

Fifty-eighth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2033

Introduced by

Legislative Council

(Employee Benefits Programs Committee)

1 A BILL for an Act to create and enact two new subsections to section 54-52-01 and a new  
2 section to chapter 54-52 of the North Dakota Century Code, relating to participation by peace  
3 officers and correctional officers employed by political subdivisions in the defined benefit  
4 retirement plan; and to amend and reenact section 54-52-02.1, subsection 3 of section  
5 54-52-05, and subsection 3 of section 54-52-17 of the North Dakota Century Code, relating to  
6 participation by peace officers and correctional officers employed by political subdivisions in the  
7 defined benefit retirement plan.

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

9 **SECTION 1.** Two new subsections to section 54-52-01 of the North Dakota Century  
10 Code are created and enacted as follows:

11 "Correctional officer" means a participating member who is employed as a  
12 correctional officer by a political subdivision.

13 "Peace officer" means a participating member who is a peace officer as defined in  
14 section 12-63-01 and is employed as a peace officer by a political subdivision.

15 **SECTION 2. AMENDMENT.** Section 54-52-02.1 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **54-52-02.1. Political subdivisions authorized to join public employees retirement**  
18 **system.**

19 1. A political subdivision may, on behalf of its permanent employees, on behalf of its  
20 peace officers and correctional officers separately from its other employees, and  
21 permanent noncertified employees only in the case of school districts, enter into  
22 agreements with the retirement board for the purpose of extending the benefits of  
23 the public employees retirement system, as provided in this chapter, to those

- 1 employees. The agreement may, in accordance with this chapter, contain  
2 provisions relating to benefits, contributions, effective date, modification,  
3 administration, and other appropriate provisions as the retirement board and the  
4 political subdivision agree upon, but the agreement must provide that:
- 5 a. The political subdivision will contribute on behalf of each eligible employee an  
6 amount equal to that provided in section 54-52-06 or section 4 of this Act for  
7 peace officers and correctional officers participating separately from other  
8 political subdivision employees.
- 9 b. A portion of the moneys paid by the political subdivision may be used to pay  
10 administrative expenses of the retirement board.
- 11 2. Notwithstanding any other provision of law, a political subdivision having an  
12 existing police pension plan may merge that plan into the public employees  
13 retirement system under rules adopted by and in a manner determined by the  
14 board.
- 15 3. Notwithstanding any other provision of this chapter, ~~no~~ a political subdivision of  
16 this state not currently participating in the public employees retirement system ~~on~~  
17 June 30, 1977, may thereafter not become a participant in the retirement system  
18 until an actuarial study is performed under the direction of the board to calculate  
19 the cost of that portion of benefits to be paid by the retirement system to the  
20 employees of the political subdivision based on any prior service or on any service  
21 after June 30, 1977, and before the date of initial participation in the retirement  
22 system, or both; and the political subdivision has adopted a method, approved by  
23 the board, to pay the costs determined in this subsection over a period not to  
24 exceed twenty five years from June 30, 1977. No political subdivision may  
25 discontinue participation in the fund without first making such payment to the fund  
26 as may be necessary for the fund to pay the future benefits of the eligible  
27 employees of the political subdivision as determined on the basis of rules adopted  
28 by the board required employer contribution. The required employer contribution  
29 must be an amount determined sufficient to fund the normal cost and amortize any  
30 past service liability over a period not to exceed thirty years as determined by the

1           board. Any fees incurred in performing the actuarial study must be paid for by the  
2           political subdivision in a manner determined by the board.

3           **SECTION 3. AMENDMENT.** Subsection 3 of section 54-52-05 of the North Dakota  
4 Century Code is amended and reenacted as follows:

5           3. Each employer, at its option, may pay the employee contributions required by  
6 subsection 2 and sections 54-52-06.1 ~~and~~ 54-52-06.2, and section 4 of this Act.  
7 The amount paid must be paid by the employer in lieu of contributions by the  
8 employee. If the state determines not to pay the contributions, the amount that  
9 would have been paid must continue to be deducted from the employee's  
10 compensation. If contributions are paid by the employer, they must be treated as  
11 employer contributions in determining tax treatment under this code and the  
12 federal Internal Revenue Code. If contributions are paid by the employer, they  
13 may not be included as gross income of the employee in determining tax treatment  
14 under this code and the Internal Revenue Code until they are distributed or made  
15 available. The employer shall pay these employee contributions from the same  
16 source of funds used in paying compensation to the employee or from the levy  
17 authorized by subsection 5 of section 57-15-28.1. The employer shall pay these  
18 contributions by effecting an equal cash reduction in the gross salary of the  
19 employee or by an offset against future salary increases or by a contribution of a  
20 reduction in gross salary and offset against future salary increases. If employee  
21 contributions are paid by the employer, they must be treated for the purposes of  
22 this chapter in the same manner and to the same extent as employee contributions  
23 made prior to the date on which employee contributions were assumed by the  
24 employer. An employer exercising its option under this subsection shall report its  
25 choice to the board, in writing, by June fifteenth of each odd-numbered year.

26           **SECTION 4.** A new section to chapter 54-52 of the North Dakota Century Code is  
27 created and enacted as follows:

28           **Contribution by peace officers and correctional officers employed by political**  
29 **subdivisions - Employer contribution.** Each peace officer or correctional officer employed  
30 by a political subdivision that enters into an agreement with the retirement board on behalf of its  
31 peace officers and correctional officers separately from its other employees and who is a

1 member of the public employees retirement system is assessed and shall pay monthly four  
2 percent of the employee's monthly salary. The assessment must be deducted and retained out  
3 of the employee's salary in equal monthly installments. The peace officer's or correctional  
4 officer's employer shall contribute an amount determined by the board to be actuarially required  
5 to support the level of benefits specified in section 54-52-17. If the peace officer's or  
6 correctional officer's assessment is paid by the employer under subsection 3 of section  
7 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace  
8 officer's or correctional officer's assessment.

9 **SECTION 5. AMENDMENT.** Subsection 3 of section 54-52-17 of the North Dakota  
10 Century Code is amended and reenacted as follows:

11 3. Retirement dates are defined as follows:

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

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

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

20 b. Normal retirement date for a national guard security officer or firefighter is the  
21 first day of the month next following the month in which the national guard  
22 security officer or firefighter attains the age of fifty-five years and has  
23 completed at least three consecutive years of employment as a national  
24 guard security officer or firefighter immediately preceding retirement.

25 c. Normal retirement date for a peace officer or correctional officer employed by  
26 a political subdivision is:

27 (1) The first day of the month next following the month in which the peace  
28 officer or correctional officer attains the age of fifty-five years and has  
29 completed at least three consecutive years of employment as a peace  
30 officer or correctional officer immediately preceding retirement; or

- 1                   (2) When the peace officer or correctional officer has a combined total of  
2                   years of service credit and years of age equal to eighty-five and has not  
3                   received a retirement benefit under this chapter.
- 4                   d. 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                   e- e. Early retirement date, except for a national guard security officer or firefighter  
8                   or a peace officer or correctional officer employed by a political subdivision, is  
9                   the first day of the month next following the month in which the member  
10                  attains the age of fifty-five years and has completed three years of eligible  
11                  employment. For a national guard security officer or firefighter, early  
12                  retirement date is the first day of the month next following the month in which  
13                  the national guard security officer or firefighter attains the age of fifty years  
14                  and has completed at least three years of eligible employment. For a peace  
15                  officer or correctional officer employed by a political subdivision, early  
16                  retirement date is the first day of the month next following the month in which  
17                  the peace officer or correctional officer attains the age of fifty years and has  
18                  completed at least three years of eligible employment.
- 19                  e- f. Disability retirement date is the first day of the month after a member  
20                  becomes permanently and totally disabled, according to medical evidence  
21                  called for under the rules of the board, and has completed at least one  
22                  hundred eighty days of eligible employment. For supreme and district court  
23                  judges, permanent and total disability is based solely on a judge's inability to  
24                  perform judicial duties arising out of physical or mental impairment, as  
25                  determined pursuant to rules adopted by the board or as provided by  
26                  subdivision a of subsection 3 of section 27-23-03. A member is eligible to  
27                  receive disability retirement benefits only if the member:  
28                  (1) Became disabled during the period of eligible employment; and  
29                  (2) Applies for disability retirement benefits within twelve months of the  
30                  date the member terminates employment.

1                   A member is eligible to continue to receive disability benefits as long as the  
2                   permanent and total disability continues and the member submits the  
3                   necessary documentation and undergoes medical testing required by the  
4                   board, or for as long as the member participates in a rehabilitation program  
5                   required by the board, or both. If the board determines that a member no  
6                   longer meets the eligibility definition, the board may discontinue the disability  
7                   retirement benefit. The board may pay the cost of any medical testing or  
8                   rehabilitation services it deems necessary and these payments are  
9                   appropriated from the retirement fund for those purposes.