

**HOUSE BILL NO. 1209**

Introduced by

Representatives M. Ruby, Dockter, O'Brien, Schauer

Senators Anderson, Dever

1 A BILL for an Act to amend and reenact section 54-52-02.9, 54-52-06, 54-52-06.5, and  
2 54-52.6-09 of the North Dakota Century Code, relating to public employees retirement system  
3 employer and temporary employee contribution rates; and to provide an effective date.

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

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

7 **54-52-02.9. Participation by temporary employees.**

- 8 1. Within one hundred eighty days of beginning employment, a temporary employee may  
9 elect to participate in the public employees retirement system and receive credit for  
10 service after enrollment. Monthly, the temporary employee shall pay to the fund an  
11 amount equal to ~~eight and twelve hundredths~~four percent times the temporary  
12 employee's present monthly salary. ~~The amount required to be paid by a temporary~~  
13 ~~employee increases by two percent times the temporary employee's present monthly~~  
14 ~~salary beginning with the monthly reporting period of January 2012, and with an~~  
15 ~~additional two percent increase, beginning with the reporting period of January 2013,~~  
16 ~~and with an additional increase of two percent, beginning with the monthly reporting~~  
17 ~~period of January 2014~~ plus the amount of the employer contribution under  
18 subdivision a of subsection 1 of section 54-52-06.
- 19 2. If the temporary employee first enrolled:
- 20 a. Before January 1, 2020, in addition the temporary employee shall pay the  
21 required monthly contribution to the retiree health benefit fund established under  
22 section 54-52.1-03.2. This contribution must be recorded as a member  
23 contribution pursuant to section 54-52.1-03.2.

- 1           b. After December 31, 2019, the temporary employee shall pay to the fund an  
2           additional amount equal to one and fourteen hundredths percent times the  
3           temporary employee's present monthly salary.
- 4           3. An employer may not pay the temporary employee's contributions. A temporary  
5           employee may continue to participate as a temporary employee in the public  
6           employees retirement system until termination of employment or reclassification of the  
7           temporary employee as a permanent employee. A temporary employee may not  
8           purchase any additional credit, including additional credit under section 54-52-17.4 or  
9           past service under section 54-52-02.6.

10           **SECTION 2. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12           **54-52-06. Employer's contribution to retirement plan - Report to the legislative**  
13 **assembly.**

- 14           1. Each
- 15           a. As determined by actuarial valuations, each governmental unit shall contribute an  
16 amount equal to four and twelve hundredths percent of the monthly salary or  
17 wage of a participating member. Governmental unit contributions increase by one  
18 percent of the monthly salary or wage of a participating member beginning with  
19 the monthly reporting period of January 2012; with an additional increase of one  
20 percent, beginning with the reporting period of January 2013; and with an  
21 additional increase of one percent, beginning with the monthly reporting period of  
22 January 2014 on a level percent of compensation basis for all employees  
23 sufficient under the actuarial valuation to meet both the normal cost plus the  
24 actuarially determined amount required to amortize the unfunded accrued liability  
25 over a closed period of either twenty years, or a period less than twenty years as  
26 established by the board taking into account the recommendation of the plan's  
27 actuary.
- 28           b. For a participating member who first enrolls after December 31, 2019, the  
29 governmental unit shall contribute an additional amount equal to one and  
30 fourteen-hundredths percent of the monthly salary or wage of the participating  
31 member.

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

27          **SECTION 3. AMENDMENT.** Section 54-52-06.5 of the North Dakota Century Code is  
28          amended and reenacted as follows:

1           **54-52-06.5. Reduction in member and employer contributions - Stabilization reserve**  
2 **account.**

3           1. The required increase in the amount of member and employer contributions under  
4 sections 54-52-02.9, 54-52-05, 54-52-06, 54-52-06.1, 54-52-06.3, 54-52.6-02, and  
5 54-52.6-09 and in the amount of employer contributions under section 54-52-06.1  
6 must be reduced to the rate in effect on July 1, 2013, effective on the July first that  
7 follows the first valuation of the public employees retirement system main system  
8 showing a ratio of the actuarial value of assets to the actuarial accrued liability of the  
9 public employees retirement system main system that is equal to or greater than one  
10 hundred percent.

11           2. Under subdivision a of subsection 1 of section 54-52-06:

12           a. During the fiscal year an employer's contribution to the plan in combination with a  
13 member's contribution may not be less than the actuarially determined normal  
14 cost for that fiscal year. After the close of any fiscal year, if the plan's actuary  
15 determines the actuarial valuation of the fund contains excess valuation assets  
16 and is more than one hundred twenty percent funded, the board shall account for  
17 fifty percent of the excess valuation assets in a stabilization reserve account.  
18 After the close of a fiscal year, if the plan's actuary determines the actuarial  
19 valuation of the fund has a valuation asset deficiency and an unfunded actuarial  
20 accrued liability, the board shall use any valuation assets in the stabilization  
21 reserve account, to the extent available, to limit the decline in the fund's funding  
22 ratio to not more than two percent.

23           b. The board may not suspend contributions to the system unless:

- 24           (1) The retirement system actuary, based on the annual valuation, determines  
25 continuing to accrue excess earnings could result in disqualification of the  
26 system's tax-exempt status under the provisions of the Internal Revenue  
27 Code; and  
28           (2) The board determines the receipt of additional contributions required under  
29 this subsection would conflict with the board's fiduciary responsibility.

30           **SECTION 4. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1       **54-52.6-09. Contributions - Penalty.**

2       1. Each participating member shall contribute monthly four percent of the monthly salary  
3       or wage paid to the participant, and this assessment must be deducted from the  
4       participant's salary in equal monthly installments commencing with the first month of  
5       participation in the defined contribution retirement plan established under this chapter.  
6       Participating member contributions increase by one percent of the monthly salary or  
7       wage paid to the participant beginning with the monthly reporting period of  
8       January 2012; with an additional increase of one percent, beginning with the reporting  
9       period of January 2013; and with an additional increase of one percent, beginning with  
10      the monthly reporting period of January 2014.

11      2. a. The employer shall contribute an amount equal to ~~four and twelve-hundredths~~  
12      ~~percent of the monthly salary or wage of a participating member. Employer~~  
13      ~~contributions increase by one percent of the monthly salary or wage of a~~  
14      ~~participating member beginning with the monthly reporting period of~~  
15      ~~January 2012; with an additional increase of one percent, beginning with the~~  
16      ~~monthly reporting period of January 2013; and with an additional increase of one~~  
17      ~~percent, beginning with the monthly reporting period of January 2014~~the  
18      employer contribution rate under subdivision a of subsection 1 of section  
19      54-52-06.

20      b. For members first enrolled after December 31, 2019, the employer contribution  
21      includes an additional increase of one and fourteen-hundredths percent. If the  
22      employee's contribution is paid by the employer under subsection 3, the  
23      employer shall contribute, in addition, an amount equal to the required  
24      employee's contribution.

25      c. Monthly, the employer shall pay such contribution into the participating member's  
26      account from the employer's funds appropriated for payroll and salary or any  
27      other funds available for such purposes. If the employer fails to pay the  
28      contributions monthly, the employer is subject to a civil penalty of fifty dollars and,  
29      as interest, one percent of the amount due for each month of delay or fraction of  
30      a month after the payment became due. In lieu of assessing a civil penalty or one  
31      percent per month, or both, interest at the actuarial rate of return may be

1                   assessed for each month the contributions are delinquent. If contributions are  
2                   paid within ninety days of the date the contributions became due, penalty and  
3                   interest to be paid on delinquent contributions may be waived.

- 4       3. Each employer, at its option, may pay the employee contributions required by this  
5       section for all compensation earned after December 31, 1999. The amount paid must  
6       be paid by the employer in lieu of contributions by the employee. If the employer  
7       decides not to pay the contributions, the amount that would have been paid will  
8       continue to be deducted from the employee's compensation. If contributions are paid  
9       by the employer, they must be treated as employer contributions in determining tax  
10      treatment under this code and the federal Internal Revenue Code. Contributions paid  
11      by the employer may not be included as gross income of the employee in determining  
12      tax treatment under this code and the federal Internal Revenue Code until they are  
13      distributed or made available. The employer shall pay these employee contributions  
14      from the same source of funds used in paying compensation to the employee. The  
15      employer shall pay these contributions by effecting an equal cash reduction in the  
16      gross salary of the employee or by an offset against future salary increases or by a  
17      combination of a reduction in gross salary and offset against future salary increases.  
18      Employee contributions paid by the employer must be treated for the purposes of this  
19      chapter in the same manner and to the same extent as employee contributions made  
20      before the date on which employee contributions were assumed by the employer. An  
21      employer shall exercise its option under this subsection by reporting its choice to the  
22      board in writing.

23      **SECTION 5. EFFECTIVE DATE.** This Act becomes effective January 1, 2022.