

**CHAPTER 71-01-02
ELECTION RULES**

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Section 71-01-02-04 is amended as follows:

71-01-02-04. Election notification.

1. The director of the North Dakota public employees retirement system shall ensure that notification of an active member vacancy and the election is given to all employees through publication of a notice in the North Dakota public employees retirement system newsletter and any other method of communication as deemed appropriate by the director at least three weeks in advance of a filing date for nomination petitions. The director shall ensure that notification of the vacancy of a retiree member and the election is given to all persons who have accepted a retirement allowance ~~or who are eligible to receive deferred vested retirement benefits~~ through publication of a notice in the North Dakota public employees retirement system newsletter and any other method of communication as deemed appropriate by the director at least three weeks in advance of a filing date for nomination petitions.
2. The notice must include a statement of voter and candidate eligibility, the candidate nomination requirements, the date of election, and where to obtain the nomination petitions for filing.

History: Effective April 1, 1992; amended effective July 1, 2000; April 1, 2008; _____, 2013.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-03

Section 71-01-02-13 is created as follows:

71-01-02-13. Election voting. In lieu of sections 71-01-02-07 and 71-01-02-08, the retirement board may allow for a process by which electronic ballots are submitted to elect an active or retiree candidate to the board.

History: Effective _____, 2013

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-03

Subsection 27 of Section 71-02-01-01 is amended as follows:

27. "Termination of employment" for the purposes of determination for eligibility for benefit payments means a severance of employment by not being on the payroll of a covered employer for a minimum of one month. Approved leave of absence or if reemployed by any covered employer prior to receiving a lump sum distribution of the member's account balance does not constitute termination of employment.

History: Amended effective September 1, 1982; November 1, 1990; September 1, 1991; January 1, 1992; September 1, 1992; June 1, 1993; July 1, 1994; June 1, 1996; July 1, 2000; April 1, 2002; May 1, 2004; July 1, 2006; July 1, 2010; _____, 2013.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52

Section 71-02-04-01 is amended as follows:

71-02-04-01. Retirement benefits - Application. Except as provided in section 71-02-04-02 for retirement options, applications for retirement, surviving spouse, and disability benefits must be filed at the public employees retirement system office at least thirty days before the retirement date or before the commencement of benefits. A member shall file a photocopy of the member's birth certificate, and if a benefit election is an optional benefit under subsection 1 or 2 of section 71-02-04-04, the member must provide a photocopy of the spouse's birth certificate and marriage certificate with the office. A surviving spouse shall file a photocopy of the surviving spouse's birth certificate, deceased spouse's birth certificate and certified copy of the death certificate, and marriage certificate if a benefit election is under subdivision b of subsection 6 of North Dakota Century Code section ~~54-54-17~~54-52-17. If a birth certificate is not available, a member or surviving spouse may submit other documentation based on policy and procedure adopted by the board.

History: Amended effective November 1, 1990; July 1, 1994; May 1, 2004; _____, 2013.

General Authority: NDCC 54-52-04, 54-52-17

Law Implemented: NDCC 54-52-17

Section 71-02-04-04.1 is amended as follows:

71-02-04-04.1. Benefit modifications. A member may elect as provided in section 71-02-04-02 to receive one of the following benefit modifications:

1. ~~**Level social security option.** A member who retires prior to receiving social security benefits may elect the level social security option. Under this option, the member's monthly benefit is adjusted so the combined benefits received from the fund and social security remain level before, and after, the date social security benefits begin. The adjusted benefit payable from the fund must be determined on an actuarial equivalent based on an age no earlier than sixty-two and no later than full retirement age as specified by the social security administration as chosen in writing by the member. A member shall submit an estimated benefit from social security that was computed no more than six months before commencement of retirement benefits. A member may only select this option if the member has selected to receive a single life/normal retirement option.~~
2. **Partial lump sum option.** The partial lump sum option will only be available to members who retire on or after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is equal to twelve monthly payments determined under the single life annuity option. The member is permitted to choose one of the optional forms of payment as defined in section 71-02-04-04 for ongoing benefits. The ongoing benefits will be actuarially reduced to reflect the partial lump sum payment.
32. **Deferred normal retirement option.** The deferred normal retirement option will only be available to members who retire after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is in lieu of a lump sum equal to the amount of missed payments, without interest, retroactive to the member's normal retirement date. The member is permitted to choose one of the optional forms of payment as defined in section 71-02-04-04. The ongoing benefits will be actuarially increased to reflect the lump sum.
43. **Graduated benefit option.** The graduated benefit option will only be available to members who retire after reaching normal retirement date. This option is an irrevocable election and made at initial application for

retirement. The member is permitted to choose one of the optional forms of payment for ongoing benefits as defined in section 71-02-04-04. The ongoing benefits will be actuarially reduced to reflect the election of the graduated benefit option.

History: Effective July 1, 2010; amended effective _____, 2013.

General Authority: NDCC 54-52-04, 54-52-17

Law Implemented: NDCC 54-52-17

Section 71-02-04-09 is amended as follows:

71-02-04-09. Dual membership - Receipt of retirement benefits while contributing to the teachers' fund for retirement, the highway patrolmen's retirement system, or the teachers' insurance and annuity association of America - college retirement equities fund. Dual members must select one of the following options:

1. Begin receiving retirement benefits from one plan prior to ceasing employment covered by the alternate plan, subject to termination of employment or termination of participation.
2. Begin receiving retirement benefits from one plan and begin work in a job covered by the alternate plan. If this option is chosen, benefits will be calculated based on the method provided in subsection 2 of North Dakota Century Code section 54-52-17.2.
3. Continue as a dual member and begin receiving retirement benefits from both plans after ceasing employment.

History: Effective June 1, 1996; amended effective May 1, 2004; _____, 2013.

General Authority: NDCC 54-52-04, 54-52-17, 54-52-17.2

Law Implemented: NDCC 54-52-17, 54-52-17.2

Section 71-02-10-02 is amended as follows:

71-02-10-02. Qualified domestic relations orders procedures.

1. Upon receipt of a proposed domestic relations order, the public employees retirement system shall send an initial notice to each person named therein, including the member and the alternate payee named in the order, together with an explanation of the procedures followed by the fund.
2. If a member who is not in pay status at the time the proposed domestic relations order, or notice of intent to submit a proposed domestic relations

order, was received from the member, the member's legal representative or an individual authorized to receive confidential information under subsection 8 of North Dakota Century Code section 54-52-26, makes application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be held until such time as the proposed domestic relations order is determined to be qualified and a certified copy of such order is received at the North Dakota public employees retirement system office or until the end of the eighteen-month review period, or until the North Dakota public employees retirement system office receives notice that a proposed domestic relations order will not be submitted, whichever occurs first.

3. Upon receipt of a domestic relations order, the public employees retirement system shall review the domestic relations order to determine if it is a qualified order as established by the model language format specified by the board.
4. The domestic relations order shall be considered a qualified order when the executive director notifies the parties the order is approved and a certified copy of the court order has been submitted to the office.
5. If the order becomes qualified, the executive director shall:
 - a. Send notice to all persons named in the order and any representatives designated in writing by such person that a determination has been made that the order is a qualified domestic relations order.
 - b. Comply with the terms of the order.
6. If the order is determined not to be a qualified domestic relations order or a determination cannot be made as to whether the order is qualified or not qualified within eighteen months of receipt of such order, the public employees retirement system shall send written notification of termination of review to all parties at least forty-five days prior to the end of the eighteen-month review period. At the end of the eighteen-month review period, the proposed order is deemed to be withdrawn and of no legal effect.
 - a. If a member who was not in pay status at the time the proposed domestic relations order was received made application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be processed at the end of the eighteen-month review period.

- b. If determined after the expiration of the eighteen-month period the order is a qualified domestic relations order, the qualified domestic relations order must be applied prospectively only.

History: Effective November 1, 1990; amended effective July 1, 1994; July 1, 2006; April 1, 2012; _____, 2013.

General Authority: NDCC 54-52-04

Law Implemented: NDCC 54-52-17.6

Section 71-03-03-08 is amended as follows:

71-03-03-08. Continuation of life insurance after retirement. An employee who is enrolled in the group life insurance program may continue the basic and supplemental life insurance coverage upon retirement or disability if the employee is entitled to a retirement allowance from an eligible retirement system by making application and remitting timely payments to the board. Supplemental life insurance coverage can only be continued until age 65.

History: Effective October 1, 1986; amended effective June 1, 1996; May 1, 2004; _____, 2013.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-03

Section 71-03-04-02 is amended as follows:

71-03-04-02. Information to employee. Each agency shall inform its employees of their right to group insurance and the process necessary to enroll. ~~The agency shall provide each eligible employee such forms as necessary to enroll in the group insurance program.~~

History: Effective October 1, 1986; amended effective November 1, 1990; _____, 2013.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-03

Section 71-03-05-10 is amended as follows:

71-03-05-10. Determining amount of premium overpayments and underpayments.

1. The amount of the health premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the

month the change in premium should have occurred, or July of the earliest contract period still open, whichever is more recent.

2. The amount of the life premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or the first day of the first month of the earliest contract period still open, whichever is more recent.
3. The amount of the dental premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or the first day of the first month of the earliest contract period still open, whichever is more recent.
4. The amount of the vision premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or the first day of the first month of the earliest contract period still open, whichever is more recent.

History: Effective April 1, 2002; amended effective April 1, 2008; _____, 2013.

General Authority: NDCC 54-52.1-08

Law Implemented: NDCC 54-52.1-08

Section 71-03-07-07 is amended as follows:

71-03-07-07. Minimum requirements for political subdivisions. An enrolled political subdivision must extend the benefits of the group insurance program to its eligible employees and paid members of its board, commission, or association subject to minimum requirements established by the retirement board and a minimum period of participation of sixty months. If the political subdivision withdraws from participation before completing sixty months of participation, unless federal or state laws or rules are modified or interpreted in a way that makes participation by the political subdivision in the uniform group insurance program no longer allowable or appropriate, the political subdivision must make payment to the retirement board equal to the expenses incurred on behalf of that political subdivision's employees which exceed the income received by the retirement board on behalf of that political subdivision's employees during the time of participation. For purposes of this section:

1. "Expenses incurred" means:

- a. Claims incurred by the political subdivision during the enrolled period and paid during or within three months after the enrolled period and includes capitated payments to providers;
 - b. Reasonable administrative expenses as incurred by the public employees retirement system and the claims administrator as set forth in the master contract; and
 - c. The cost of any premium buy-down provided.
2. "Income received" means all premiums paid by the political subdivision to the retirement board.

Full payment is due within three months after receipt of notice from the executive director, unless an alternative payment schedule has been approved by the retirement board. A late payment charge must be assessed on all money due on an account at a rate of one and three-fourths percent per month.

History: Effective June 1, 1996; amended effective _____, 2013.

General Authority: NDCC 54-52-04, 54-52.1-03.1

Law Implemented: NDCC 54-52.1-02, 54-52.1-03, 54-52.1-03.1

Section 71-04-03-01 is amended as follows:

71-04-03-01. Enrollment. Public employees may enroll in the deferred compensation plan by completing a participant agreement and submitting the agreement to the retirement board. ~~The employee must also complete the necessary forms required by the provider and submit them to the retirement board for signature by the plan administrator.~~

History: Effective April 1, 1989; amended effective _____, 2013.

General Authority: NDCC 28-32-02, 54-52.2-03.2

Law Implemented: NDCC 54-52.2-03

Section 71-04-05-02 is amended as follows:

71-04-05-02. Payroll deductions. The employer shall authorize employee payroll deductions only after receiving a ~~completed and signed participant agreement~~ notification from the public employees retirement system. The participant agreement ~~must be signed by a designated representative of the retirement board and~~ indicate the date the payroll deduction is to start, the provider, and the contribution amount. Payroll deductions must be remitted to the retirement board within ten days after each payroll period. Along with each payment, the employer must provide the retirement board with a listing of deferred compensation deductions for all employees

participating in the deferred compensation plan using the deferred compensation transmittal of deduction form or the approved electronic format.

History: Effective April 1, 1989; amended effective July 1, 2006; _____, 2013.

General Authority: NDCC 28-32-02, 54-52-03.2

Law Implemented: NDCC 54-52.2-02

Section 71-05-05-01 is amended as follows:

71-05-05-01. Normal and early retirement benefits - Application. Except as provided in section 71-05-05-02 for retirement options, applications for retirement, surviving spouse, and disability benefits must be filed at the public employees retirement system at least thirty days before normal or early retirement date or before the commencement of benefits. A member shall file a photocopy of the member's birth certificate and, if the member is married, a photocopy of the member's spouse's birth certificate and marriage certificate. A surviving spouse shall file a photocopy of the surviving spouse's birth certificate, deceased member's birth certificate, and marriage certificate for a benefit election under subsection 6 of North Dakota Century Code section 39-03.1-11. If a birth certificate is not available, a member or surviving spouse may submit other documentation based on policy and procedure adopted by the board.

History: Effective October 1, 1991; amended effective May 1, 2004; _____, 2013.

General Authority: NDCC 39-03.1-06

Law Implemented: NDCC 39-03.1-11

Section 71-05-08-02 is amended as follows:

71-05-08-02. Qualified domestic relations orders procedures.

1. Upon receipt of a proposed domestic relations order, the public employees retirement system shall send an initial notice to each person named therein, including the member and the alternate payee named in the order, together with an explanation of the procedures followed by the fund.
2. If a member who is not in pay status at the time the proposed domestic relations order, or notice of intent to submit a proposed domestic relations order, was received from the member, the member's legal representative or an individual authorized to receive confidential information under subsection 8 of North Dakota Century Code section 39-03.1-28, makes application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be held until such time as the proposed domestic relations order is determined to be qualified and a certified copy of such order is received at the North Dakota public employees retirement system office or until the end of the eighteen-month review period, or until the North Dakota public employees retirement

system office receives notice that a proposed domestic relations order will not be submitted, whichever occurs first.

3. Upon receipt of a domestic relations order, the public employees retirement system shall review the domestic relations order to determine if it is a qualified order as established by the model language format specified by the board.
4. The domestic relations order shall be considered a qualified order when the executive director notifies the parties the order is approved and a certified copy of the court order has been submitted to the office.
5. If the order becomes qualified, the executive director shall:
 - a. Send notice to all persons named in the order and any representatives designated in writing by such person that a determination has been made that the order is a qualified domestic relations order.
 - b. Comply with the terms of the order.
6.
 - a. If the order is determined not to be a qualified domestic relations order or a determination cannot be made as to whether the order is qualified or not qualified within eighteen months of receipt of such order, the public employees retirement system shall send written notification of termination of review to all parties at least forty-five days prior to the end of the eighteen-month review period. At the end of the eighteen-month review period, the proposed order is deemed to be withdrawn and of no legal effect.
 - b. If a member who was not in pay status at the time the proposed domestic relations order was received made application for a lump sum distribution due to termination of eligible employment, the application for lump sum distribution will be processed at the end of the eighteen-month review period.
 - c. If determined after the expiration of the eighteen-month period the order is a qualified domestic relations order, the qualified domestic relations order must be applied prospectively only.

History: Effective October 1, 1991; amended effective July 1, 1994; July 1, 2006; April 1, 2012; _____, 2013.

General Authority: NDCC 39-03.1-06

Law Implemented: NDCC 39-03.1-14.2

Section 71-07-01-01 is amended as follows:

71-07-01-01. Plan document. The board must prepare a plan document for the pretax benefits program. The plan document must meet applicable requirements of the Internal Revenue Code. The board must annually review ~~the~~any plan document updates prior to the beginning of each new plan year if necessary due to changes in federal law. Modifications must be made to reflect changes in the program and to maintain a qualifiable program pursuant to the Internal Revenue Code.

History: Effective April 1, 1992; amended effective _____, 2013.

General Authority: NDCC 54-52-04, 54-52.3-02

Law Implemented: NDCC 54-52.3-02

Section 71-08-04-02 is amended as follows:

71-08-04-02. Qualified domestic relations orders procedures.

1. Upon receipt of a proposed domestic relations order, the public employees retirement system shall:
 - a. Send an initial notice to each person named therein, including the member and the alternate payee named in the order, with an explanation of the procedures followed by the fund.
 - b. If a member who is not in pay status at the time the proposed domestic relations order, or notice of intent to submit a proposed domestic relations order, was received from the member, the member's legal representative or an individual authorized to receive confidential information under subsection 8 of North Dakota Century Code section 54-52-26, makes application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be held until such time as the proposed domestic relations order is determined to be qualified and a certified copy of such order is received at the North Dakota public employees retirement system office or until the end of the eighteen-month review period, or until the North Dakota public employees retirement system office receives notice that a proposed domestic relations order will not be submitted, whichever occurs first.
 - c. Review the domestic relations order to determine if it is a qualified order as established by the model language format specified by the board.

2. The domestic relations order shall be considered a qualified order when the executive director notifies the parties the order is approved and a certified copy of the court order has been submitted to the office.
3. If the order becomes qualified, the executive director shall:
 - a. Send notice to all persons named in the order and any representative designated in writing by such person that a determination has been made that the order is a qualified domestic relations order.
 - b. Comply with the terms of the order.
 - c. Allow the alternate payee to choose the appropriate investment options for the alternate payee's account.
 - d. Allow the alternate payee to choose the same payout options allowed for the member.
4. If the order is determined not to be a qualified domestic relations order or a determination cannot be made as to whether the order is qualified or not qualified within eighteen months of receipt of such order, the public employees retirement system shall send written notification of termination of review to all parties at least forty-five days prior to the end of the eighteen-month review period. At the end of the eighteen-month review period, the proposed order is deemed to be withdrawn and of no legal effect.
 - a. If a member who was not in pay status at the time the proposed domestic relations order was received made application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be processed at the end of the eighteen-month review period.
 - b. If determined after the expiration of the eighteen-month period the order is a qualified domestic relations order, the qualified domestic relations order must be applied prospectively only.

History: Effective July 1, 2000; amended effective July 1, 2006; April 1, 2012; _____, 2013.

General Authority: NDCC 28-32-02(1)

Law Implemented: NDCC 54-52.6-12