

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED HOUSE BILL NO. 1274

Introduced by

Representatives Porter, Dockter, Heinert, Satrom, Schauer, Karls

Senators Cleary, Roers, Axtman, Dever

1 A BILL for an Act to amend and reenact sections 54-52-01, 54-52-02.15, 54-52-06.4, and
2 54-52-17 of the North Dakota Century Code, relating to membership of the public employees
3 retirement system public safety retirement plan.

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

5 **SECTION 1. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **54-52-01. Definition of terms.**

8 As used in this chapter, unless the context otherwise requires:

- 9 1. "Account balance" means the total contributions made by the employee, vested
10 employer contributions under section 54-52-11.1, the vested portion of the vesting
11 fund as of June 30, 1977, and interest credited thereon at the rate established by the
12 board.
- 13 2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any
14 person designated by a participating member to receive benefits.
- 15 3. "Correctional officer" means a participating member who is employed as a correctional
16 officer by a ~~political subdivision~~ governmental unit and, notwithstanding subsection 14,
17 for an individual employed on or after the effective date of this Act, is employed at
18 least thirty-two hours per week and at least twenty weeks each year of employment. A
19 correctional officer who is a participating member of the public safety retirement plan
20 created by this chapter who begins employment on or after the effective date of this

Act is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system. The term includes an individual employed by a correctional facility as defined in section 12-44.1-01, who is enrolled in, but has not yet completed, a correctional officer course approved or certified by the North Dakota department of corrections and rehabilitation.

4. "Deferred member" means a participating member who is not actively participating in the main plan under this chapter and who has an account intact in the main plan under this chapter.
5. "Eligible employee", except as otherwise provided under section 54-52-02.15, means a permanent employee who meets all of the eligibility requirements set by this chapter and who is eighteen years or more of age. The term includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. The term does not include nonclassified state employees who elected under section 54-52.6-02 to become members of the retirement plan established under chapter 54-52.6. The term does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board of higher education.
6. "Employee" means any individual employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
7. "Employer" means a governmental unit.

- 1 8. "Firefighter" means a participating member who is employed as a firefighter by a
2 political subdivision and, notwithstanding subsection 13, for an individual employed
3 after July 31, 2017, is employed at least thirty-two hours per week and at least twenty
4 weeks each year of employment. A firefighter who is a participating member of the ~~law-~~
5 ~~enforcement~~public safety retirement plan created by this chapter who begins
6 employment after July 31, 2017, is ineligible to participate concurrently in any other
7 retirement plan administered by the public employees retirement system. The term
8 does not include a firefighter employee of the North Dakota national guard.
- 9 9. "Funding agent" or "agents" means an investment firm, trust bank, or other financial
10 institution which the retirement board may select to hold and invest the employers' and
11 members' contributions.
- 12 10. "Governmental unit" means the state of North Dakota, except the highway patrol for
13 members of the retirement plan created under chapter 39-03.1, or a participating
14 political subdivision of the state.
- 15 11. "National guard security officer or firefighter" means a participating member who is:
16 a. A security police employee of the North Dakota national guard; or
17 b. A firefighter employee of the North Dakota national guard.
- 18 12. "Participating member" means an eligible employee who through payment into the
19 plan has established a claim against the plan.
- 20 13. "Peace officer" means a participating member who is a peace officer as defined in
21 section 12-63-01 and is employed as a peace officer by the state, except by the
22 highway patrol for members of the retirement plan created under chapter 39-03.1, or is
23 employed by a political subdivision and, notwithstanding subsection 14, for persons
24 employed after August 1, 2005, is employed thirty-two hours or more per week and at
25 least twenty weeks each year of employment. A peace officer who is a participating
26 member of the ~~law-enforcement~~public safety retirement plan created by this chapter
27 who begins employment after August 1, 2005, is ineligible to participate concurrently in
28 any other retirement plan administered by the public employees retirement system.
- 29 14. "Permanent employee" means an employee whose services are not limited in duration
30 and who is filling an approved and regularly funded position in an eligible

governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.

15. "Prior service" means service or employment before July 1, 1966.

16. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.

17. "Public employees retirement system" means the retirement plan and program established by this chapter.

18. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan.

19. "Retirement board" or "board" means the governing authority created under section 54-52-03.

20. "Seasonal employee" means a participating member who does not work twelve months a year.

21. "Service" means employment on or after July 1, 1966.

22. "Service benefit" means the credit toward retirement benefits as determined by the retirement board under the provisions of this chapter.

23. "Temporary employee" means an employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.

24. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

SECTION 2. AMENDMENT. Section 54-52-02.15 of the North Dakota Century Code is amended and reenacted as follows:

54-52-02.15. Public employees retirement system main plan - Closure to new hires - Multiple plan membership.

1. Under this section "eligible employee" means a permanent employee who:
 - a. Meets all the eligibility requirements set by this chapter;
 - b. Is at least eighteen years of age;
 - c. Becomes a participating member after December 31, 2024; and
 - d. Is not eligible to participate in the ~~law enforcement~~public safety plan, judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative retirement program established under section 15-10-17 for university system employees.
2. Effective January 1, 2025, the public employees retirement system defined benefit main plan maintained for employees is closed to new eligible employees. However, an employee who becomes a participating or deferred member under this chapter before January 1, 2025, remains in the defined benefit retirement plan under this chapter, regardless of being rehired after December 31, 2024.
3. Except as otherwise provided under this section, effective January 1, 2025, an eligible employee who begins employment with an employer shall participate in the defined contribution retirement plan under chapter 54-52.6 as provided under section 54-52.6-02.1.
4. This section does not impact an employee to the extent the employee is a participating member in one or more of the following enumerated retirement plans: ~~law enforcement~~public safety plan, judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative retirement program established under section 15-10-17 for university system employees.
 - a. A participating or deferred member in the defined contribution retirement plan under chapter 54-52.6 who becomes eligible to participate in a plan enumerated under this subsection is eligible to participate in the retirement plan enumerated under this subsection.
 - b. A participating member of a retirement plan enumerated under this subsection who becomes an eligible employee is not eligible to participate in the defined

benefit retirement plan under this chapter but instead participates in the defined contribution retirement plan under chapter 54-52.6. However, this subdivision does not apply to an individual who before January 1, 2025, is a participating or a deferred member under this chapter, as that individual continues to participate in the defined benefit retirement plan under this chapter.

5. The board shall adopt rules to implement this section.

SECTION 3. AMENDMENT. Section 54-52-06.4 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06.4. Contribution by peace officers and correctional officers employed by the state or security officers employed by the national guard - Employer contribution.
(Retroactive application - [See note](#))

1. a. Each peace officer employed by the bureau of criminal investigation who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer contributions increase by one percent of the member's monthly salary beginning with the monthly reporting period of January 2012; with an additional increase of one percent, beginning with the reporting period of January 2013; with an additional increase of one percent, beginning with the reporting period of January 2024; and with an additional increase of one percent, beginning with the reporting period of January 2025.
- b. Each correctional officer and peace officer employed by the state, other than a peace officer employed by the bureau of criminal investigation, who is a member of the public employees retirement system is assessed and shall pay six percent of the employee's monthly salary.
- c. Effective August 1, 2015, each national guard security officer who is a member of the public employee's retirement system is assessed and monthly shall pay six percent of the employee's monthly salary. National guard security officer contributions decrease by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2016.
- d. The assessment under this subsection must be deducted and retained out of the employee's salary in equal monthly installments.

2. The employer of a correctional officer or peace officer employed by the state or a national guard security officer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the correctional officer's, peace officer's, or security officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required correctional officer's, peace officer's, or security officer's assessment.

SECTION 4. AMENDMENT. Section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

54-52-17. Formulation of plan. (Retroactive application - [See note](#))

Participating members shall receive benefits according to this section and according to rules adopted by the board, not inconsistent with this chapter. ~~No person~~An individual is not entitled to receive a prior service benefit if the ~~person~~individual was not continuously employed by a governmental unit in North Dakota for a period of not less than two years immediately prior to ~~preceding~~before eligibility for retirement.

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date, postponed retirement date, or early retirement date, as defined in this section. Part-time employment will be recognized as full-time employment on a prorated basis as the board may prescribe.
2. Retirement benefits are calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment. For members who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred eighty months of employment. For members who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the board has appropriate and accurate salary records on the board's electronic database, but that period may not be

1 more than the last one hundred eighty months of employment. For members who
2 terminate employment after December 31, 2019, final average salary is the higher of
3 the final average salary calculated on December 31, 2019, or the average salary
4 earned in the three highest periods of twelve consecutive months employed during the
5 last one hundred eighty months of employment. Months without earnings are excluded
6 for the purpose of computing an average. If the participating member has worked for
7 less than thirty-six months at the normal retirement date, the final average salary is the
8 average salary for the total months of employment.

9 3. Retirement dates are defined as follows:

10 a. Normal retirement date, except for a national guard security officer or firefighter, a
11 ~~firefighter employed by a political subdivision, a~~correctional officer or peace
12 officer employed by the state, or a firefighter, peace officer, or correctional officer
13 employed by a political subdivision, is:

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

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

19 b. Normal retirement date for members first enrolled after December 31, 2015,
20 except for a national guard security officer or firefighter, a ~~firefighter employed by~~
21 ~~a political subdivision, a~~correctional officer or peace officer employed by the
22 state, a firefighter, peace officer, or correctional officer employed by a political
23 subdivision, or a supreme court or district court judge, is:

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

26 (2) When the member has a combined total of years of service credit and years
27 of age equal to ninety and the member attains a minimum age of sixty and
28 has not received a retirement benefit under this chapter.

29 c. Normal retirement date for a national guard security officer or firefighter is:

- 1 (1) The first day of the month next following the month in which the national
2 guard security officer or firefighter attains the age of fifty-five years and has
3 completed at least three eligible years of employment; or
4 (2) When the national guard security officer or firefighter has a combined total
5 of years of service credit and years of age equal to eighty-five and has not
6 received a retirement benefit under this chapter.
- 7 d. Normal retirement date for a peace officer, firefighter, or correctional officer
8 employed by a political subdivision is:
9 (1) The first day of the month next following the month in which the peace
10 officer, firefighter, or correctional officer attains the age of fifty-five years and
11 has completed at least three eligible years of employment; or
12 (2) When the peace officer, firefighter, or correctional officer has a combined
13 total of years of service credit and years of age equal to eighty-five and has
14 not received a retirement benefit under this chapter.
- 15 e. (1) Normal retirement date for a peace officer employed by the bureau of
16 criminal investigation is:
17 (a) [1] For a member employed before August 1, 2023, the first day of
18 the month next following the month in which the peace officer
19 attains the age of fifty-five years and has completed at least
20 three eligible years of employment; and
21 [2] For a member employed after July 31, 2023, the first day of the
22 month next following the month in which the peace officer attains
23 the age of fifty-five years and has completed at least ten eligible
24 years of employment; or
25 (b) When the peace officer has a combined total of years of service credit
26 and years of age equal to eighty-five and has not received a
27 retirement benefit under this chapter.
- 28 (2) Normal retirement date for a correctional officer or peace officer employed
29 by the state, other than a peace officer employed by the bureau of criminal
30 investigation, is:

1 (a) The first day of the month next following the month in which the
2 correctional officer or peace officer attains the age of fifty-five years
3 and has completed at least three eligible years of employment; or

4 (b) When the correctional officer or peace officer has a combined total of
5 years of service credit and years of age equal to eighty-five and has
6 not received a retirement benefit under this chapter.

7 f. Postponed retirement date is the first day of the month next following the month
8 in which the member, on or after July 1, 1977, actually severs or has severed the
9 member's employment after reaching the normal retirement date.

10 g. (1) Early retirement date, except for a national guard security officer or
11 firefighter, a firefighter, peace officer, or correctional officer employed by a
12 political subdivision, or a correctional officer or peace officer employed by
13 the state, is the first day of the month next following the month in which the
14 member attains the age of fifty-five years and has completed three years of
15 eligible employment.

16 (2) For a national guard security officer or firefighter, early retirement date is the
17 first day of the month next following the month in which the national guard
18 security officer or firefighter attains the age of fifty years and has completed
19 at least three years of eligible employment.

20 (3) For a correctional officer or peace officer employed by the state, other than
21 a peace officer employed by the bureau of criminal investigation, or a
22 firefighter, peace officer, or correctional officer employed by a political
23 subdivision, early retirement date is the first day of the month next following
24 the month in which the peace officer, firefighter, or correctional officer attains
25 the age of fifty years and has completed at least three years of eligible
26 employment.

27 (4) For a peace officer employed by the bureau of criminal investigation, early
28 retirement date is the first day of the month next following the month in
29 which the peace officer attains the age of fifty years and has completed at
30 least three years of eligible employment.

h. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the board or as provided by subdivision a of subsection 3 of section 27-23-03.

(1) A member is eligible to receive disability retirement benefits only if the member became disabled during the period of eligible employment and applies for disability retirement benefits within twelve months of the date the member terminates employment.

(2) A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services the board deems necessary and these payments are appropriated from the retirement fund for those purposes. A member's receipt of disability benefits under this section is limited to receipt from the fund to which the member was actively contributing at the time the member became disabled.

4. The board shall calculate retirement benefits as follows:

a. Normal retirement benefits for all retirees, except supreme and district court judges; and peace officers employed by the bureau of criminal investigation, ~~and other peace officers employed by the state~~, 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) For members first enrolled:

- 1 (a) Before January 1, 2020, service benefit equals two percent of final
2 average salary multiplied by the number of years of service
3 employment.
- 4 (b) After December 31, 2019, service benefit equals one and seventy-five
5 hundredths percent of final average salary multiplied by the number of
6 years of service employment.
- 7 (2) Prior service benefit equals two percent of final average salary multiplied by
8 the number of years of prior service employment.
- 9 b. Normal retirement benefits for all supreme and district court judges under the
10 public employees retirement system reaching normal retirement date equal an
11 annual amount, payable monthly, comprised of a benefit as defined in this
12 chapter, determined as follows:
- 13 (1) Benefits must be calculated from the time of appointment or election to the
14 bench and must equal three and one-half percent of final average salary
15 multiplied by the first ten years of judicial service, two and eighty hundredths
16 percent of final average salary multiplied by the second ten years of judicial
17 service, and one and one-fourth percent of final average salary multiplied by
18 the number of years of judicial service exceeding twenty years.
- 19 (2) Service benefits must include, in addition, an amount equal to the percent
20 specified in subdivision a of final average salary multiplied by the number of
21 years of nonjudicial employee service and employment.
- 22 c. Normal retirement benefits for a peace officer employed by the bureau of criminal
23 investigation reaching the normal retirement date equals an annual amount,
24 payable monthly, comprised of a service benefit and a prior service benefit
25 determined as follows:
- 26 (1) The first twenty years of credited service multiplied by three percent of final
27 average salary.
- 28 (2) For years in excess of twenty years of credited service multiplied by one
29 and seventy-five hundredths percent of final average salary.
- 30 ~~d. Normal retirement benefits for a peace officer employed by the state, other than~~
31 ~~by the bureau of criminal investigation, reaching the normal retirement date~~

1 equals an annual amount, payable monthly, comprised of a service benefit and a
2 prior service benefit determined as follows:

3 (1) ~~For members first enrolled:~~

4 (a) ~~Before January 1, 2020, service benefit equals two percent of final~~
5 ~~average salary multiplied by the number of years of service~~
6 ~~employment.~~

7 (b) ~~After December 31, 2019, service benefit equals one and seventy-five~~
8 ~~hundredths percent of final average salary multiplied by the number of~~
9 ~~years of service employment.~~

10 (2) ~~Prior service benefit equals two percent of final average salary multiplied by~~
11 ~~the number of years of prior service employment.~~

12 e. Postponed retirement benefits are calculated as for single life benefits for those
13 members who retired on or after July 1, 1977.

14 f.e. Early retirement benefits are calculated as for single life benefits accrued to the
15 date of termination of employment, but must be actuarially reduced to account for
16 benefit payments beginning before the normal retirement date, as determined
17 under subsection 3. Except for a national guard security officer or firefighter, a
18 firefighter, ~~peace officer, or correctional officer~~ employed by a political
19 subdivision, a peace officer or correctional officer employed by the ~~state~~a
20 governmental unit, or a supreme court or district court judge, early retirement
21 benefits for members first enrolled after December 31, 2015, are calculated for
22 single life benefits accrued to the date of termination of employment, but must be
23 reduced by fixed rate of eight percent per year to account for benefit payments
24 beginning before the normal retirement date. A retiree, other than a supreme or
25 district court judge, is eligible for early retirement benefits only after having
26 completed three years of eligible employment. A supreme or district court judge
27 retiree is eligible for early retirement benefits only after having completed five
28 years of eligible employment.

29 g.f. Except for supreme and district court judges, disability retirement benefits are
30 twenty-five percent of the member's final average salary. Disability retirement
31 benefits for supreme and district court judges are seventy percent of final

1 average salary reduced by the member's primary social security benefits and by
2 any workforce safety and insurance benefits paid. The minimum monthly
3 disability retirement benefit under this section is one hundred dollars.

4 5. Upon termination of employment after completing three years of eligible employment,
5 except for supreme and district court judges, who must complete five years of eligible
6 employment, but before normal retirement date, a member who does not elect to
7 receive early retirement benefits is eligible to receive deferred vested retirement
8 benefits payable commencing on the member's normal retirement date in one of the
9 optional forms provided in subsection 9. Members who have delayed or inadvertently
10 failed to apply for retirement benefits to commence on their normal retirement date
11 may choose to receive either a lump sum payment equal to the amount of missed
12 payments, or an actuarial increase to the form of benefit the member has selected,
13 which increase must reflect the missed payments.

14 6. If before retiring a member dies after completing three years of eligible employment,
15 except for supreme and district court judges, who must have completed five years of
16 eligible employment, the board shall pay the member's account balance to the
17 member's designated beneficiary as provided in this subsection. If the member has
18 designated an alternate beneficiary with the surviving spouse's written consent, the
19 board shall pay the member's account balance to the named beneficiary. If the
20 member has named more than one primary beneficiary, the board shall pay the
21 member's account balance to the named primary beneficiaries in the percentages
22 designated by the member or, if the member has not designated a percentage for the
23 beneficiaries, in equal percentages. If one or more of the primary beneficiaries has
24 predeceased the member, the board shall pay the predeceased beneficiary's share to
25 the remaining primary beneficiaries. If any beneficiary survives the member, yet dies
26 before distribution of the beneficiary's share, the beneficiary must be treated as if the
27 beneficiary predeceased the member. If there are no remaining primary beneficiaries,
28 the board shall pay the member's account balance to the contingent beneficiaries in
29 the same manner. If there are no remaining designated beneficiaries, the board shall
30 pay the member's account balance to the member's estate. If the member has not

designated an alternate beneficiary or the surviving spouse is the beneficiary, the surviving spouse of the member may select a form of payment as follows:

a. If the member was a supreme or district court judge, the surviving spouse may select one of the following optional forms of payment:

(1) A lump sum payment of the member's retirement account as of the date of death.

(2) Payments as calculated for the deceased member as if the member was of normal retirement age at the date of death, payable until the spouse dies.

b. The surviving spouse of all other members may select one of the following options:

(1) A lump sum payment of the member's retirement account as of the date of death.

(2) Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.

(3) 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, payable until the spouse dies. 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 automatically shall refund a member's account balance if the member has completed less than three years of eligible employment, has an account balance of less than one thousand

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

8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a member receiving retirement benefits or the member's surviving spouse receiving retirement benefits dies before the total amount of benefits paid to either or both equals the amount of the member's account balance at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate. A benefit payment owed to the member, surviving spouse, or alternate beneficiary which was not paid before the death of the member, surviving spouse, or alternate beneficiary must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.

9. The board shall adopt rules providing for the receipt of retirement benefits in the following optional forms:

- a. Single life.
- b. An actuarially equivalent joint and survivor option, with fifty percent or one hundred percent options.
- c. Actuarially equivalent life with ten-year or twenty-year certain options.
- d. An actuarially equivalent partial lump sum distribution option with a twelve-month maximum lump sum distribution.
- e. An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

Except for supreme and district court judges, unless a member specifically requests that the member receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a single life benefit. For supreme and district court judges, unless a member specifically requests

- 1 that the member receive benefits according to one of these options at the time of
2 applying for retirement, all retirement benefits must be in the form of a lifetime monthly
3 pension with fifty percent of the benefit continuing for the life of the surviving spouse, if
4 any.
- 5 10. The fund may accept rollovers from other eligible plans under rules adopted by the
6 board for the purchase of additional service credit, but only to the extent the transfer is
7 a rollover contribution that meets the requirement of section 408 of the Internal
8 Revenue Code.
- 9 11. The board may accept trustee-to-trustee transfers as permitted by Internal Revenue
10 Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code
11 section 403(b) annuity or Internal Revenue Code section 457 deferred compensation
12 plan for the purchase of permissive service credit, as defined in Internal Revenue
13 Code section 415(n)(3)(A) or as repayment of a cashout from a governmental plan
14 under Internal Revenue Code section 415(k)(3).
- 15 12. The board may establish individual retirement accounts and individual retirement
16 annuities as permitted under section 408(q) of the Internal Revenue Code to allow
17 employees to make voluntary employee contributions. The board may adopt rules to
18 implement and administer the accounts and annuities under this section.