

Sixty-seventh  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2046

Introduced by

Government and Veterans Affairs Committee

(At the request of the Public Employees Retirement System)

1 A BILL for an Act to amend and reenact subsection 1 of section 54-52-02.9, subsection 2 of  
2 section 54-52-05, subsection 1 of section 54-52-06, subsection 6 of section 54-52.6-02, and  
3 section 54-52.6-09 of the North Dakota Century Code, relating to increased employer and  
4 employee contributions under the public employees retirement system defined benefit and  
5 defined contribution plans; and to provide a statement of legislative intent: to provide for a  
6 legislative management study; to provide a penalty; and to provide a transfer.

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

8 **SECTION 1. AMENDMENT.** Subsection 1 of section 54-52-02.9 of the North Dakota  
9 Century Code is amended and reenacted as follows:

10 1. Within one hundred eighty days of beginning employment, a temporary employee may  
11 elect to participate in the public employees retirement system and receive credit for  
12 service after enrollment. Monthly, the temporary employee shall pay to the fund an  
13 amount equal to eight and twelve hundredths percent times the temporary employee's  
14 present monthly salary. The amount required to be paid by a temporary employee  
15 increases by two percent times the temporary employee's present monthly salary  
16 beginning with the monthly reporting period of January 2012; ~~and;~~ with an additional  
17 ~~two percent increase~~ of two percent, beginning with the reporting period of  
18 January 2013; ~~and;~~ with an additional increase of two percent, beginning with the  
19 monthly reporting period of January 2014; ~~and with an additional increase of~~  
20 ~~one~~ two percent, beginning with the monthly reporting period of January 2022.

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

23 2. Each member must be assessed and required to pay monthly four percent of the  
24 monthly salary or wage paid to the member, and such assessment must be deducted

1 and retained out of such salary in equal monthly installments commencing with the  
2 first month of employment. Member contributions increase by one percent of the  
3 monthly salary or wage paid to the member beginning with the monthly reporting  
4 period of January 2012; ~~and;~~ with an additional increase of one percent, beginning  
5 with the monthly reporting period of January 2013; ~~and;~~ with an additional increase of  
6 one percent, beginning with the monthly reporting period of January 2014; and with an  
7 additional increase of one-half of one percent, beginning with the monthly reporting  
8 period of January 2022.

9 **SECTION 3. AMENDMENT.** Subsection 1 of section 54-52-06 of the North Dakota Century  
10 Code is amended and reenacted as follows:

- 11 1. Each governmental unit shall contribute an amount equal to four and  
12 twelve-hundredths percent of the monthly salary or wage of a participating member.  
13 Governmental unit contributions increase by one percent of the monthly salary or  
14 wage of a participating member beginning with the monthly reporting period of  
15 January 2012; with an additional increase of one percent, beginning with the reporting  
16 period of January 2013; ~~and with an additional increase of one percent, beginning with~~  
17 ~~the monthly reporting period of January 2014; and with an additional increase of~~  
18 one-half of one percent, beginning with the monthly reporting period of January 2022.

19 For a participating member who first enrolls after December 31, 2019, the  
20 governmental unit shall contribute an additional amount equal to one and fourteen-  
21 hundredths percent of the monthly salary or wage of the participating member.

22 **SECTION 4. AMENDMENT.** Subsection 6 of section 54-52.6-02 of the North Dakota  
23 Century Code is amended and reenacted as follows:

- 24 6. A participating member who becomes a temporary employee may still participate in  
25 the defined contribution retirement plan upon filing an election with the board within  
26 one hundred eighty days of transferring to temporary employee status. The  
27 participating member may not become a member of the defined benefit plan as a  
28 temporary employee. The temporary employee electing to participate in the defined  
29 contribution retirement plan shall pay monthly to the fund an amount equal to eight  
30 and twelve hundredths percent times the temporary employee's present monthly  
31 salary. The amount required to be paid by a temporary employee increases by two

percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012; ~~and;~~ with an additional increase of two percent, beginning with the monthly reporting period of January 2013; ~~and;~~ with an additional increase of two percent, beginning with the monthly reporting period of January 2014; and with an additional increase of ~~one~~two percent, beginning with the monthly reporting period of January 2022. The temporary employee also shall ~~also~~ pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.

**SECTION 5. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-09. Contributions - Penalty.**

1. Each participating member shall contribute monthly four percent of the monthly salary or wage paid to the participant, and this assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined contribution retirement plan established under this chapter. Participating member contributions increase by one percent of the monthly salary or wage paid to the participant beginning with the monthly reporting period of January 2012; with an additional increase of one percent, beginning with the reporting period of January 2013; ~~and with an additional increase of one percent, beginning with the monthly reporting period of January 2014;~~ and with an additional increase of ~~one-half of~~one percent, beginning with the monthly reporting period of January 2022.
2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012; with an additional increase of one percent, beginning with the monthly reporting period of January 2013; ~~and with an additional increase of one percent, beginning with the monthly reporting~~



- 1        period of January 2014; and with an additional increase of ~~one-half of one percent,~~  
2        beginning with the monthly reporting period of January 2022. For members first  
3        enrolled after December 31, 2019, the employer contribution includes an additional  
4        increase of one and fourteen-hundredths percent. If the employee's contribution is  
5        paid by the employer under subsection 3, the employer shall contribute, in addition, an  
6        amount equal to the required employee's contribution. Monthly, the employer shall pay  
7        such contribution into the participating member's account from the employer's funds  
8        appropriated for payroll and salary or any other funds available for such purposes. If  
9        the employer fails to pay the contributions monthly, the employer is subject to a civil  
10       penalty of fifty dollars and, as interest, one percent of the amount due for each month  
11       of delay or fraction of a month after the payment became due. In lieu of assessing a  
12       civil penalty or one percent per month, or both, interest at the actuarial rate of return  
13       may be assessed for each month the contributions are delinquent. If contributions are  
14       paid within ninety days of the date the contributions became due, penalty and interest  
15       to be paid on delinquent contributions may be waived.
- 16       3. Each employer, at its option, may pay the employee contributions required by this  
17       section for all compensation earned after December 31, 1999. The amount paid must  
18       be paid by the employer in lieu of contributions by the employee. If the employer  
19       decides not to pay the contributions, the amount that would have been paid will  
20       continue to be deducted from the employee's compensation. If contributions are paid  
21       by the employer, they must be treated as employer contributions in determining tax  
22       treatment under this code and the federal Internal Revenue Code. Contributions paid  
23       by the employer may not be included as gross income of the employee in determining  
24       tax treatment under this code and the federal Internal Revenue Code until they are  
25       distributed or made available. The employer shall pay these employee contributions  
26       from the same source of funds used in paying compensation to the employee. The  
27       employer shall pay these contributions by effecting an equal cash reduction in the  
28       gross salary of the employee or by an offset against future salary increases or by a  
29       combination of a reduction in gross salary and offset against future salary increases.  
30       Employee contributions paid by the employer must be treated for the purposes of this  
31       chapter in the same manner and to the same extent as employee contributions made



1 before the date on which employee contributions were assumed by the employer. An  
2 employer shall exercise its option under this subsection by reporting its choice to the  
3 board in writing.

4 **SECTION 6. LEGISLATIVE MANAGEMENT STUDY - PUBLIC EMPLOYEES**  
5 **RETIREMENT SYSTEM.**

- 6 1. During the 2021-22 interim, the legislative management shall study the public  
7 employees retirement system retirement plans. In conducting the study, the legislative  
8 management shall:
- 9 a. Create a legislative plan to close the public employees retirement system main  
10 system defined benefit plan and route new hires into the defined contribution plan  
11 effective January 1, 2024.
  - 12 b. Consider the feasibility and desirability of separating the public employees  
13 retirement system main system plan for political subdivisions from the plan for  
14 state employees.
  - 15 c. Identify a strategy for the main system plans reaching full funding within thirty  
16 years.
  - 17 d. Review the financial status of the plans under chapters 54-52 and 54-52.6.
  - 18 e. Contract for actuarial analyses of the plans under chapters 54-52 and 54-52.6 to  
19 determine the feasibility and desirability of remaining open as defined benefit  
20 plans versus closing and moving to a defined contribution plan.
- 21 2. The legislative management shall report its findings and recommendations, together  
22 with any legislation required to implement the recommendations, to the sixty-eighth  
23 legislative assembly.

24 **SECTION 7. TRANSFER - BUDGET STABILIZATION FUND TO PUBLIC EMPLOYEES**  
25 **RETIREMENT SYSTEM FUND.** The office of management and budget shall transfer the sum of  
26 \$100,000,000 from the budget stabilization fund to the public employees retirement system  
27 main system plan for the purpose of reducing the unfunded actuarial liability of the public  
28 employees retirement system main system plan.

29 **SECTION 8. LEGISLATIVE INTENT - PUBLIC EMPLOYEES RETIREMENT SYSTEM.** In  
30 addition to the funding provided in section 7, it is the intent of the sixty-seventh legislative  
31 assembly that the unfunded liability of the public employees retirement system main system

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- 1 plan be reduced further in the future from legacy fund earnings transferred to the public
- 2 employees retirement system main system plan.