

Introduced by

Representative Grueneich

1 A BILL for an Act to create and enact a new chapter to title 54 of the North Dakota Century
2 Code, relating to the creation of the volunteer first responder retirement plan; to amend and
3 reenact subsection 1 of section 21-10-06, section 53-06.1-11.2, subsection 7 of section
4 54-52-04, section 54-52-14.2, subsection 2 of section 54-52-17.6, and section 54-52-26 of the
5 North Dakota Century Code, relating to the volunteer first responder retirement plan; to provide
6 for a report; to provide a penalty; and to provide a continuing appropriation.

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

8 **SECTION 1. AMENDMENT.** Subsection 1 of section 21-10-06 of the North Dakota Century
9 Code is amended and reenacted as follows:

- 10 1. Subject to the provisions of section 21-10-02, the board shall invest the following
11 funds:
- 12 a. State bonding fund.
 - 13 b. Teachers' fund for retirement.
 - 14 c. State fire and tornado fund.
 - 15 d. Workforce safety and insurance fund.
 - 16 e. Public employees retirement system.
 - 17 f. Insurance regulatory trust fund.
 - 18 g. State risk management fund.
 - 19 h. Budget stabilization fund.
 - 20 i. Water projects stabilization fund.
 - 21 j. Health care trust fund.
 - 22 k. Cultural endowment fund.
 - 23 l. Petroleum tank release compensation fund.
 - 24 m. Legacy fund.

- 1 n. Opioid settlement fund.
- 2 o. Volunteer first responder retirement fund.
- 3 p. A fund under contract with the board pursuant to subsection 3.

4 **SECTION 2. AMENDMENT.** Section 53-06.1-11.2 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **53-06.1-11.2. Charitable gaming operating fund - Attorney general - Allocations -**
7 **Transfer to the general fund.**

- 8 1. There is created in the state treasury the charitable gaming operating fund. The fund
9 consists of all gaming taxes, monetary fines, and interest and penalties collected
10 under this chapter.
- 11 2. Excluding moneys in the charitable gaming operating fund appropriated by the
12 legislative assembly for administrative and operating costs associated with charitable
13 gaming, the attorney general shall allocate remaining moneys in the charitable gaming
14 operating fund on a quarterly basis as follows:
 - 15 a. Seventy-five thousand dollars to the gambling disorder prevention and treatment
16 fund.
 - 17 b. Subject to legislative appropriations, five percent of the total moneys deposited in
18 the charitable gaming operating fund to cities and counties in proportion to the
19 taxes collected under section 53-06.1-12 from licensed organizations conducting
20 games within each city, for sites within city limits, or within each county, for sites
21 outside city limits. If a city or county allocation is less than two hundred dollars,
22 that city or county is not entitled to receive a payment for the quarter and the
23 undistributed amount must be included in the total amount to be distributed to
24 other cities and counties for the quarter.
- 25 3. The attorney general shall transfer to the ~~general fund~~volunteer first responder
26 retirement fund the balance of net proceeds in the charitable gaming operating fund
27 which exceed the amount appropriated by the legislative assembly for administrative
28 and operating costs associated with charitable gaming for the subsequent biennium
29 before the end of each biennium.

30 **SECTION 3. AMENDMENT.** Subsection 7 of section 54-52-04 of the North Dakota Century
31 Code is amended and reenacted as follows:

- 1 7. The board shall administer ~~chapters~~;
- 2 a. Chapters 39-03.1, 54-52.1, and 54-52.2, and may administer other optional
- 3 employee benefit programs, including a flexible benefits plan, an optional
- 4 employee short-term disability plan, a long-term care plan, or other optional
- 5 employee benefit programs as the board deems appropriate;
- 6 b. ~~The board shall also administer the~~ retirement plan established in 1961 and
- 7 frozen to new entrants in 1980 for employees of job service North Dakota under
- 8 chapter 52-11; and
- 9 c. The volunteer first responder retirement plan as provided in section 7 of this Act.

10 **SECTION 4. AMENDMENT.** Section 54-52-14.2 of the North Dakota Century Code is

11 amended and reenacted as follows:

12 **54-52-14.2. Interest and earnings attributable to administered funds.**

13 All interest and earnings on funds administered by the retirement board established under

14 chapters 39-03.1, 54-52, 54-52.1, 54-52.2, and 54-52.3, and section 7 of this Act must be

15 credited to the respective fund.

16 **SECTION 5. AMENDMENT.** Subsection 2 of section 54-52-17.6 of the North Dakota

17 Century Code is amended and reenacted as follows:

- 18 2. A "qualified domestic relations order" for purposes of this section means any
- 19 judgment, decree, or order, including approval of a property settlement agreement,
- 20 which relates to the provision of child support, spousal support, or marital property
- 21 rights to a spouse, former spouse, child, or other dependent of a participating member,
- 22 is made pursuant to a North Dakota domestic relations law, and which creates or
- 23 recognizes the existence of an alternate payee's right to, or assigns to an alternate
- 24 payee the right to, receive all or a part of the benefits payable to the participating
- 25 member. A qualified domestic relations order may not require the board to provide any
- 26 type or form of benefit, or any option, not otherwise provided under the public
- 27 employees retirement system or section 7 of this Act, or to provide increased benefits
- 28 as determined on the basis of actuarial value. However, a qualified domestic relations
- 29 order may require the payment of benefits at the early retirement date ~~notwithstanding~~
- 30 ~~that, even if~~ the participating member has not terminated eligible employment. A
- 31 qualified domestic relations order must specify:

- 1 a. The name and the last-known mailing address of the participating member and
- 2 the name and mailing address of each alternate payee covered by the order;
- 3 b. The amount or percentage of the participating member's benefits to be paid by
- 4 the plan to each alternate payee;
- 5 c. The number of payments or period to which the order applies; and
- 6 d. Each retirement plan to which the order applies.

7 **SECTION 6. AMENDMENT.** Section 54-52-26 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **54-52-26. Confidentiality of records.**

10 All records relating to the retirement benefits of a member or a beneficiary under this
11 chapter, ~~chapter~~ chapters 54-52.2, and chapter 54-52.6, and section 7 of this Act are
12 confidential and are not public records. For purposes of this section, "eligible volunteer agency"
13 means a fire department or emergency medical services agency, which entered an agreement
14 with the retirement board as provided in section 7 of this Act. Information and records may be
15 disclosed, under rules adopted by the board, only to:

- 16 1. A person to whom the member has given written consent to have the information
- 17 disclosed.
- 18 2. A person legally representing the member, upon proper proof of representation, and
- 19 unless the member specifically withholds consent.
- 20 3. A person authorized by a court order.
- 21 4. A member's participating employer or eligible volunteer agency, limited to information
- 22 concerning the member's years of service credit and years of age. The board may
- 23 share other types of information as needed by the employer or eligible volunteer
- 24 agency to validate the employer's or eligible volunteer agency's compliance with
- 25 existing state or federal laws. Any information provided to the member's participating
- 26 employer or eligible volunteer agency under this subsection must remain confidential
- 27 except as provided under subsection 6.
- 28 5. The administrative staff of the retirement and investment office for purposes relating to
- 29 membership and benefits determination.

- 1 6. State or federal agencies for purposes of reporting on a service provider's provision of
2 services or when the employer or eligible volunteer agency must supply information to
3 an agency to validate ~~the employer's~~ compliance with existing state or federal laws.
- 4 7. Member interest groups approved by the board on a third-party blind list basis, limited
5 to information concerning the member's participation, name, and address.
- 6 8. The member's spouse or former spouse, that individual's legal representative, and the
7 judge presiding over the member's dissolution proceeding for purposes of aiding the
8 parties in drafting a qualified domestic relations order under section 54-52-17.6. The
9 information disclosed under this subsection must be limited to information necessary
10 for drafting the order.
- 11 9. Beneficiaries designated by a participating member or a former participating member
12 to receive benefits after the member's death, but only after the member's death.
13 Information relating to beneficiaries may be disclosed to other beneficiaries of the
14 same member.
- 15 10. The general public, but only after the board has been unable to locate the member for
16 a period in excess of one year, and limited to the member's name and the fact the
17 board has been unable to locate the member.
- 18 11. Any person if the board determines disclosure is necessary for treatment, operational,
19 or payment purposes, including the completion of necessary documents.
- 20 12. A government child support enforcement agency for purposes of establishing paternity
21 or establishing, modifying, or enforcing a child support obligation of the member.
- 22 13. A person if the information relates to an employer service purchase, but the
23 information must be limited to the member's name and employer, the retirement
24 program in which the member participates, the amount of service credit purchased by
25 the employer, and the total amount expended by the employer for that service credit
26 purchase, and that information may only be obtained from the member's employer.

27 **SECTION 7.** A new chapter to title 54 of the North Dakota Century Code is created and
28 enacted as follows:

29 **Definitions.**

30 As used in this chapter:

Seventieth
Legislative Assembly

- 1 1. "Active member" means an eligible volunteer credited with service under this chapter
2 during the most recently reportable fiscal year.
- 3 2. "Benefit" means the pension, disability, or survivorship benefit provided under this
4 chapter.
- 5 3. "Board" means the public employees retirement system board.
- 6 4. "Claim" means a request from a member, surviving spouse, or dependent child for
7 payment of medical or funeral expenses.
- 8 5. "Dependent child" means a child who is unmarried, under eighteen years of age, and
9 the child of a deceased member.
- 10 6. "Designated official" means a representative of an eligible volunteer agency appointed
11 by the chief, manager, or board of the eligible volunteer agency to perform specified
12 actions.
- 13 7. "Disability" or "permanent total disability" means a duty-related injury resulting in
14 permanent total disability.
- 15 8. "Eligible volunteer" means a volunteer first responder who meets all eligibility
16 requirements under this chapter.
- 17 9. "Eligible volunteer agency" means a fire department or emergency medical services
18 agency eligible under this chapter.
- 19 10. "Emergency medical services agency" means an emergency medical services
20 operation licensed by the department of health and human services under chapter
21 23-27.
- 22 11. "Fire department" means a certified city fire department, certified rural fire department,
23 certified fire protection district, or nonprofit fire department, which has filed a certificate
24 of existence under section 18-04-02.
- 25 12. "Fiscal year" means the twelve-month period that begins on July first and ends on
26 June thirtieth of the following year.
- 27 13. "Fund" means the volunteer first responder retirement fund.
- 28 14. "Inactive member" means a member not credited with service under this chapter
29 during the most recently reportable fiscal year.
- 30 15. "Member" means an eligible volunteer first responder who has service credited under
31 this chapter.

- 1 16. "Nonprofit fire department" means a fire department or fire district that qualifies as a
2 nonprofit entity under section 501(c)(3) of the federal Internal Revenue Code
3 [26 U.S.C. 501(c)(3)] and has filed a certificate of existence under section 18-04-02.
4 17. "Pension benefit" means a full or partial payment for service earned as an eligible
5 volunteer and does not include payment for disability.
6 18. "Plan" means the volunteer first responder retirement plan.
7 19. "Reimbursed" means the return by an eligible volunteer agency of an equivalent
8 amount of money expended by a member for the benefit of the eligible volunteer
9 agency.
10 20. "Retiree" or "retired member" means a member receiving full or partial pension
11 benefits or disability benefits from the fund.
12 21. "Supplemental insurance" means insurance carried by an eligible volunteer agency for
13 the purpose of providing disability or death benefits. The term does not include
14 insurance required by law, such as workers' compensation insurance.
15 22. "Surviving spouse" means the spouse married to a member when the member dies.
16 23. "Survivorship benefit" means the monthly benefit paid to the surviving spouse or
17 dependent child of a deceased member.
18 24. "Training" means instruction pertaining to firefighting or emergency medical services,
19 which is supervised by the chief, manager, or a designated official.
20 25. "Volunteer firefighter" means an individual who volunteers as a firefighter, is in good
21 standing with a fire department, and receives annual allowable payments of less than
22 ten thousand dollars from the fire department. The term does not include a "firefighter"
23 as defined in section 54-52-01.
24 26. "Volunteer first responder" means a volunteer firefighter or volunteer emergency
25 responder.
26 27. "Volunteer emergency responder" means an individual who volunteers as an
27 emergency responder, is certified by the department of health and human services,
28 and who receives annual allowable payments of less than ten thousand dollars from
29 an emergency medical services agency.

30 **Plan creation and administration.**

- 31 1. The plan, consisting of a length of service award, is hereby created.

1 2. The board and the executive director of the public employees retirement system shall
2 carry out the administrative functions of the plan.

3 3. An eligible volunteer agency may enter an agreement with the board on behalf of the
4 eligible volunteer agency's members for purposes of obtaining coverage under the
5 plan.

6 4. The board may adopt rules necessary to implement this chapter and to manage the
7 plan subject to the limitations of this chapter.

8 **Volunteer first responder retirement fund - Payment of expenses and benefits -**
9 **Continuing appropriation.**

10 1. There is created in the state treasury a volunteer first responder retirement fund. The
11 fund consists of all moneys transferred to the fund and all interest and earnings upon
12 moneys in the fund. Moneys in the fund are appropriated to the board on a continuing
13 basis for the purpose of administering this chapter, including for the payment of
14 service benefits, consultant fees, and expenses incurred by or for the operation of the
15 plan.

16 2. The board may take by gift, grant, devise, or bequest, any money or real or personal
17 property or any other thing of value for the benefit of the volunteer first responder
18 retirement fund, and when received, the property becomes a part of the fund.

19 **Duties of volunteer first responders - Line of duty.**

20 1. The duties of a volunteer first responder include any activity authorized by the chief,
21 manager, or designated official of the eligible volunteer agency relating to travel to,
22 participation in, and return from calls for fire protection, emergency medical services
23 response, meetings, training, medical assistance, search and rescue assistance,
24 assistance to protect individual or public health and safety, and public service
25 activities.

26 2. Death or injury incurred in the performance of the duties under subsection 1 are
27 considered in the line of duty.

28 **Credit for service - Records.**

29 1. The annual period of service that may be credited under this chapter is the fiscal year.
30 A fractional part of a year does not count toward the service required for participation
31 under the plan. To be eligible to receive credit for any particular year, an eligible

1 volunteer shall serve throughout the entire fiscal year with a single eligible volunteer
2 agency.

3 2. Years of service are cumulative and are not required to be consecutive. Separate
4 periods of service properly credited with different eligible volunteer agencies must be
5 credited toward a member's eligibility for benefits.

6 3. An eligible volunteer may not receive credit for service for a fiscal year unless:

7 a. During the fiscal year, the eligible volunteer completes a minimum of thirty hours
8 of training related to first response duties under a program formulated,
9 supervised, and certified to the board by the chief, manager, or other designated
10 official of the eligible volunteer agency; and

11 b. The eligible volunteer's participation in the training program is documented in the
12 records maintained by the chief, manager, or designated official.

13 **Prior service credit - Application.**

14 An eligible volunteer may apply to the board for credit for years of service with an eligible
15 volunteer agency completed before July 1, 2027. To be eligible for credit under this section, the
16 applicant must be an eligible volunteer with an eligible volunteer agency at the time of
17 application. The board shall determine the requirements of the application. The board may
18 require supplemental information from the eligible volunteer or eligible volunteer agency to
19 verify the past service. Subject to application and verification requirements, the board shall
20 credit past years of service to an eligible volunteer.

21 **Eligible volunteer agency - Application.**

22 1. To be eligible to enter an agreement with the board to participate under this chapter,
23 an eligible volunteer agency shall complete an application to the board. The
24 application must include:

25 a. The volunteer agency's name and mailing address;

26 b. The name of the chief, manager, or other designated official, if any;

27 c. The portion of the state serviced by the volunteer agency; and

28 d. Documentation confirming the volunteer agency was properly certified by the
29 state fire marshal or the department of health and human services.

30 2. Unless the eligible volunteer agency loses eligibility as determined by the board, the
31 eligible volunteer agency may not be required to complete another application.

1 **Allowable payments to eligible volunteers.**

- 2 1. Allowable payments to eligible volunteers include:
3 a. Payments of money reimbursed for documented expenses; and
4 b. An allowance, including a stipend or per diem, which may not exceed ten
5 thousand dollars in a calendar year.
6 2. An eligible volunteer agency shall maintain records of all allowable payments made to
7 eligible volunteers.

8 **Records information management - Filing required reports - Limitations.**

- 9 1. The chief, manager, or designated official of each eligible volunteer agency shall:
10 a. Maintain records for each active or inactive member of the eligible volunteer
11 agency; and
12 b. File with the board, on or before September thirtieth of each year, an annual
13 certificate.
14 2. The board shall prescribe the form of the annual certificate, which must include the:
15 a. Name of the eligible volunteer agency;
16 b. Officers of the eligible volunteer agency;
17 c. Name and date of birth of each active member of the eligible volunteer agency
18 who was a member for the entire fiscal year and who successfully completed
19 thirty hours of training during the preceding fiscal year;
20 d. Name of each inactive member for the current fiscal year;
21 e. Statement confirming the eligible volunteer agency complied with all program
22 requirements during the preceding fiscal year; and
23 f. Signature of the chief, manager, or designated official verifying the information
24 recorded in the form.
25 3. The board shall adopt rules related to the filing requirements for the annual certificate
26 and may allow late or amended submissions.

27 **Eligibility for pension benefits - Return to service.**

- 28 1. A member may receive pension benefits according to this section and according to
29 rules adopted by the board.
30 2. A member qualifies for a full pension benefit upon completing twenty years of service
31 certified by the board and attaining fifty-five years of age. A member is not required to

- 1 be an active member of an eligible volunteer agency when the member attains
2 fifty-five years of age to qualify for the benefit.
- 3 3. A member who has not completed at least twenty years of service qualifies for a partial
4 pension benefit if the member completes at least five years of service and has attained
5 sixty years of age. A member is not required to be an active member of an eligible
6 volunteer agency when the member attains sixty years of age to qualify for the benefit.
- 7 4. A member may not receive a full or partial pension benefit while the member is an
8 active member of any eligible volunteer agency.
- 9 5. A retired member may choose to return to service as an inactive member with an
10 eligible volunteer agency without loss of benefits. A retired member returning to
11 service under this subsection may not earn any additional credit for service.
- 12 6. A retired member may choose to return to service as an active member with an eligible
13 volunteer agency. A retired member returning to service under this subsection may not
14 receive a full or partial pension benefit while the member is an active member of an
15 eligible volunteer agency and must receive credit for service.

16 **Application for benefits.**

- 17 1. A member may apply for benefits before terminating service.
- 18 2. To apply for benefits, a member, surviving spouse, or dependent child shall apply on
19 an application form prescribed by the board.
- 20 3. The application must contain:
- 21 a. The name, address, and date of birth of the member, surviving spouse, or
22 dependent child;
- 23 b. The date of birth of the member;
- 24 c. The date of the member's death, if applicable; and
- 25 d. The fiscal years during which service as an active member is claimed and the
26 names of the eligible volunteer agencies with which the service was rendered.
- 27 4. The board shall require proof of age, death, and service in a manner determined by
28 the board.

29 **Amount of pension benefits.**

- 30 1. a. Except as provided in subdivision c, the full pension benefit paid to an eligible
31 member is two hundred dollars a month.

- 1 b. A partial pension benefit paid to an eligible member is calculated by multiplying
2 the full pension benefit in subdivision a by a fraction, the numerator of which is
3 the eligible member's years of service and the denominator of which is twenty.
4 c. Except as provided in subsection 2, the full pension benefit of a member who
5 continued to be an active member after completing twenty years of service must
6 be increased by ten dollars a month for each additional year of active service the
7 member completed after twenty years of service, up to thirty total years of
8 service.
9 2. a. Subject to subdivision b, the pension benefit of a member who continues to be a
10 member after completing thirty years of credited service must be increased by
11 ten dollars a month for each additional year of credited service after thirty years if
12 the fund is actuarially sound and the amortization period for any unfunded
13 liabilities remains twenty years or less.
14 b. A member does not have a contractual right to any additional pension benefits
15 received under subdivision a and the member's monthly benefit must be reduced
16 to the amount provided under subdivision c of subsection 1 if the amortization
17 period for the unfunded liabilities is greater than twenty years.

18 **Survivorship benefits to surviving spouse or dependent children.**

- 19 1. Subject to subsection 3, survivorship benefits equal to the full or partial pension
20 benefits otherwise payable to the deceased member must be paid or continue to be
21 paid, in the following order, to the:
22 a. Surviving spouse, unless the spouse is convicted of knowingly, purposely, or
23 intentionally causing the member's death or disability; or
24 b. Dependent children, upon the spouse's death or if the surviving spouse is not
25 entitled to benefits under subdivision a.
26 2. The survivorship benefit must be paid upon the:
27 a. Death of a member who had at least five years of service and who was not
28 receiving pension benefits; or
29 b. Death of a retired member who was receiving pension benefits but who had not
30 received benefits for a total of forty months.

1 3. Survivorship benefits paid under this section terminate when benefits have been paid
2 for a total of forty months, including any pension or disability benefits paid to the
3 retiree before death. At the request of the recipient, a lump sum payment may be
4 made in lieu of up to forty months of survivorship benefits.

5 **Termination of pension - No surviving spouse or child.**

6 If a deceased member leaves neither a surviving spouse nor a child under eighteen years
7 of age, the pension must terminate at the end of the month before the month in which the death
8 occurs.

9 **Time benefits commence - Disputes.**

- 10 1. Except as provided in subsection 2, the pension benefit payable under this chapter
11 commences on the first day of the month following the:
- 12 a. Eligible member's last day of service if the application is filed before the end of
13 service; or
- 14 b. Board's receipt of the application.
- 15 2. If there is a dispute regarding credited years of service, the benefit may not commence
16 until the dispute is resolved by a decision of the public employees retirement system.
17 Upon issuance of the decision, the benefit will be retroactive to the month following the
18 month the retirement application was received by the board.
- 19 3. Monthly survivorship benefits payable under this chapter commence the first day of
20 the month following the date of death of the member.

21 **Funeral expenses - Eligibility.**

- 22 1. To qualify for funeral expenses, an eligible volunteer must, at the time of death, be an
23 active member of an eligible volunteer agency and the death must have occurred in
24 the line of duty.
- 25 2. An individual claiming the funeral expenses under this section shall submit a claim
26 form, the death certificate, and either a copy of the bill from the funeral director or a
27 receipt for payment of the funeral expenses. The claim must be submitted on a form
28 prescribed by the board and must be verified by the claimant. The claim must be filed
29 with the board within twelve months after the member's date of death.
- 30 3. The claim must contain:
- 31 a. The name, social security number, and address of the member; and

1 b. An affidavit from the chief, manager, or designated official of the eligible volunteer
2 agency stating the member was, at the time of death, an active member of the
3 eligible volunteer agency and the death occurred in the line of duty.

4 4. Upon approval of the claim, the board shall pay for reasonable funeral expenses up to
5 one thousand five hundred dollars to help defray the expense of the member whose
6 death occurred in the line of duty. The payment must be made to the appropriate
7 provider of the funeral services or, if a receipt is provided for the full payment of funeral
8 expenses, to the claimant.

9 **Disability benefits - Eligibility determination - Amount.**

- 10 1. A member may be eligible to receive a monthly disability benefit under this chapter.
11 2. To qualify for a disability benefit, the board must determine a member has:
12 a. A duty-related injury that results in permanent total disability; and
13 b. Completed at least five years of service.
14 3. Except as provided in subsection 4, the monthly disability benefit paid to an eligible
15 member is equal to ten dollars multiplied by the total years of service.
16 4. The monthly disability benefit paid to an eligible member may not exceed two hundred
17 dollars per month.
18 5. While receiving a disability benefit, a member may not return to active or inactive
19 service with any eligible volunteer agency.
20 6. To determine whether a member has sustained a duty-related injury that results in
21 permanent total disability, the board or any authorized representative of the board may
22 order medical examinations, conduct contested case hearings, administer oaths and
23 affirmations, take depositions, certify to official acts and records, and issue subpoenas
24 to compel the attendance of witnesses and the production of books, papers,
25 correspondence, memoranda, and other records considered necessary.
26 7. The board may retain medical personnel to advise it in initially determining the nature
27 and extent of disabling conditions and require a member who receives a disability
28 benefit to undergo periodic medical examinations at the board's expense.
29 8. The board may terminate a member's disability benefit if the:
30 a. Board determines the member is no longer disabled; or
31 b. Member refuses to submit to a medical examination.

1 9. The disability benefit commences the first day of the month following the board's
2 determination of eligibility and may not exceed forty months.

3 **Investment of moneys in fund.**

4 The state investment board shall supervise investment of moneys in the volunteer first
5 responder retirement fund in accordance with chapter 21-10. Moneys in the fund must be
6 placed for investment only with a money management firm after a trust agreement or contract
7 has been executed. Investment costs may be paid directly from the fund in accordance with
8 section 21-10-06.2.

9 **Actuarial study required - Annual report.**

- 10 1. The legislative assembly and board shall conduct an actuarial study to determine the
11 projected cost before amending the service amount.
- 12 2. The board shall annually report to the employee benefits programs committee
13 regarding actions necessary to maintain the fund's actuarial soundness.

14 **Savings clause - Plan modifications.**

15 If the board determines any section of this chapter does not comply with applicable federal
16 statutes or rules, the board shall adopt appropriate terminology relating to that section to comply
17 with those federal statutes or rules, subject to the approval of the employee benefits programs
18 committee. Any plan modifications made by the board under this section are effective until the
19 effective date of any measure enacted by the legislative assembly providing the necessary
20 amendments to this chapter to ensure compliance with the federal statutes or rules.

21 **Corrections - Audits - Penalty.**

- 22 1. If fraud or error results in a member, surviving spouse, or dependent child receiving
23 more or less of a benefit than the member, surviving spouse, or dependent child is
24 entitled, the board shall correct the credit for service and, if necessary, equitably adjust
25 the payments.
- 26 2. The board may require an eligible volunteer agency to furnish additional information
27 concerning members in connection with an audit or a claim for benefits or service.
- 28 3. Upon discovery of falsified information, the eligible volunteer agency shall submit all
29 requested documentation to the board.

- 1 4. An individual required to make a statement or affidavit under this chapter who willfully
- 2 falsifies the statement or affidavit or an individual who files a false claim under this
- 3 chapter is guilty of a class B misdemeanor.