the

1 federal Internal Revenue Code until they are distributed or made available. The
2 employer shall pay these employee contributions from the same source of funds
3 used in paying compensation to the employee. The employer shall pay these
4 contributions by effecting an equal cash reduction in the gross salary of the
5 employee or by an offset against future salary increases or by a combination of a
6 reduction in gross salary and offset against future salary increases. Employee
7 contributions paid by the employer must be treated for the purposes of this chapter
8 in the same manner and to the same extent as employee contributions made
9 before the date on which employee contributions were assumed by the employer.
10 An employer shall exercise its option under this subsection by December 1, 1999,
11 and shall report its choice to the board in writing. The option chosen may not be
12 revoked for the remainder of the biennium. Thereafter, the option choice must be
13 forwarded to the board, in writing, by June fifteenth of each odd-numbered year.