

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine**

SENATE BILL NO. 2071  
(Government and Veterans Affairs Committee)  
(At the request of the Public Employees Retirement System)

AN ACT to create and enact a new subsection to section 54-52-17 and a new section to chapter 54-52 of the North Dakota Century Code, relating to acceptance of rollovers from other qualified plans and vesting of employer contributions under the public employees retirement system; to amend and reenact subsection 1 of section 54-52-01, subdivisions b and d of subsection 3 of section 54-52-17, paragraphs 1 and 2 of subdivision a of subsection 4 of section 54-52-17, subdivision d of subsection 4 of section 54-52-17, subsections 5, 6, and 7 of section 54-52-17, sections 54-52-17.5, and 54-52-17.10 of the North Dakota Century Code, relating to definitions, determination of retirement dates, computation of benefits, eligibility for early retirement benefits, vesting, postretirement adjustments, and prior service retiree adjustments under the public employees retirement system; to provide an appropriation; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Subsection 1 of section 54-52-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 9 of this Act, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.

**SECTION 2. AMENDMENT.** Subdivisions b and d of subsection 3 of section 54-52-17 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- b. Normal retirement date for a national guard security officer or firefighter is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least ~~five~~ three consecutive years of employment as a national guard security officer or firefighter immediately preceding retirement.
- d. Early retirement date, except for a national guard security officer or firefighter, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed ~~five~~ three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least ~~five~~ three years of eligible employment.

**SECTION 3. AMENDMENT.** Paragraphs 1 and 2 of subdivision a of subsection 4 of section 54-52-17 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- (1) Service benefit equals one and ~~seventy-seven~~ eighty-nine hundredths percent of final average salary multiplied by the number of years of service employment.
- (2) Prior service benefit equals one and ~~seventy-seven~~ eighty-nine hundredths percent of final average salary multiplied by the number of years of prior service employment.

**SECTION 4. AMENDMENT.** Subdivision d of subsection 4 of section 54-52-17 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- d. Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning prior to the normal retirement date. A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed five three years of eligible employment. A supreme or district court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.

**SECTION 5. AMENDMENT.** Subsections 5, 6, and 7 of section 54-52-17 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

5. Upon termination of employment after completing five three years of eligible employment, except for supreme and district court judges, who must complete five years of eligible employment, but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date equal to one hundred percent of the member's accrued single life benefits.
6. If before retiring a member dies after completing five three years of eligible employment, except for supreme and district court judges, who must have completed five years of eligible employment, the board shall pay the member's account balance to the member's surviving spouse. However, if there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing, the board shall pay the member's account balance to the member's beneficiary or, if there is no named beneficiary, to the member's estate. If the member has not designated an alternate beneficiary, the surviving spouse of the member may select one of the following optional forms of payment:
  - a. A lump sum payment of the member's retirement account as of the date of death.
  - b. Payments for sixty months as calculated for the deceased member as if the member was of normal retirement age at the date of death.
  - c. Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
  - d. If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal retirement age, with the increase payable beginning August 1, 1995.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. The board shall automatically refund a member's account balance if the member has completed less than five three years of eligible employment and was not a supreme or district court judge. If the member was a supreme or district court judge, the board shall automatically refund a member's account balance if the member completed less than five years of eligible employment. A member may waive the refund if the member submits a written statement to the board, within thirty days after termination, requesting that the member's account balance remain in the fund.

**SECTION 6.** A new subsection to section 54-52-17 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

The fund may accept rollovers from other qualified plans under rules adopted by the board for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirement of section 408 of the Internal Revenue Code.

**SECTION 7. AMENDMENT.** Section 54-52-17.5 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.5. Postretirement adjustments.** An individual who, on July 31, ~~1997~~ 1999, is receiving retirement benefits under subdivision a of subsection 4 of section 54-52-17, or disability retirement benefits under subdivision e of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to ~~three~~ eight percent of the individual's present benefits with the increase payable beginning August 1, ~~1997~~ 1999.

**SECTION 8. AMENDMENT.** Section 54-52-17.10 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.10. Prior service retiree adjustment.** Prior service retirees who are receiving benefits under this chapter on July 31, ~~1997~~ 1999, are entitled to receive an increase in benefits equal to ~~five~~ eight percent of the individual's present benefit, with the increased benefits payable beginning August 1, ~~1997~~ 1999. A prior service retiree is a former participating employee who receives a supplemental monthly payment from the retirement system based upon the original prior service credit system.

**SECTION 9.** A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

**Vesting of employer contributions.** Except for supreme and district court judges, who are not eligible for benefits under this section, a member's account balance includes vested employer contributions equal to the member's contributions to the deferred compensation plan for public employees under chapter 54-52.2, or member contributions to other participating employer supplemental Internal Revenue Code section 457 or 403(b) retirement programs as approved by the board, with the minimum member contribution being twenty-five dollars. However, the vested employer contribution may not exceed:

1. For months one through twelve of service credit, twenty-five dollars or one percent of the member's monthly salary, whichever is greater.
2. For months thirteen through twenty-four of service credit, twenty-five dollars or two percent of the member's monthly salary, whichever is greater.
3. For months twenty-five through thirty-six of service credit, twenty-five dollars or three percent of the member's monthly salary, whichever is greater.
4. For service exceeding thirty-six months, twenty-five dollars or four percent of the member's monthly salary, whichever is greater.
5. The vested employer contribution may not exceed four percent of the member's monthly salary.

Vested employer contributions must be credited monthly to the member's account balance.

**SECTION 10. APPROPRIATION.** There is hereby appropriated out of any moneys received by the public employees retirement system board, not otherwise appropriated, the sum of \$87,181, or so much of the sum as may be necessary, to the public employees retirement system for the purpose of administering this Act for the biennium beginning July 1, 1999, and ending June 30, 2001. The board is authorized one additional full-time equivalent position to implement this Act.

**SECTION 11. EFFECTIVE DATE.** Section 9 of this Act becomes effective on January 1, 2000.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2071.

Senate Vote:    Yeas    47        Nays    0        Absent    2

House Vote:    Yeas    93        Nays    3        Absent    2

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 1999.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 1999.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 1999,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State