

**Fifty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2033  
(Legislative Council)  
(Employee Benefits Programs Committee)

AN ACT to create and enact two new subsections to section 54-52-01 and a new section to chapter 54-52 of the North Dakota Century Code, relating to participation by peace officers and correctional officers employed by political subdivisions in the defined benefit retirement plan; and to amend and reenact section 54-52-02.1, subsection 3 of section 54-52-05, and subsection 3 of section 54-52-17 of the North Dakota Century Code, relating to participation by peace officers and correctional officers employed by political subdivisions in the defined benefit retirement plan.

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

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

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

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

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

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

1. A political subdivision may, on behalf of its permanent employees, on behalf of its peace officers and correctional officers separately from its other employees, and permanent noncertified employees only in the case of school districts, enter into agreements with the retirement board for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter, to those employees. The agreement may, in accordance with this chapter, contain provisions relating to benefits, contributions, effective date, modification, administration, and other appropriate provisions as the retirement board and the political subdivision agree upon, but the agreement must provide that:
  - a. The political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06 or section 4 of this Act for peace officers and correctional officers participating separately from other political subdivision employees.
  - b. A portion of the moneys paid by the political subdivision may be used to pay administrative expenses of the retirement board.
2. Notwithstanding any other provision of law, a political subdivision having an existing police pension plan may merge that plan into the public employees retirement system under rules adopted by and in a manner determined by the board.
3. Notwithstanding any other provision of this chapter, ~~æ~~ a political subdivision of this state not currently participating in the public employees retirement system ~~on June 30, 1977,~~

~~may thereafter not become a participant in the retirement system until an actuarial study is performed under the direction of the board to calculate the cost of that portion of benefits to be paid by the retirement system to the employees of the political subdivision based on any prior service or on any service after June 30, 1977, and before the date of initial participation in the retirement system, or both; and the political subdivision has adopted a method, approved by the board, to pay the costs determined in this subsection over a period not to exceed twenty five years from June 30, 1977. No political subdivision may discontinue participation in the fund without first making such payment to the fund as may be necessary for the fund to pay the future benefits of the eligible employees of the political subdivision as determined on the basis of rules adopted by the board required employer contribution. The required employer contribution must be an amount determined sufficient to fund the normal cost and amortize any past service liability over a period not to exceed thirty years as determined by the board. Any fees incurred in performing the actuarial study must be paid for by the political subdivision in a manner determined by the board.~~

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

3. Each employer, at its option, may pay the employee contributions required by subsection 2 and sections 54-52-06.1 and 54-52-06.2, and section 4 of this Act. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining 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 employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee or from the levy authorized by subsection 5 of section 57-15-28.1. 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 or by a contribution of a reduction in gross salary and offset against future salary increases. If employee 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 employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the board, in writing, by June fifteenth of each odd-numbered year.

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

**Contribution by peace officers and correctional officers employed by political subdivisions - Employer contribution.** Each peace officer or correctional officer employed by a political subdivision that enters into an agreement with the retirement board on behalf of its peace officers and correctional officers separately from its other employees and who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. If the peace officer's or correctional 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 peace officer's or correctional officer's assessment.

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

3. Retirement dates are defined as follows:

- a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by a political subdivision, is:
  - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
  - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- b. Normal retirement date for a national guard security officer or firefighter is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three consecutive years of employment as a national guard security officer or firefighter immediately preceding retirement.
- c. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:
  - (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three consecutive years of employment as a peace officer or correctional officer immediately preceding retirement; or
  - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- d. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
- ~~d.~~ e. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.
- e. f. 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. A member is eligible to receive disability retirement benefits only if the member:
  - (1) Became disabled during the period of eligible employment; and
  - (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

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 that 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 it deems necessary and these payments are appropriated from the retirement fund for those purposes.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2033.

Senate Vote:    Yeas    45        Nays    0        Absent    2

House Vote:    Yeas    80        Nays    10       Absent    4

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2003,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State