

**SENATE BILL NO. 2413**

Introduced by

Senators O'Connell, Dever, Krauter, Lyson

Representatives R. Kelsch, Martinson

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 peace officers and correctional officers in the defined  
3 benefit retirement plan; and to amend and reenact subsections 3 and 11 of section 54-52-01,  
4 subsection 3 of section 54-52-05, and subsection 3 of section 54-52-17 of the North Dakota  
5 Century Code, relating to participation by peace officers and correctional officers in the defined  
6 benefit retirement plan.

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

8 **SECTION 1. AMENDMENT.** Subsections 3 and 11 of section 54-52-01 of the North  
9 Dakota Century Code are amended and reenacted as follows:

10 3. "Correctional officer" means a participating member who is certified by the  
11 department of corrections and rehabilitation or the peace officer standards and  
12 training board as a correctional officer and is employed by the department of  
13 corrections and rehabilitation or is employed as a correctional officer by a political  
14 subdivision.

15 11. "Peace officer" means a participating member who is a peace officer as defined in  
16 section 12-63-01 and is employed as a peace officer by a governmental unit or by  
17 a political subdivision and, notwithstanding subsection 12, for persons employed  
18 after August 1, 2005, is employed thirty-two hours or more per week and at least  
19 twenty weeks each year of employment. Participating members of the law  
20 enforcement retirement plan created by this chapter who begin employment after  
21 August 1, 2005, are ineligible to participate concurrently in any other retirement  
22 plan administered by the public employees retirement system.

23 **SECTION 2. AMENDMENT.** Subsection 3 of section 54-52-05 of the North Dakota  
24 Century Code is amended and reenacted as follows:

1           3. Each employer, at its option, may pay all or a portion of the employee contributions  
2           required by subsection 2 and sections 54-52-06.1, 54-52-06.2, and 54-52-06.3 and  
3           section 3 of this Act or the employee contributions required to purchase service  
4           credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4.  
5           Employees may not receive the contributed amounts directly once the employer  
6           has elected to pay the employee contributions. The amount paid must be paid by  
7           the employer in lieu of contributions by the employee. If the state determines not  
8           to pay the contributions, the amount that would have been paid must continue to  
9           be deducted from the employee's compensation. If contributions are paid by the  
10          employer, they must be treated as employer contributions in determining tax  
11          treatment under this code and the federal Internal Revenue Code. If contributions  
12          are paid by the employer, they may not be included as gross income of the  
13          employee in determining tax treatment under this code and the Internal Revenue  
14          Code until they are distributed or made available. The employer shall pay these  
15          employee contributions from the same source of funds used in paying  
16          compensation to the employee or from the levy authorized by subsection 5 of  
17          section 57-15-28.1. The employer shall pay these contributions by effecting an  
18          equal cash reduction in the gross salary of the employee or by an offset against  
19          future salary increases or by a contribution of a reduction in gross salary and offset  
20          against future salary increases. If employee contributions are paid by the  
21          employer, they must be treated for the purposes of this chapter in the same  
22          manner and to the same extent as employee contributions made prior to the date  
23          on which employee contributions were assumed by the employer. An employer  
24          exercising its option under this subsection shall report its choice to the board in  
25          writing.

26          **SECTION 3.** 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 a**  
29          **governmental unit - Employer contribution.** Each peace officer or correctional officer who is  
30          a member of the public employees retirement system is assessed and shall pay monthly four  
31          percent of the employee's monthly salary. The assessment must be deducted and retained out

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

8 **SECTION 4. AMENDMENT.** Subsection 3 of section 54-52-17 of the North Dakota  
9 Century Code is amended and reenacted as follows:

10 3. Retirement dates are defined as follows:

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

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

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

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

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

26 (1) The first day of the month next following the month in which the peace  
27 officer or correctional officer attains the age of fifty-five years and has  
28 completed at least three consecutive years of employment as a peace  
29 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.    Normal retirement date for a peace officer or correctional officer employed by  
5   a governmental unit is:
- 6   (1)   The first day of the month next following the month in which the peace  
7   officer or correctional officer attains the age of fifty-five years and has  
8   completed at least three consecutive years of employment as a peace  
9   officer or correctional officer immediately preceding retirement; or
- 10    (2)   When the peace officer or correctional officer has a combined total of  
11    years of service credit and years of age equal to eighty-five and has not  
12    received a retirement benefit under this chapter.
- 13                   e.    Postponed retirement date is the first day of the month next following the  
14   month in which the member, on or after July 1, 1977, actually severs or has  
15   severed the member's employment after reaching the normal retirement date.
- 16                   e. f.   Early retirement date, except for a national guard security officer or firefighter  
17   or a peace officer or correctional officer employed by a governmental unit or  
18   by a political subdivision, is the first day of the month next following the month  
19   in which the member attains the age of fifty-five years and has completed  
20   three years of eligible employment. For a national guard security officer or  
21   firefighter, early retirement date is the first day of the month next following the  
22   month in which the national guard security officer or firefighter attains the age  
23   of fifty years and has completed at least three years of eligible employment.  
24   For a peace officer or correctional officer employed by a governmental unit or  
25   by a political subdivision, early retirement date is the first day of the month  
26   next following the month in which the peace officer or correctional officer  
27   attains the age of fifty years and has completed at least three years of eligible  
28   employment.
- 29                   f. g.   Disability retirement date is the first day of the month after a member  
30   becomes permanently and totally disabled, according to medical evidence  
31   called for under the rules of the board, and has completed at least one

1                   hundred eighty days of eligible employment. For supreme and district court  
2                   judges, permanent and total disability is based solely on a judge's inability to  
3                   perform judicial duties arising out of physical or mental impairment, as  
4                   determined pursuant to rules adopted by the board or as provided by  
5                   subdivision a of subsection 3 of section 27-23-03. A member is eligible to  
6                   receive disability retirement benefits only if the member:

- 7                   (1)    Became disabled during the period of eligible employment; and  
8                   (2)    Applies for disability retirement benefits within twelve months of the  
9                   date the member terminates employment.

10                  A member is eligible to continue to receive disability benefits as long as the  
11                  permanent and total disability continues and the member submits the  
12                  necessary documentation and undergoes medical testing required by the  
13                  board, or for as long as the member participates in a rehabilitation program  
14                  required by the board, or both. If the board determines that a member no  
15                  longer meets the eligibility definition, the board may discontinue the disability  
16                  retirement benefit. The board may pay the cost of any medical testing or  
17                  rehabilitation services it deems necessary and these payments are  
18                  appropriated from the retirement fund for those purposes.