

Sixty-fourth
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

Representative Haak

1 A BILL for an Act to create and enact a new section to chapter 54-52.6 of the North Dakota
2 Century Code, relating to an election for members of the defined contribution retirement plan to
3 transfer to the public employees retirement system.

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

5 **SECTION 1.** A new section to chapter 54-52.6 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Changes to election.**

- 8 1. In this section the term "participating member" is limited in application to a participating
9 member who elected to participate in the defined contribution retirement plan
10 established under this chapter; is an actively participating member of the defined
11 contribution plan as of the effective date of this Act; and is an active employee with a
12 participating employer on the date an election is made under this section. The term
13 does not include a participant who is not actively employed with a participating
14 employer on the date of transfer of the funds under this section, has taken a
15 distribution from the defined contribution plan, is retired, is no longer actively employed
16 with a participating employer, or who is a member who has a qualified domestic
17 relations order or other court order on the member's account.
- 18 2. Notwithstanding any other provision of law, the board shall provide an opportunity for
19 each participating member to elect in writing to terminate membership in the defined
20 contribution retirement plan under this chapter and to elect to become a participating
21 member in the public employees retirement system under chapter 54-52.
- 22 3. The board shall establish a three-calendar-month election period beginning not later
23 than February 1, 2016. A participating member who does not make a written election
24 or who does not file the election with the North Dakota public employees retirement

1 system office during the period specified in this section continues to be a member of
2 the defined contribution plan. A participating member who makes and files a written
3 election with the North Dakota public employees retirement system office under this
4 section ceases to be a member of the defined contribution plan upon receipt by the
5 public employees retirement system of the accumulated fund balance of the member's
6 defined contribution plan under this chapter and waives all rights to that employee's
7 accumulated fund balance under the defined contribution plan. If the executive director
8 of the North Dakota public employees retirement system determines a participating
9 member was not adequately notified of the option to make an election under this
10 section, the executive director may provide that participating member a reasonable
11 time, not to exceed three months, within which to make that election.

12 4. The public employees retirement system shall credit the transferring employee with
13 the service credit and salary history reflected on the public employees retirement
14 system's electronic database.

15 5. The board shall determine the method by which a participating member may make a
16 written election under this section. If the participating member is married at the time of
17 the election, the election is not effective unless the election is signed by the
18 individual's spouse. However, the executive director of the North Dakota public
19 employees retirement system may waive this spousal signature requirement if the
20 spouse's signature cannot be obtained because of extenuating circumstances.

21 6. For a participating member who elects to terminate membership in the defined
22 contribution plan under this section, the board shall transfer that member's
23 accumulated fund balance, less any rollovers from other plans made into the defined
24 contribution plan, to the public employees retirement system under chapter 54-52. If
25 funds are transferred from the defined contribution plan to the defined benefit plan
26 under an election made under this section, the board shall record this transfer to the
27 defined benefit plan as employee and employer contributions in the same manner as
28 transferred by the defined contribution provider. If a participating member has a
29 separate account attributable to rollover contributions to the defined contribution plan
30 pursuant to section 54-52.6-09.1, the participating member shall make an election to
31 receive a distribution of the entire amount held in the rollover account at the time of

- 1 transfer. A participating member who elects a transfer under this section is entitled to
- 2 vested employer contribution amounts under section 54-52-11.1 prospectively from the
- 3 date of transfer.