



North Dakota Legislative Council

Prepared for the Legislative Management
LC# 25.9141.01000
October 2023

SUMMARY OF REENACTMENT OF PROVISIONS RELATING TO THE PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD MEMBERSHIP AND DUTIES - LC# 23.1153.01000

This memorandum describes the bill draft [23.1153.01000], which reenacts the following sections of Senate Bill No. 2015 (2023):

- Section 41, relating to the membership of the Public Employees Retirement System (PERS) Board membership;
- Section 56, relating to PERS main system defined benefit retirement plan investments;
- Section 57, relating to a PERS informational campaign to educate current and prospective state employees of the transition from the defined benefit retirement plan to the defined contribution retirement plan;
- Part of Section 59, relating to the exemption from the requirements of the Employee Benefits Programs Committee;
- Part of Section 67, providing for a June 1, 2023, effective date for the section amending the membership of the PERS Board; and
- Part of Section 68, providing an emergency clause for the June 1, 2023, effective date for the section amending the membership of the PERS Board. ([appendix](#))

SECTION 1

Section 1 reenacts Section 41 of Senate Bill No. 2015, which modifies the membership of the PERS Board as follows:

- Increases the board membership from 9 members to 11 members.
- Increases, from 2 to 4, the number of legislators serving on the board:
 - The Majority Leader of the House of Representatives appoints 2 members of the House of Representatives.
 - The Majority Leader of the Senate appoints 2 members of the Senate.
 - Legislator members serve terms of 2 years.
- Increases, from 1 to 4, the number of members appointed by the Governor. The Governor appointees serve terms of 5 years.
- Removes from the board an appointee of the Attorney General, the State Health Officer, and an individual representing retirees.

SECTION 2

Section 2 reenacts Section 56 of Senate Bill No. 2015, which provides during the 2023-25 biennium the PERS Board may not reduce the actuarial rate of return assumption for the PERS main system defined benefit plan below 6.5 percent.

SECTION 3

Section 3 reenacts Section 57 of Senate Bill No. 2015, which provides during the 2023-25 biennium the PERS Board shall conduct an informational campaign to educate current and prospective state employees of the transition from the defined benefit retirement plan to the defined contribution retirement plan.

SECTION 4

Section 4 reenacts part of Section 59 of Senate Bill No. 2015, which provides the Act is not subject to the requirements of North Dakota Century Code Section 54-35-02.4, which establishes the powers and duties of the Employee Benefits Programs Committee. In effect, this section exempts the Act from the actuarial analysis requirement of Section 54-35-02.4.

SECTION 5

Section 5 provides the modifications to the PERS Board membership in Section 1 of the Act apply retroactively to June 1, 2023, and the remainder of the Act applies retroactively to July 1, 2023.

SECTION 6

Section 6 provides the Act becomes effective immediately upon its filing with the Secretary of State.

ATTACH:1

SECTION 41. AMENDMENT. Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52-03. Governing authority.

1. A state agency is hereby created to constitute the governing authority of the system to consist of a board of ~~nine~~eleven individuals known as the retirement board. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system or the state retirement and investment office may not serve on the board.
1. ~~Two~~
2. ~~Four~~ members of the legislative assembly must be appointed ~~by the chairman of the legislative management~~ to serve on the board.
 - a. ~~If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.~~
 - b. ~~If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.~~
2. ~~One member~~ The majority leader of the house of representatives shall appoint two members of the house of representatives and the majority leader of the senate shall appoint two members of the senate. The members appointed under this subsection shall serve a term of two years.
3. ~~Four members~~ of the board must be appointed by the governor to serve a term of five years. ~~The~~Each appointee under this subsection must be a North Dakota citizen who is not a state or political subdivision employee and who ~~by experience~~ is familiar with ~~money management~~retirement and employee benefit plans. ~~The governor shall appoint one citizen member~~ is to serve as chairman of the board.
3. ~~One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.~~
4. ~~The state health officer appointed under section 23-01-05 or the state health officer's designee is a member of the board.~~
- 5.4. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.
6. ~~One board member must be elected by and from among those individuals who are receiving retirement benefits under this chapter. The board shall call the election and must give prior notice of the election to the individuals eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.~~

- 7.5. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.
- 8.6. A board member shall serve ~~a five-year term~~ and until the board member's successor qualifies. Each board member is entitled to one vote, and ~~nine~~^{six} of the ~~eleven~~ board members constitute a quorum. ~~Five~~^{Six} votes are necessary for resolution or action by the board at any meeting.

SECTION 56. PUBLIC EMPLOYEES RETIREMENT SYSTEM - MAIN SYSTEM DEFINED BENEFIT PLAN INVESTMENTS. During the 2023-25 biennium, the retirement board may not reduce the actuarial rate of return assumption for the public employees retirement system main system defined benefit plan below six and one-half percent.

SECTION 57. PUBLIC EMPLOYEES RETIREMENT SYSTEM - RETIREMENT PLAN TRANSITION EDUCATION. During the 2023-25 biennium, the public employees retirement system shall conduct an informational campaign to educate current and prospective state employees of the transition from the defined benefit retirement plan to the defined contribution retirement plan.

SECTION 59. EXEMPTION - EMPLOYEE BENEFITS PROGRAMS COMMITTEE. Sections 36 through 50 and sections 56 and 57 of this Act are exempt from the requirements of section 54-35-02.4.

SECTION 67. EFFECTIVE DATE. Section 41 of this Act becomes effective on June 1, 2023. Section 27 of this Act becomes effective on July 1, 2024.

SECTION 68. EMERGENCY. The following are declared to be an emergency measure:

1. The targeted market equity pool line item in section 1 of this Act and section 20 of this Act;
2. The deferred maintenance funding pool line item in section 1 of this Act and section 15 of this Act;
3. Sections 4, 5, 30, and 41 of this Act;
4. Section 4 of Senate Bill No. 2012, as approved by the sixty-eighth legislative assembly; and
5. Senate Bill No. 2024, as approved by the sixty-eighth legislative assembly.