

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

HOUSE BILL NO. 1140
(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

AN ACT to amend and reenact subsection 3 of section 39-03.1-10.1, section 39-03.1-30, subsection 5 of section 54-52-17.4, sections 54-52-17.8, 54-52-26, 54-52-27, and 54-52.2-03 of the North Dakota Century Code, relating to purchase of service credit for veterans and purchase of sick leave under the highway patrolmen's retirement system, purchase of service credit, benefit limitations, confidentiality of records, conversion of sick leave under the public employees retirement system, and administration of the deferred compensation program; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 39-03.1-10.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. A member may elect to purchase qualified military service credit pursuant to the ~~Veterans' Reemployment Rights Act [Pub. L. 93-508; 88 Stat. 1594; 38 U.S.C. 2021 et seq.]~~ Uniformed Services Employment and Reemployment Rights Act of 1994 [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4307] at any time prior to retirement by submitting a valid application and paying the member portion pursuant to rules adopted by the board. It is the responsibility of the applicant to supply any documentation required by the board.

SECTION 2. AMENDMENT. Section 39-03.1-30 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-03.1-30. Conversion of sick leave. At termination of eligible employment a member is entitled to credit in the retirement system for each month of unused sick leave, as certified by the employer, if the member pays an amount equal to the member's final average salary, times the number of months of sick leave converted, times the employer and employee contribution, plus one percent for the retiree health benefits program. Hours of sick leave equal to a fraction of a month are deemed to be a full month for purposes of conversion to service credit. A member may convert all of the member's certified sick leave or a part of that person's certified sick leave. All conversion payments must be made within sixty days of termination and before the member receives a retirement annuity unless the member has submitted an approved payment plan to the board.

SECTION 3. AMENDMENT. Subsection 5 of section 54-52-17.4 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. A participating member, or a member not presently under covered employment, may request credit for qualified military service pursuant to the ~~Veterans' Reemployment Rights Act [Pub. L. 93-508; 88 Stat. 1594; 38 U.S.C. 2021 et seq.]~~ Uniformed Services Employment and Reemployment Rights Act of 1994 [Pub.L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4307]. The member shall submit a qualified application with proof of eligible military service to the board in order to receive credit for military service. For credit on and after July 1, 1966, the member must pay four percent times the member's most recent monthly salary, times the number of months of credit being purchased, plus interest at a rate determined by the board. In addition, the governmental unit, or in the case of a member not under covered employment the last employing governmental unit, shall pay to the retiree health benefits fund established under section 54-52.1-03.2 one percent times the member's present monthly salary times the member's months of credit being purchased. For credit before July 1, 1966, no contribution is required.

SECTION 4. AMENDMENT. Section 54-52-17.8 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-52-17.8. Benefit limitations. Benefits with respect to a member of the public employees retirement system on or after January 1, 1990, may not exceed the maximum benefits specified under section 415 of the Internal Revenue Code [26 U.S.C. 415] for governmental plans. ~~This section constitutes an election under section 415(b)(10)(C) of the Internal Revenue Code [26 U.S.C. 415(b)(10)(C)] with respect to a member who first became a member before January 1, 1990.~~

SECTION 5. AMENDMENT. Section 54-52-26 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-52-26. Confidentiality of records. All records relating to the retirement benefits of a member or a beneficiary under this chapter and chapter 54-52.2 are confidential and are not public records. This section does not prohibit any party from obtaining this information from other agencies or governmental sources. Information and records may be disclosed, under rules adopted by the board, only to:

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withholds consent.
3. A person authorized by a court order.
4. A member's participating employer, limited to information concerning the member's years of service credit and years of age. Any information provided to the member's participating employer under this subsection must remain confidential.

SECTION 6. AMENDMENT. Section 54-52-27 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-52-27. Conversion of sick leave. At termination of eligible employment a member is entitled to credit in the retirement system for each month of unused sick leave, as certified by the member's employer, if the member pays an amount equal to the member's final average salary, times the number of months of sick leave converted, times the percent of employer and employee contributions to the retirement program of the member, plus one percent for the retiree health benefits program. Hours of sick leave equal to a fraction of a month are deemed to be a full month for purposes of conversion to service credit. A member may convert all of the member's certified sick leave or a part of the member's certified sick leave. All conversion payments must be made within sixty days of termination of employment and before the member receives a retirement annuity unless the member has submitted an approved payment plan to the board.

SECTION 7. AMENDMENT. Section 54-52.2-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52.2-03. Deferred compensation program - Administration - Contract for services. The administration of the deferred compensation program for each state agency, department, board, commission, or institution is under the direction of the public employees retirement board. Each county, city, or other political subdivision shall designate an officer to administer the deferred compensation program or appoint the public employees retirement board to administer the program ~~in~~ on its behalf. Payroll reductions must be made in each instance by the appropriate payroll officer. The public employees retirement board shall administer the deferred compensation program based on a plan in compliance with the appropriate provisions of the Internal Revenue Code and regulations adopted under those provisions. Not later than January 1, 1999, all plan assets and income must be held in trust, custodial accounts, or contracts as described in section 401(f) of the Internal Revenue Code [26 U.S.C. 401(f)] for the exclusive benefit of participants and their beneficiaries as required by section 457 of the Internal Revenue Code [26 U.S.C. 457]. Once the trust, custodial account, or contract is established as required by this section, the board shall act as fiduciary of the plan to the extent required

by section 457 of the Internal Revenue Code [26 U.S.C. 457] and the board is authorized to do all things necessary for the proper administration of the plan to ensure that the plan maintains its qualified status.

SECTION 8. RETROACTIVE APPLICATION OF ACT. Section 4 of this Act is retroactive to July 3, 1991.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1140.

House Vote: Yeas 95 Nays 0 Absent 2

Senate Vote: Yeas 46 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,
at _____ o'clock _____ M.

Secretary of State