

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 on the
12 date an election is made under this section. The term does not include a participant
13 who is not actively employed on the date of transfer of the funds under this section,
14 has taken a distribution from the defined contribution plan, is retired, is no longer
15 actively employed, or who is a member who has a qualified domestic relations order or
16 other court order on the member's account.
- 17 2. Notwithstanding any other provision of law, the board shall provide an opportunity for
18 each participating member to elect in writing to terminate membership in the defined
19 contribution retirement plan under this chapter and to elect to become a participating
20 member in the public employees retirement system under chapter 54-52.
- 21 3. The board shall establish a three-month election period beginning not later than
22 December 1, 2015. A participating member who does not make a written election or
23 who does not file the election during the period specified in this section continues to be
24 a member of the defined contribution plan. A participating member who makes and

1 files a written election under this section ceases to be a member of the defined
2 contribution plan upon receipt by the public employees retirement system of the
3 account balance of the member's defined contribution plan under this chapter and
4 waives all rights to that employee's accumulated fund balance under the defined
5 contribution plan. If the board determines a participating member was not adequately
6 notified of the option to make an election under this section, the board may provide
7 that participating member a reasonable time, not to exceed three months, within which
8 to make that election.

9 4. The public employees retirement system shall credit the transferring employee with
10 the service credit and salary history reflected on the public employees retirement
11 system's electronic database.

12 5. The board shall determine the method by which a participating member may make a
13 written election under this section. If the participating member is married at the time of
14 the election, the election is not effective unless the election is signed by the
15 individual's spouse. However, the board may waive this spousal signature requirement
16 if the spouse's signature cannot be obtained because of extenuating circumstances.

17 6. For a participating member who elects to terminate membership in the defined
18 contribution plan under this section, the board shall transfer that member's
19 accumulated fund balance, less any rollovers from other plans made into the defined
20 contribution plan, to the public employees retirement system under chapter 54-52. If
21 funds are transferred from the defined contribution plan to the defined benefit plan
22 under an election made under this section, the board shall record this transfer to the
23 defined benefit plan as employee and employer contributions in the same manner as
24 transferred by the defined contribution provider.