

Fifty-sixth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO.

Introduced by

Representative Wald

1 A BILL for an Act to create and enact a new section to chapter 54-52 of the North Dakota  
2 Century Code, relating to vesting of employer contributions under the public employees  
3 retirement system; and to amend and reenact subsection 1 of section 54-52-01 and  
4 subsections 3, 4, 5, 6, and 7 of section 54-52-17 of the North Dakota Century Code, relating to  
5 vesting under the public employees retirement system.

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

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

9 1. "Account balance" means the total contributions made by the employee, vested  
10 employer contributions under section 3 of this Act, the vested portion of the vesting  
11 fund as of June 30, 1977, and interest credited thereon at the rate established by  
12 the board.

13 **SECTION 2. AMENDMENT.** Subsections 3, 4, 5, 6, and 7 of section 54-52-17 of the  
14 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

15 3. Retirement dates are defined as follows:

16 a. Normal retirement date, except for a national guard security officer or  
17 firefighter, is:

18 (1) The first day of the month next following the month in which the  
19 member attains the age of sixty-five years; or

20 (2) When the member has a combined total of years of service credit and  
21 years of age equal to eighty-five and has not received a retirement  
22 benefit under this chapter.

23 b. Normal retirement date for a national guard security officer or firefighter is the  
24 first day of the month next following the month in which the national guard

1 security officer or firefighter attains the age of fifty-five years and has  
2 completed at least ~~five~~ three consecutive years of employment as a national  
3 guard security officer or firefighter immediately preceding retirement.

4 c. Postponed retirement date, is the first day of the month next following the  
5 month in which the member, on or after July 1, 1977, actually severs or has  
6 severed the member's employment after reaching the normal retirement date.

7 d. Early retirement date, except for a national guard security officer or firefighter,  
8 is the first day of the month next following the month in which the member  
9 attains the age of fifty-five years and has completed ~~five~~ three years of eligible  
10 employment. For a national guard security officer or firefighter, early  
11 retirement date is the first day of the month next following the month in which  
12 the national guard security officer or firefighter attains the age of fifty years  
13 and has completed at least five years of eligible employment.

14 e. Disability retirement date is the first day of the month after a member  
15 becomes permanently and totally disabled, according to medical evidence  
16 called for under the rules of the board, and has completed at least one  
17 hundred eighty days of eligible employment. A member is eligible to receive  
18 disability retirement benefits only if the member:

19 (1) Became disabled during the period of eligible employment; and

20 (2) Applies for disability retirement benefits within twelve months of the  
21 date the member terminates employment.

22 A member is eligible to continue to receive disability benefits as long as the  
23 permanent and total disability continues and the member submits the  
24 necessary documentation and undergoes medical testing required by the  
25 board, or for as long as the member participates in a rehabilitation program  
26 required by the board, or both. If the board determines that a member no  
27 longer meets the eligibility definition, the board may discontinue the disability  
28 retirement benefit. The board is authorized to pay the cost of any medical  
29 testing or rehabilitation services it deems necessary and these payments are  
30 hereby appropriated from the retirement fund for those purposes.

31 4. The board shall calculate retirement benefits as follows:

- a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
  - (1) Service benefit equals one and seventy-seven hundredths percent of final average salary multiplied by the number of years of service employment.
  - (2) Prior service benefit equals one and seventy-seven hundredths percent of final average salary multiplied by the number of years of prior service employment.
  - (3) All participants who retired before August 1, 1997, are entitled to benefits calculated at one and seventy-seven hundredths percent of final average salary, multiplied by the number of years of service employment, with the increased benefits payable beginning August 1, 1997.
- b. Single life benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, which must be determined as follows:
  - (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.
  - (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
  - (3) A participant who retired before August 1, 1995, is entitled to benefits calculated at two and eighty hundredths percent multiplied by the

second ten years of judicial service, with the increased benefits payable beginning August 1, 1995.

- c. Postponed retirement benefits are calculated as for single life benefits for those members who retired on or after July 1, 1977.
  - 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.
  - e. Disability retirement benefits are twenty-five percent of the member's final average salary. The minimum monthly disability retirement benefit under this section is one hundred dollars. A participant who, on July 31, 1997, is receiving disability retirement benefits that are not based upon the benefit multiplier is entitled to receive an increase in benefits equal to five percent of the individual's present benefit with the increased benefits payable beginning August 1, 1997.
  - f. A participating member who is a vested permanent employee is entitled to purchase additional years of service credit to enable the member to qualify for the normal retirement date defined by subdivision a of subsection 3. The years of service purchased must be added to the years of service employment under paragraph 1 of subdivision a for calculating the service benefit.
5. Upon termination of employment after completing ~~five~~ three years of eligible employment, except for supreme and district court judges who must have completed 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

1 completed less than ~~five~~ three years of eligible employment and was not a  
2 supreme or district court judge. If the member was a supreme or district court  
3 judge, the board shall automatically refund a member's account balance if the  
4 member completed less than five years of eligible employment. A member may  
5 waive the refund if the member submits a written statement to the board, within  
6 thirty days after termination, requesting that the member's account balance remain  
7 in the fund.

8 **SECTION 3.** A new section to chapter 54-52 of the North Dakota Century Code is  
9 created and enacted as follows:

10 **Vesting of employer contributions.** Except for supreme and district court judges, a  
11 member's account balance includes seventy-five percent of vested employer contributions if the  
12 member has less than three years of service and one hundred percent of vested employer  
13 contributions if the member has three years or more of service. Vested employer contributions  
14 must be credited monthly to the member's account balance.