

SENATE BILL NO. 2413

Introduced by

Senators Cook, Kringstad

Representatives R. Kelsch, Martinson, Porter

(Approved by the Delayed Bills Committee)

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 participation by employees of the department of career and technical
3 education in the public employees retirement system; to amend and reenact section
4 15-39.1-09, subsection 4 of section 54-52-01, and subsection 1 of section 54-52.1-03.2 of the
5 North Dakota Century Code, relating to participation by employees of the department of career
6 and technical education in the public employees retirement system; and to provide an
7 appropriation.

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

9 **SECTION 1. AMENDMENT.** Section 15-39.1-09 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **15-39.1-09. (Effective through July 31, 2005) Membership in fund and**
12 **assessments - Employer payment of employee contribution.**

13 1. Except as provided in subsection 2 of section 15-39.1-10.3, section 15-39.1-19.2,
14 and ~~subsection~~ subsections 3 and 4, every teacher is a member of the fund and
15 must be assessed upon the teacher's salary seven and seventy-five hundredths
16 percent per annum, which must be deducted, certified, and paid monthly to the
17 fund by the disbursing official of the governmental body by which the teacher is
18 employed. Every governmental body employing a teacher shall pay to the fund
19 seven and seventy-five hundredths percent per annum of the salary of each
20 teacher employed by it. The disbursing official of the governmental body shall
21 certify the governmental body payments and remit the payments monthly to the
22 fund.

23 2. Each employer, at its option, may pay the teacher contributions required by
24 subsection 1 for all compensation earned after June 30, 1983. The amount paid

1 must be paid by the employer in lieu of contributions by the employee. If an
2 employer decides not to pay the contributions, the amount that would have been
3 paid will continue to be deducted from compensation. If contributions are paid by
4 the employer, they must be treated as employer contributions in determining
5 income tax treatment under this code and the federal Internal Revenue Code. If
6 contributions are paid by the employer, they may not be included as gross income
7 of the teacher in determining tax treatment under this code and the Internal
8 Revenue Code until they are distributed or made available. The employer shall
9 pay these teacher contributions from the same source of funds used in paying
10 compensation to the teachers. The employer shall pay these contributions by
11 effecting an equal cash reduction in the gross salary of the employee or by an
12 offset against future salary increases. If teacher contributions are paid by the
13 employer, they must be treated for the purposes of this chapter in the same
14 manner and to the same extent as teacher contributions made prior to the date the
15 contributions were assumed by the employer. The option given employers by this
16 subsection must be exercised in accordance with rules adopted by the board.

- 17 3. A person, ~~except the superintendent of public instruction~~, who is certified to teach
18 in this state by the education standards and practices board and who is first
19 employed and entered upon the payroll of the superintendent of public instruction
20 after January 6, 2001, may elect to become a participating member of the public
21 employees retirement system. An election made by a person to participate in the
22 public employees retirement system under this subsection is irrevocable.
23 Nonteaching employees of the superintendent of public instruction, including the
24 superintendent of public instruction, may elect to transfer to the public employees
25 retirement system pursuant to section 54-52-02.13. Employees of the department
26 of career and technical education may elect to transfer to the public employees
27 retirement system pursuant to section 3 of this Act.
- 28 4. An individual who is first employed and entered upon the payroll of the department
29 of career and technical education after the effective date of this Act may elect to
30 become a participating member of the public employees retirement system. An

election made by an individual to participate in the public employees retirement system under this subsection is irrevocable.

(Effective after July 31, 2005) Membership in fund and assessments - Employer payment of employee contribution.

1. Except as provided in subsection 2 of section 15-39.1-10.3 and ~~subsection~~ subsections 3 and 4, every teacher is a member of the fund and must be assessed upon the teacher's salary seven and seventy-five hundredths percent per annum, which must be deducted, certified, and paid monthly to the fund by the disbursing official of the governmental body by which the teacher is employed. Every governmental body employing a teacher shall pay to the fund seven and seventy-five hundredths percent per annum of the salary of each teacher employed by it. The disbursing official of the governmental body shall certify the governmental body payments and remit the payments monthly to the fund.
2. Each employer, at its option, may pay the teacher contributions required by subsection 1 for all compensation earned after June 30, 1983. The amount paid must be paid by the employer in lieu of contributions by the employee. If an employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining income tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the teacher in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these teacher contributions from the same source of funds used in paying compensation to the teachers. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases. If teacher contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as teacher contributions made prior to the date the contributions were assumed by the employer. The option given employers by this subsection must be exercised in accordance with rules adopted by the board.

- 1 3. A person, ~~except the superintendent of public instruction~~, who is certified to teach
2 in this state by the education standards and practices board and who is first
3 employed and entered upon the payroll of the superintendent of public instruction
4 after January 6, 2001, may elect to become a participating member of the public
5 employees retirement system. An election made by a person to participate in the
6 public employees retirement system under this subsection is irrevocable.
7 Nonteaching employees of the superintendent of public instruction, including the
8 superintendent of public instruction, may elect to transfer to the public employees
9 retirement system pursuant to section 54-52-02.13. Employees of the department
10 of career and technical education may elect to transfer to the public employees
11 retirement system pursuant to section 3 of this Act.
12 4. An individual who is first employed and entered upon the payroll of the department
13 of career and technical education after the effective date of this Act may elect to
14 become a participating member of the public employees retirement system. An
15 election made by an individual to participate in the public employees retirement
16 system under this section is irrevocable.

17 **SECTION 2. AMENDMENT.** Subsection 4 of section 54-52-01 of the North Dakota
18 Century Code is amended and reenacted as follows:

- 19 4. "Eligible employee" means all permanent employees who meet all of the eligibility
20 requirements set by this chapter and who are eighteen years or more of age, and
21 includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11,
22 and 54-52-02.12, ~~and~~ nonteaching employees of the superintendent of public
23 instruction, including the superintendent of public instruction, who elect to transfer
24 from the teachers' fund for retirement to the public employees retirement system
25 under section 54-52-02.13, and employees of the department of career and
26 technical education who elect to transfer from the teachers' fund for retirement to
27 the public employees retirement system under section 3 of this Act. Eligible
28 employee does not include nonclassified state employees who elect to become
29 members of the retirement plan established under chapter 54-52.6 but does
30 include employees of the judicial branch and employees of the board of higher
31 education and state institutions under the jurisdiction of the board.

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

3 **Participation by employees of the department of career and technical education.**
4 Notwithstanding any other provision of law, between the effective date of this Act and five p.m.
5 on August 31, 2005, an employee of the department of career and technical education who is
6 otherwise eligible to participate in the public employees retirement system may file an election
7 with the staff of the retirement and investment office to transfer from the teachers' fund for
8 retirement to the public employees retirement system. The teachers' fund for retirement shall
9 certify the employees who are eligible to transfer. An election to transfer is irrevocable for as
10 long as the employee remains employed with the department of career and technical education.
11 The teachers' fund for retirement shall certify a transferring employee's salary, service credit,
12 contribution history, account balance, and any other necessary information to the public
13 employees retirement system. The amount to be transferred is the greater of the actuarial
14 present value of the employee's accrued benefit as of July 1, 2005, plus interest at the rate of
15 seven and one-half percent from July 1, 2005, until the date the amount is transferred to the
16 public employees retirement system or the employee's account balance on the date of transfer.
17 The public employees retirement system shall credit the transferring employee with the service
18 credit specified by the teachers' fund for retirement and shall convert the annual salary history
19 from the teachers' fund for retirement to a monthly salary for the period. An employee becomes
20 a member of the public employees retirement system as of the date the funds are transferred.
21 To be eligible to transfer, an employee must be employed by the department of career and
22 technical education on the date of the transfer. The department of career and technical
23 education shall begin making retirement contributions, and the public employees retirement
24 system shall begin receiving those retirement contributions, on behalf of employees who have
25 elected to transfer to the public employees retirement system to that system the first of the
26 month following the date of transfer.

27 **SECTION 4. AMENDMENT.** Subsection 1 of section 54-52.1-03.2 of the North Dakota
28 Century Code is amended and reenacted as follows:

- 29 1. The board shall establish a retiree health benefits fund account with the Bank of
30 North Dakota for the purpose of prefunding and providing hospital benefits
31 coverage and medical benefits coverage under the uniform group insurance

1 program for retired eligible employees or surviving spouses of retired eligible
2 employees and their dependents as provided in this chapter. The state shall
3 contribute monthly to the retiree health benefits fund an amount equal to one
4 percent of the monthly salaries and wages of all participating members of the
5 highway patrolmen's retirement system under chapter 39-03.1, and one percent of
6 the monthly salaries of all supreme or district court judges who are participating
7 members of the public employees retirement system under chapter 54-52. Each
8 governmental unit that contributes to the public employees retirement system fund
9 under section 54-52-06 or the retirement plan under chapter 54-52.6 shall
10 contribute monthly to the retiree health benefits fund an amount equal to one
11 percent of the monthly salaries or wages of all participating members of the public
12 employees retirement system under chapter 54-52 or chapter 54-52.6, except for
13 nonteaching employees of the superintendent of public instruction who elect to
14 participate in the public employees retirement system pursuant to section
15 54-52-02.13 and employees of the department of career and technical education
16 who elect to participate in the public employees retirement system pursuant to
17 section 3 of this Act. For nonteaching employees of the superintendent of public
18 instruction who elect to participate in the public employees retirement system
19 pursuant to section 54-52-02.13, the superintendent of public instruction shall
20 contribute monthly to the retiree health benefits fund an amount equal to three and
21 one-tenth percent of the monthly salaries or wages of those nonteaching employee
22 members, beginning on the first of the month following the transfer under section
23 54-52-02.13 and continuing thereafter for a period of eight years, after which time
24 the superintendent of public instruction shall contribute one percent of the monthly
25 salary or wages of those nonteaching employee members. For employees of the
26 department of career and technical education who elect to participate in the public
27 employees retirement system pursuant to section 3 of this Act, the department of
28 career and technical education shall contribute monthly to the retiree health
29 benefits fund an amount equal to three and thirty-four hundredths percent of the
30 monthly salary or wages of those employee members, beginning on the first of the
31 month following the transfer under section 3 of this Act and continuing thereafter

1 for a period of eight years, after which time the department of career and technical
2 education shall contribute one percent of the monthly salary or wages of those
3 employee members. The employer of a national guard security officer or firefighter
4 shall contribute monthly to the retiree health benefits fund an amount equal to one
5 percent of the monthly salaries or wages of all national guard security officers or
6 firefighters participating in the public employees retirement system under chapter
7 54-52. Job service North Dakota shall reimburse monthly the retiree health
8 benefits fund for credit received under section 54-52.1-03.3 by members of the
9 retirement program established by job service North Dakota under section
10 52-11-01. The board, as trustee of the fund and in exclusive control of its
11 administration, shall:

- 12 a. Provide for the investment and disbursement of moneys of the retiree health
13 benefits fund and administrative expenditures in the same manner as moneys
14 of the public employees retirement system are invested, disbursed, or
15 expended.
- 16 b. Adopt rules necessary for the proper administration of the retiree health
17 benefits fund, including enrollment procedures.

18 **SECTION 5. APPROPRIATION.** There is appropriated out of any moneys in the public
19 employees retirement fund, not otherwise appropriated, the sum of \$3,000, or so much of the
20 sum as may be necessary, to the public employees retirement system for the purpose of
21 implementing this Act, for the biennium beginning July 1, 2005, and ending June 30, 2007.