27.0329.02000

Seventieth
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

Senator Schaible

A BILL for an Act to create and enact a new chapter to title 54 and a new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to the creation of the volunteer first responder retirement plan and an income tax deduction for benefit payments; to amend and reenact subsection 1 of section 21-10-06, sections 53-06.1-11.2 and 53-06.1-12, subsection 7 of section 54-52-04, section 54-52-14.2, subsection 2 of section 54-52-17.6, and section 54-52-26 of the North Dakota Century Code, relating to the volunteer first responder retirement plan, the charitable gaming operating fund, and gaming tax deposits; to provide for a report; to provide a penalty; to provide a continuing appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

1. Subject to the provisions of section 21-10-02, the board shall invest the following funds:
   a. State bonding fund.
   b. Teachers' fund for retirement.
   c. State fire and tornado fund.
   d. Workforce safety and insurance fund.
   e. Public employees retirement system.
   f. Insurance regulatory trust fund.
   g. State risk management fund.
   h. Budget stabilization fund.
   i. Water projects stabilization fund.
   j. Health care trust fund.

k. Cultural endowment fund.

l. Petroleum tank release compensation fund.

m. Legacy fund.

n. Opioid settlement fund.

o. Volunteer first responder retirement fund.

p. A fund under contract with the board pursuant to subsection 3.

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

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

1. There is created in the state treasury the charitable gaming operating fund. The fund consists of all gaming taxes, monetary fines, and interest and penalties collected under this chapter.

2. ~~Excluding moneys~~Moneys in the charitable gaming operating fund ~~appropriated by the legislative assembly for administrative and operating costs associated with charitable gaming, the attorney general shall allocate remaining moneys in the charitable gaming operating fund on a quarterly basis as follows~~must be allocated quarterly in the following order:

   a. Subject to legislative appropriations, moneys necessary for administrative and operating costs associated with charitable gaming.

   b. Seventy-five thousand dollars transferred to the gambling disorder prevention and treatment fund.

   ~~b.~~c. Subject to legislative appropriations, five percent of the total moneys deposited in the charitable gaming operating fund to cities and counties in proportion to the taxes collected under section 53-06.1-12 from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter.

d. One million two hundred fifty thousand dollars transferred to the volunteer first responder retirement fund.

3. The attorney general shall transfer to the general fund the balance of net proceeds in the charitable gaming operating fund which exceed the amount appropriated by the legislative assembly for administrative and operating costs associated with charitable gaming for the subsequent biennium before the end of each biennium.

SECTION 3. AMENDMENT. Section 53-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-12. Gaming tax - Deposits. (Retroactive application - See note)

1. Except as provided in subsection 2, a gaming tax is imposed on the total adjusted gross proceeds received by a licensed organization in a quarter and the tax must be computed and paid to the attorney general on a quarterly basis on the tax return. This tax must be paid from adjusted gross proceeds and is not part of the allowable expenses. For a licensed organization with adjusted gross proceeds:
   a. Not exceeding fifty thousand dollars the tax is one percent of adjusted gross proceeds.
   b. Exceeding fifty thousand dollars but not exceeding seven hundred thousand dollars, the tax is five hundred dollars plus twelve percent of adjusted gross proceeds exceeding fifty thousand dollars up to seven hundred thousand dollars.
   c. Exceeding seven hundred thousand dollars, the tax is seventy-eight thousand five hundred dollars plus twenty-five percent of adjusted gross proceeds exceeding seven hundred thousand dollars.
2. For a licensed organization permitted to conduct raffles in this state with adjusted gross proceeds exceeding fifty thousand dollars, a gaming tax of one percent of gross proceeds is imposed on the total gross proceeds received by the licensed organization from raffles in a quarter. The tax must be computed and paid to the attorney general on a quarterly basis on the tax return. The tax must be paid from adjusted gross proceeds and is not part of the allowable expenses.
3. The tax must be paid to the attorney general at the time tax returns are filed.
4. The attorney general shall deposit gaming taxes, monetary fines, and interest and penalties collected in the charitable gaming operating fund.

SECTION 4. AMENDMENT. Subsection 7 of section 54-52-04 of the North Dakota Century Code is amended and reenacted as follows:

7. The board shall administer ~~chapters~~:

   a. Chapters 39-03.1, 54-52.1, and 54-52.2, and may administer other optional employee benefit programs, including a flexible benefits plan, an optional employee short-term disability plan, a long-term care plan, or other optional employee benefit programs as the board deems appropriate~~.~~;

   b. The ~~board shall also administer the~~ retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota under chapter 52-11; and

   c. The volunteer first responder retirement plan under section 8 of this Act.

SECTION 5. AMENDMENT. Section 54-52-14.2 of the North Dakota Century Code is amended and reenacted as follows:

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

All interest and earnings on funds administered by the retirement board established under chapters 39-03.1, 54-52, 54-52.1, 54-52.2, ~~and~~ 54-52.3, and section 8 of this Act must be credited to the respective fund.

SECTION 6. AMENDMENT. Subsection 2 of section 54-52-17.6 of the North Dakota Century Code is amended and reenacted as follows:

2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the participating member. A qualified domestic relations order may not require the board to provide any type or form of benefit, or any option, not otherwise provided under the public employees retirement system or section 8 of this Act, or to provide increased benefits as determined on the basis of actuarial value. However, a qualified domestic relations order may require the payment of benefits at the early retirement date ~~notwithstanding~~

~~that~~, even if the participating member has not terminated eligible employment. A qualified domestic relations order must specify:

a. The name and the last-known mailing address of the participating member and the name and mailing address of each alternate payee covered by the order;

b. The amount or percentage of the participating member's benefits to be paid by the plan to each alternate payee;

c. The number of payments or period to which the order applies; and

d. Each retirement plan to which the order applies.

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

54-52-26. Confidentiality of records.

All records relating to the retirement benefits of a member or a beneficiary under this chapter, ~~chapter~~and chapters 54-52.2, ~~and chapter~~ 54-52.6, and section 8 of this Act are confidential and are not public records. For purposes of this section, "eligible volunteer agency" means a fire department or emergency medical services agency, which entered an agreement with the retirement board under section 8 of this Act. Information and records may be disclosed, under rules adopted by the board, only to:

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

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

SECTION 8. A new chapter to title 54 of the North Dakota Century Code is created and enacted as follows:

Definitions.

As used in this chapter:

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

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

Plan creation and administration - Enforcement.

1. The plan, consisting of a length of service award, is hereby created.
2. The board and the executive director of the public employees retirement system shall carry out the administrative functions of the plan.

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

4. An eligible volunteer agency that has entered an agreement with the board shall notify the board of any merger or dissolution of the agency before the effective date of the merger or dissolution, if practicable, or within fifteen days after the effective date. Upon receipt of the notice, the board may require the eligible volunteer agency to enter a new agreement or to amend the agreement as a condition of continued participation in the plan. The board shall ensure a member's accrued benefits before the merger or dissolution are preserved.

5. If the board determines a participating eligible volunteer agency has failed to comply with this chapter or rules adopted by the board, the board may take appropriate enforcement action, including suspension or termination of the agreement. Before taking enforcement action, the board shall provide written notice to the participating agency specifying the nature of the noncompliance and allow a reasonable opportunity to correct the deficiency.

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

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

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

2. The board may take by gift, grant, devise, or bequest, any money for the benefit of the volunteer first responder retirement fund, and when received, the money becomes a part of the fund.

Credit for service - Records.

1. The annual period of service that may be credited under this chapter is the fiscal year. A fractional part of a fiscal year does not count toward the service required for participation under the plan. Except as provided in subsection 4, to be eligible to receive credit for any particular year, an eligible volunteer shall serve throughout the entire fiscal year with a single eligible volunteer agency.
2. Years of service are cumulative and are not required to be consecutive. Separate periods of service properly credited with different eligible volunteer agencies must be credited toward a member's eligibility for benefits.
3. An eligible volunteer may not receive credit for service for a fiscal year unless:
   a. During the fiscal year, the eligible volunteer completes a minimum of thirty hours of training related to first response duties under a program formulated, supervised, and certified to the board by the chief, manager, or other designated official of the eligible volunteer agency; and
   b. The eligible volunteer's participation in the training program is documented in the records maintained by the chief, manager, or designated official.
4. After a member receives credit for ten years of service, a member who serves throughout an entire fiscal year with a fire department and an emergency medical services agency shall receive two years of service credit for that fiscal year if the member satisfies the training requirements under subsection 3 for each eligible volunteer agency.

Prior service credit - Application.

1. An eligible volunteer may apply to the board for credit for years of service with an eligible volunteer agency completed before July 1, 2028. To be eligible for credit under this section, the applicant must be an eligible volunteer with an eligible volunteer agency at the time of application.
2. The board shall determine the requirements of the application. The board may require supplemental information from the eligible volunteer or eligible volunteer agency to verify past service. Subject to application and verification requirements, the board shall credit an eligible volunteer with up to four years of service.

Eligible volunteer agency - Application.

1. To enter an agreement with the board to participate in the plan, an eligible volunteer agency shall submit an application to the board. The application must include:
   a. The volunteer agency's name and mailing address;
   b. The name and contact information of the chief, manager, or other designated official, if any;
   c. The portion of the state serviced by the volunteer agency; and
   d. Documentation confirming the volunteer agency was properly certified by the state fire marshal or the department of health and human services.
2. Unless the board determines an eligible volunteer agency has lost eligibility, the eligible volunteer agency may not be required to complete another application.

Allowable payments to eligible volunteers.

1. An allowable payment from an eligible volunteer agency to an eligible volunteer includes:
   a. Payment of money reimbursed for documented expenses; and
   b. An allowance, including a stipend or per diem, which may not exceed ten thousand dollars in a calendar year.
2. An eligible volunteer agency shall maintain records of all allowable payments made to eligible volunteers.

Records information management - Filing required reports - Limitations.

1. The chief, manager, or designated official of each eligible volunteer agency shall:
   a. Maintain records for each active and inactive member of the eligible volunteer agency; and
   b. File with the board, on or before July thirty-first of each year, an annual certificate.
2. The board shall prescribe the form of the annual certificate, which must include the:
   a. Name of the eligible volunteer agency;
   b. Officers of the eligible volunteer agency;
   c. Name and date of birth of each active member of the eligible volunteer agency who was a member for the entire preceding fiscal year and who successfully completed thirty hours of training during the preceding fiscal year;

d. Name of each inactive member for the preceding fiscal year;

e. Statement confirming the eligible volunteer agency complied with all program requirements during the preceding fiscal year; and

f. Signature of the chief, manager, or designated official verifying the information in the form.

3. The board shall adopt rules related to the filing requirements for the annual certificate and may allow late or amended submissions.

Eligibility for pension benefits - Return to service.

1. A member qualifies for a full pension benefit upon completing twenty years of service certified by the board and attaining fifty-five years of age. A member is not required to be an active member of an eligible volunteer agency when the member attains fifty-five years of age to qualify for the benefit.

2. A member who has not completed at least twenty years of service qualifies for a partial pension benefit if the member completes at least ten years of service and has attained sixty years of age. A member is not required to be an active member of an eligible volunteer agency when the member attains sixty years of age to qualify for the benefit.

3. If a retired member has received a full or partial pension benefit under this chapter and returns to service with an eligible volunteer agency, the board shall classify the member as inactive and the member may not earn any additional credit for service. A retired member returning to service may receive a full or partial pension benefit while the member is an inactive member of an eligible volunteer agency.

Application for benefits.

1. A member may apply for benefits before terminating service.

2. To apply for benefits, a member, surviving spouse, or dependent child shall apply on an application form prescribed by the board.

3. The application must contain:

a. The name, address, and date of birth of the member, surviving spouse, or dependent child;

b. The date of birth of the member;

c. The date of the member's death, if applicable; and

d. The fiscal years during which service as an active member is claimed and the names of the eligible volunteer agencies with which the service was rendered.

4. The board shall require proof of age, death, and service in a manner determined by the board.

Amount of pension benefits.

1. Except as provided in subsection 3, the full pension benefit paid to an eligible member is two hundred dollars per month.

2. A partial pension benefit paid to an eligible member is calculated by multiplying the full pension benefit in subsection 1 by a fraction, the numerator of which is the eligible member's years of service and the denominator of which is twenty.

3. The full pension benefit of a member who remains an active member after completing twenty years of service must be increased by ten dollars per month for each additional year of active service, up to thirty years of service.

Survivorship benefits to surviving spouse or dependent children.

1. Subject to subsections 2 and 3, the board shall pay, or continue to pay, survivorship benefits equal to the full or partial pension benefits otherwise payable to the deceased member, in the following order, to the:

   a. Surviving spouse, unless the spouse is convicted of knowingly, purposely, or intentionally causing the member's death or disability; or

   b. Dependent children, upon the surviving spouse's death or if the surviving spouse is not entitled to benefits under subdivision a.

2. The board shall pay survivorship benefits upon the death of a:

   a. Member who had at least ten years of service and who was not receiving pension benefits; or

   b. Retired member who was receiving pension benefits but who had not received benefits for up to forty months.

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

Termination of pension - No surviving spouse or child.

If a deceased member leaves neither a surviving spouse nor a dependent child, the pension must terminate at the end of the month in which the death occurs.

Time benefits commence - Disputes.

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

Disability benefits - Eligibility determination - Amount.

1. A member may be eligible to receive a monthly disability benefit under this chapter.
2. To qualify for a disability benefit, the board must determine a member has:
   a. Submitted an application for disability benefits within one year after a duty-related injury, in the manner prescribed by the board;
   b. A duty-related injury that results in permanent total disability; and
   c. Completed at least ten years of service.
3. A monthly disability benefit paid to an eligible member is equal to ten dollars multiplied by total years of service, but may not exceed two hundred dollars per month.
4. While receiving a disability benefit, a member may not return to active or inactive service with any eligible volunteer agency.
5. To determine whether a member has sustained a duty-related injury that results in permanent total disability, the board or any authorized representative of the board may order medical examinations, conduct contested case hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas

to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary.

6. The board may retain medical personnel to advise the board in determining the nature and extent of a disabling condition and require a member who receives a disability benefit to undergo periodic medical examinations at the board's expense.

7. The board may terminate a member's disability benefit if the:

   a. Board determines the member is no longer disabled; or

   b. Member refuses to submit to a medical examination.

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

9. A duty-related injury includes an injury incurred in the performance of any activity authorized by the chief, manager, or designated official of the eligible volunteer agency relating to travel to, participation in, and return from calls for fire protection, emergency medical services response, meetings, training, medical assistance, search and rescue assistance, assistance to protect individual or public health and safety, and public service activities.

Investment of moneys in fund.

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

Actuarial study required - Annual report.

1. The legislative assembly and board shall conduct an actuarial study to determine the projected cost before amending the service amount.

2. The board shall annually report to the employee benefits programs committee regarding actions necessary to maintain the fund's actuarial soundness.

Savings clause - Plan modifications.

If the board determines any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology relating to that section to comply with those federal statutes or rules, subject to the approval of the employee benefits programs

committee. Any plan modifications made by the board under this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

Corrections - Audits - Penalty.

1. If fraud or error results in a member, surviving spouse, or dependent child receiving more or less of a benefit than the member, surviving spouse, or dependent child is entitled, the board shall correct the credit for service and, if necessary, equitably adjust the payments.
2. The board may require an eligible volunteer agency to furnish additional information concerning members in connection with an audit or an application for benefits or service credit.
3. Upon discovery of falsified or omitted information, the eligible volunteer agency shall submit all requested documentation to the board.
4. An individual required to make a statement or affidavit under this chapter who willfully falsifies the statement or affidavit or an individual who willfully submits false information in an application under this chapter is guilty of a class B misdemeanor.

SECTION 9. A new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Reduced by the amount of any pension benefit payments, disability benefit payments, or survivorship benefit payments received by a taxpayer related to the volunteer first responder retirement plan under section 8 of this Act, but only to the extent the amount was included in federal taxable income.

SECTION 10. EFFECTIVE DATE. Sections 1 through 8 of this Act become effective July 1, 2028. Section 9 of this Act is effective for taxable years beginning after December 31, 2027.