



North Dakota
Public Employees Retirement System
1600 East Century Avenue, Suite 2 • PO Box 1657
Bismarck, North Dakota 58502-1657

Scott A. Miller
Executive Director
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September 16, 2021

Ms. Jill Grossman
Assistant Code Reviser
Legislative Council
600 East Boulevard, 2nd Floor
Bismarck, ND 58505-0360

Via email jillgrossman@nd.gov

Dear Ms. Grossman:

The Notice of Intent to Adopt and Amend Administrative Rules and a copy of the proposed rules are enclosed as required by N.D.C.C. §28-32-10(1).

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Miller", is written over a faint, larger version of the same signature.

Scott Miller
Executive Director

Enclosures

NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Public Employees Retirement System will hold a public hearing to address proposed new rules and amendments to N.D.A.C. Arts. 71-02 & 71-03. The proposed rulemaking implements Senate Bill 2044 enacted during the most recent legislative session concerning administration of the benefit plans administered by the North Dakota Public Employees Retirement System (NDPERS) and rules relating to plan membership, payment date, optional benefits, erroneous payment of benefits, employer payment of employee contributions, refusal of interest on contributions, enrollment, leave without pay. The hearing will be held at 11:00 A.M. on Monday, October 25, 2021, in the NDPERS Conference Room at 1600 East Century Avenue, Suite 2, Bismarck, North Dakota. The hearing will continue until 12:00 P.M. or until no further testimony is offered, whichever occurs last. The proposed rules may be viewed online at <https://www.ndpers.nd.gov/about/notice-of-hearing> or at the NDPERS office at the following location:

North Dakota Public Employees Retirement System
1600 East Century Avenue, Suite 2
Bismarck, ND 58503

Written or oral comments on the proposed rules submitted to the above address or below referenced telephone number and received by November 8, 2021, will be fully considered. The proposed rule changes are not expected to have an impact on the regulated community in excess of \$50,000. A copy of the proposed rules may also be obtained by accessing them on the NDPERS website at <https://www.ndpers.nd.gov/about/notice-of-hearing> or by writing to the above address, or by calling the North Dakota Public Employees Retirement System at 701-328-3900. If you plan to attend the public hearing and will need special accommodations or assistance relating to a disability, please contact the Public Employees Retirement System at the above address or telephone number at least three business days prior to the public hearing. Specific sections affected and explanations for proposed revisions are summarized below.

Section	Description	Reason
71-02-02-01. Membership -General rule.	Add language to above rule for clarification and be consistent with NDPERS administration of effective dates used with certain IRS qualifying events.	Clarify effective dates based upon qualifying events (specific to birth, adoption, and placement for adoption).
71-02-02-01(2). Membership - General rule.	Remove the employer requirement that the contributions for temporary employees be submitted within six working days of the month for the previous month's salary.	Temporary employees are included in the same payroll reports that permanent employees are – they are comingled. The deadline for permanent employees is the

Section	Description	Reason
		15th of the month following the month the wages are being reported for – so we believe this line should be removed from rules.
71-02-04-03. Payment date – Retirement benefits.	Update Required Minimum Distribution language based upon federal laws and updates to state law SB 2044 technical corrections. For a member who attains age seventy and one-half before January 1, 2020, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment. For a member who attains age seventy and one-half after December 31, 2019, the member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy-two or terminates employment.	Federal / State Law Compliance, SB 2044
71-02-04-04. Optional benefits.	Clarify in rules that a death certificate must be received by NDPERS and date stamped in order for the pop up of a retiree to a higher Single Life benefit amount as this is not automatic upon death notification.	Clarification
71-02-04-10. Erroneous payment of benefits - Overpayments.	Clarify in rules that simple interest (not compounding) is paid on over/under payments of retirement benefits	Clarification
71-02-04-11. Erroneous payment of benefits – Underpayments.	Clarify in rules that simple interest (not compounding) is paid on over/under payments of retirement benefits	Clarification
71-02-06-06. Employer payment of employee contributions.	This should be specific to plan enrolled. For example Public Safety and Main plan may have a different pickup rate by the employer, but all employees based upon plan eligibility are treated the same. Example: 200010 City of Cavalier pays 15.26% for all Main Plan employees but Public Safety employees make up difference and pay an additional 1.19% based upon higher contribution rate required for Public Safety Plan.	Clarification

Section	Description	Reason
71-02-06-13. Refusal of interest on contributions. (New section)	Add Interest Accrual Exception due to a Faith Requirement	Administrative change, direction from NDPERS Board at April 2020 meeting
71-03-03-01 (3). Enrollment.	Add language to above rule for clarification and be consistent with NDPERS administration of effective dates used with certain IRS qualifying events.	Clarify effective dates based upon qualifying events (specific to birth, adoption, and placement for adoption).
71-03-03-09. Leave without pay.	Remove reference to waiting period for preexisting conditions.	Waiting periods for preexisting conditions are not permitted under federal law (ACA). This was previously missed when removing other references at an earlier date.
71-03-07-01. Employer contribution.	Employers need to have payment into our office by the fifteenth of the month so we have the funds to pay our carriers around the twentieth of each month.	Would like this to be consistent with 71-03-04-01

Dated this 15th day of September 2021

Scott Miller, NDPERS Executive Director