

**FIRST ENGROSSMENT**

**ENGROSSED HOUSE BILL NO. 1274**

Introduced by

Representatives Porter, Dockter, Heinert, Satrom, Schauer, Karls

Senators Cleary, Roers, Axtman, Dever

1 A BILL for an Act to amend and reenact sections 54-52-01, 54-52-02.15, 54-52-06.4, and  
2 54-52-17 of the North Dakota Century Code, relating to membership of the public employees  
3 retirement system public safety retirement plan.

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

5 **SECTION 1. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **54-52-01. Definition of terms.**

8 As used in this chapter, unless the context otherwise requires:

- 9 1. "Account balance" means the total contributions made by the employee, vested  
10 employer contributions under section 54-52-11.1, the vested portion of the vesting  
11 fund as of June 30, 1977, and interest credited thereon at the rate established by the  
12 board.
- 13 2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any  
14 person designated by a participating member to receive benefits.
- 15 3. "Correctional officer" means a participating member who is employed as a correctional  
16 officer by a ~~political subdivision~~governmental unit and, notwithstanding subsection 14,  
17 for an individual employed on or after the effective date of this Act, is employed at  
18 least thirty-two hours per week and at least twenty weeks each year of employment. A  
19 correctional officer who is a participating member of the public safety retirement plan  
20 created by this chapter who begins employment on or after the effective date of this  
21 Act is ineligible to participate concurrently in any other retirement plan administered by  
22 the public employees retirement system.

- 1           4. "Deferred member" means a participating member who is not actively participating in  
2           the main plan under this chapter and who has an account intact in the main plan under  
3           this chapter.
- 4           5. "Eligible employee", except as otherwise provided under section 54-52-02.15, means  
5           a permanent employee who meets all of the eligibility requirements set by this chapter  
6           and who is eighteen years or more of age. The term includes appointive and elective  
7           officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching  
8           employees of the superintendent of public instruction, including the superintendent of  
9           public instruction, who elect to transfer from the teachers' fund for retirement to the  
10          public employees retirement system under section 54-52-02.13, and employees of the  
11          state board for career and technical education who elect to transfer from the teachers'  
12          fund for retirement to the public employees retirement system under section  
13          54-52-02.14. The term does not include nonclassified state employees who elected  
14          under section 54-52.6-02 to become members of the retirement plan established  
15          under chapter 54-52.6. The term does include employees of the judicial branch and  
16          employees of the board of higher education and state institutions under the jurisdiction  
17          of the board of higher education.
- 18          6. "Employee" means any individual employed by a governmental unit, whose  
19          compensation is paid out of the governmental unit's funds, or funds controlled or  
20          administered by a governmental unit, or paid by the federal government through any of  
21          its executive or administrative officials; licensed employees of a school district means  
22          those employees eligible to participate in the teachers' fund for retirement who, except  
23          under subsection 2 of section 54-52-17.2, are not eligible employees under this  
24          chapter.
- 25          7. "Employer" means a governmental unit.
- 26          8. "Firefighter" means a participating member who is employed as a firefighter by a  
27          political subdivision and, notwithstanding subsection 13, for an individual employed  
28          after July 31, 2017, is employed at least thirty-two hours per week and at least twenty  
29          weeks each year of employment. A firefighter who is a participating member of the ~~law-~~  
30          ~~enforcement~~public safety retirement plan created by this chapter who begins  
31          employment after July 31, 2017, is ineligible to participate concurrently in any other

- 1 retirement plan administered by the public employees retirement system. The term  
2 does not include a firefighter employee of the North Dakota national guard.
- 3 9. "Funding agent" or "agents" means an investment firm, trust bank, or other financial  
4 institution which the retirement board may select to hold and invest the employers' and  
5 members' contributions.
- 6 10. "Governmental unit" means the state of North Dakota, except the highway patrol for  
7 members of the retirement plan created under chapter 39-03.1, or a participating  
8 political subdivision of the state.
- 9 11. "National guard security officer or firefighter" means a participating member who is:  
10 a. A security police employee of the North Dakota national guard; or  
11 b. A firefighter employee of the North Dakota national guard.
- 12 12. "Participating member" means an eligible employee who through payment into the  
13 plan has established a claim against the plan.
- 14 13. "Peace officer" means a participating member who is a peace officer as defined in  
15 section 12-63-01 and is employed as a peace officer by the state, except by the  
16 highway patrol for members of the retirement plan created under chapter 39-03.1, or is  
17 employed by a political subdivision and, notwithstanding subsection 14, for persons  
18 employed after August 1, 2005, is employed thirty-two hours or more per week and at  
19 least twenty weeks each year of employment. A peace officer who is a participating  
20 member of the ~~law enforcement~~public safety retirement plan created by this chapter  
21 who begins employment after August 1, 2005, is ineligible to participate concurrently in  
22 any other retirement plan administered by the public employees retirement system.
- 23 14. "Permanent employee" means an employee whose services are not limited in duration  
24 and who is filling an approved and regularly funded position in an eligible  
25 governmental unit, and is employed twenty hours or more per week and at least  
26 twenty weeks each year of employment.
- 27 15. "Prior service" means service or employment before July 1, 1966.
- 28 16. "Prior service credit" means such credit toward a retirement benefit as the retirement  
29 board may determine under the provisions of this chapter.
- 30 17. "Public employees retirement system" means the retirement plan and program  
31 established by this chapter.

- 1 18. "Retirement" means the acceptance of a retirement allowance under this chapter upon  
2 either termination of employment or termination of participation in the retirement plan.
- 3 19. "Retirement board" or "board" means the governing authority created under section  
4 54-52-03.
- 5 20. "Seasonal employee" means a participating member who does not work twelve  
6 months a year.
- 7 21. "Service" means employment on or after July 1, 1966.
- 8 22. "Service benefit" means the credit toward retirement benefits as determined by the  
9 retirement board under the provisions of this chapter.
- 10 23. "Temporary employee" means an employee who is not eligible to participate as a  
11 permanent employee, who is at least eighteen years old and not actively contributing  
12 to another employer-sponsored pension fund, and, if employed by a school district,  
13 occupies a noncertified teacher's position.
- 14 24. "Wages" and "salaries" means the member's earnings in eligible employment under  
15 this chapter reported as salary on the member's federal income tax withholding  
16 statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,  
17 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as  
18 payments for unused sick leave, personal leave, vacation leave paid in a lump sum,  
19 overtime, housing allowances, transportation expenses, early retirement incentive pay,  
20 severance pay, medical insurance, workforce safety and insurance benefits, disability  
21 insurance premiums or benefits, or salary received by a member in lieu of previously  
22 employer-provided fringe benefits under an agreement between the member and  
23 participating employer. Bonuses may be considered as salary under this section if  
24 reported and annualized pursuant to rules adopted by the board.

25 **SECTION 2. AMENDMENT.** Section 54-52-02.15 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **54-52-02.15. Public employees retirement system main plan - Closure to new hires -**  
28 **Multiple plan membership.**

- 29 1. Under this section "eligible employee" means a permanent employee who:  
30 a. Meets all the eligibility requirements set by this chapter;  
31 b. Is at least eighteen years of age;

- 1           c.    Becomes a participating member after December 31, 2024; and
- 2           d.    Is not eligible to participate in the ~~law enforcement~~public safety plan, judges' plan,
- 3                 highway patrol plan, teachers' fund for retirement plan, or alternative retirement
- 4                 program established under section 15-10-17 for university system employees.
- 5        2.    Effective January 1, 2025, the public employees retirement system defined benefit
- 6           main plan maintained for employees is closed to new eligible employees. However, an
- 7           employee who becomes a participating or deferred member under this chapter before
- 8           January 1, 2025, remains in the defined benefit retirement plan under this chapter,
- 9           regardless of being rehired after December 31, 2024.
- 10       3.    Except as otherwise provided under this section, effective January 1, 2025, an eligible
- 11           employee who begins employment with an employer shall participate in the defined
- 12           contribution retirement plan under chapter 54-52.6 as provided under section
- 13           54-52.6-02.1.
- 14       4.    This section does not impact an employee to the extent the employee is a participating
- 15           member in one or more of the following enumerated retirement plans: ~~law-~~
- 16           ~~enforcement~~public safety plan, judges' plan, highway patrol plan, teachers' fund for
- 17           retirement plan, or alternative retirement program established under section 15-10-17
- 18           for university system employees.
- 19           a.    A participating or deferred member in the defined contribution retirement plan
- 20                 under chapter 54-52.6 who becomes eligible to participate in a plan enumerated
- 21                 under this subsection is eligible to participate in the retirement plan enumerated
- 22                 under this subsection.
- 23           b.    A participating member of a retirement plan enumerated under this subsection
- 24                 who becomes an eligible employee is not eligible to participate in the defined
- 25                 benefit retirement plan under this chapter but instead participates in the defined
- 26                 contribution retirement plan under chapter 54-52.6. However, this subdivision
- 27                 does not apply to an individual who before January 1, 2025, is a participating or a
- 28                 deferred member under this chapter, as that individual continues to participate in
- 29                 the defined benefit retirement plan under this chapter.
- 30        5.    The board shall adopt rules to implement this section.

1       **SECTION 3. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **54-52-06.4. Contribution by peace officers and correctional officers employed by the**  
4 **state or security officers employed by the national guard - Employer contribution.**

5 **(Retroactive application - [See note](#))**

- 6       1.   a.   Each peace officer employed by the bureau of criminal investigation who is a  
7           member of the public employees retirement system is assessed and shall pay  
8           monthly four percent of the employee's monthly salary. Peace officer  
9           contributions increase by one percent of the member's monthly salary beginning  
10          with the monthly reporting period of January 2012; with an additional increase of  
11          one percent, beginning with the reporting period of January 2013; with an  
12          additional increase of one percent, beginning with the reporting period of  
13          January 2024; and with an additional increase of one percent, beginning with the  
14          reporting period of January 2025.
- 15       b.   Each correctional officer and peace officer employed by the state, other than a  
16          peace officer employed by the bureau of criminal investigation, who is a member  
17          of the public employees retirement system is assessed and shall pay six percent  
18          of the employee's monthly salary.
- 19       c.   Effective August 1, 2015, each national guard security officer who is a member of  
20          the public employee's retirement system is assessed and monthly shall pay  
21          six percent of the employee's monthly salary. National guard security officer  
22          contributions decrease by one-half of one percent of the member's monthly  
23          salary beginning with the monthly reporting period of January 2016.
- 24       d.   The assessment under this subsection must be deducted and retained out of the  
25          employee's salary in equal monthly installments.
- 26       2.   The employer of a correctional officer or peace officer employed by the state or a  
27          national guard security officer shall contribute an amount determined by the board to  
28          be actuarially required to support the level of benefits specified in section 54-52-17.  
29          The employer's contribution must be paid from funds appropriated for salary or from  
30          any other funds available for such purposes. If the correctional officer's, peace  
31          officer's, or security officer's assessment is paid by the employer under subsection 3 of

1 section 54-52-05, the employer shall contribute, in addition, an amount equal to the  
2 required correctional officer's, peace officer's, or security officer's assessment.

3 **SECTION 4. AMENDMENT.** Section 54-52-17 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **54-52-17. Formulation of plan. (Retroactive application - [See note](#))**

6 Participating members shall receive benefits according to this section and according to  
7 rules adopted by the board, not inconsistent with this chapter. ~~No person~~An individual is not  
8 entitled to receive a prior service benefit if the ~~person~~individual was not continuously employed  
9 by a governmental unit in North Dakota for a period of not less than two years immediately ~~prior~~  
10 ~~to~~preceding eligibility for retirement.

- 11 1. Participating members shall receive credit for full-time employment or its equivalent  
12 from the date they attain eligibility until their normal retirement date, postponed  
13 retirement date, or early retirement date, as defined in this section. Part-time  
14 employment will be recognized as full-time employment on a prorated basis as the  
15 board may prescribe.
- 16 2. Retirement benefits are calculated from the participating member's final average  
17 salary, which is the average of the highest salary received by the member for any  
18 thirty-six months employed during the last one hundred twenty months of employment.  
19 For members who terminate employment on or after August 1, 2010, final average  
20 salary is the average of the highest salary received by the member for any thirty-six  
21 months employed during the last one hundred eighty months of employment. For  
22 members who terminate employment between July 31, 2005, and August 1, 2010, final  
23 average salary is the average of the highest salary received by the member for any  
24 thirty-six months employed during the period for which the board has appropriate and  
25 accurate salary records on the board's electronic database, but that period may not be  
26 more than the last one hundred eighty months of employment. For members who  
27 terminate employment after December 31, 2019, final average salary is the higher of  
28 the final average salary calculated on December 31, 2019, or the average salary  
29 earned in the three highest periods of twelve consecutive months employed during the  
30 last one hundred eighty months of employment. Months without earnings are excluded  
31 for the purpose of computing an average. If the participating member has worked for

1 less than thirty-six months at the normal retirement date, the final average salary is the  
2 average salary for the total months of employment.

3 3. Retirement dates are defined as follows:

4 a. Normal retirement date, except for a national guard security officer or firefighter, a  
5 ~~firefighter employed by a political subdivision, a~~correctional officer or peace  
6 officer employed by the state, or a firefighter, peace officer, or correctional officer  
7 employed by a political subdivision, is:

8 (1) The first day of the month next following the month in which the member  
9 attains the age of sixty-five years; or

10 (2) When the member has a combined total of years of service credit and years  
11 of age equal to eighty-five and has not received a retirement benefit under  
12 this chapter.

13 b. Normal retirement date for members first enrolled after December 31, 2015,  
14 except for a national guard security officer or firefighter, a ~~firefighter employed by~~  
15 ~~a political subdivision, a~~correctional officer or peace officer employed by the  
16 state, a firefighter, peace officer, or correctional officer employed by a political  
17 subdivision, or a supreme court or district court judge, is:

18 (1) The first day of the month next following the month in which the member  
19 attains the age of sixty-five years; or

20 (2) When the member has a combined total of years of service credit and years  
21 of age equal to ninety and the member attains a minimum age of sixty and  
22 has not received a retirement benefit under this chapter.

23 c. Normal retirement date for a national guard security officer or firefighter is:

24 (1) The first day of the month next following the month in which the national  
25 guard security officer or firefighter attains the age of fifty-five years and has  
26 completed at least three eligible years of employment; or

27 (2) When the national guard security officer or firefighter has a combined total  
28 of years of service credit and years of age equal to eighty-five and has not  
29 received a retirement benefit under this chapter.

30 d. Normal retirement date for a peace officer, firefighter, or correctional officer  
31 employed by a political subdivision is:



- 1                   (1) The first day of the month next following the month in which the peace  
2                   officer, firefighter, or correctional officer attains the age of fifty-five years and  
3                   has completed at least three eligible years of employment; or  
4                   (2) When the peace officer, firefighter, or correctional officer has a combined  
5                   total of years of service credit and years of age equal to eighty-five and has  
6                   not received a retirement benefit under this chapter.
- 7           e. (1) Normal retirement date for a peace officer employed by the bureau of  
8               criminal investigation is:  
9                   (a) [1] For a member employed before August 1, 2023, the first day of  
10                   the month next following the month in which the peace officer  
11                   attains the age of fifty-five years and has completed at least  
12                   three eligible years of employment; and  
13                   [2] For a member employed after July 31, 2023, the first day of the  
14                   month next following the month in which the peace officer attains  
15                   the age of fifty-five years and has completed at least ten eligible  
16                   years of employment; or  
17                   (b) When the peace officer has a combined total of years of service credit  
18                   and years of age equal to eighty-five and has not received a  
19                   retirement benefit under this chapter.
- 20           (2) Normal retirement date for a correctional officer or peace officer employed  
21               by the state, other than a peace officer employed by the bureau of criminal  
22               investigation, is:  
23                   (a) The first day of the month next following the month in which the  
24                   correctional officer or peace officer attains the age of fifty-five years  
25                   and has completed at least three eligible years of employment; or  
26                   (b) When the correctional officer or peace officer has a combined total of  
27                   years of service credit and years of age equal to eighty-five and has  
28                   not received a retirement benefit under this chapter.
- 29           f. Postponed retirement date is the first day of the month next following the month  
30               in which the member, on or after July 1, 1977, actually severs or has severed the  
31               member's employment after reaching the normal retirement date.

- 1           g. (1) Early retirement date, except for a national guard security officer or  
2                     firefighter, a firefighter, peace officer, or correctional officer employed by a  
3                     political subdivision, or a correctional officer or peace officer employed by  
4                     the state, is the first day of the month next following the month in which the  
5                     member attains the age of fifty-five years and has completed three years of  
6                     eligible employment.
- 7           (2) For a national guard security officer or firefighter, early retirement date is the  
8                     first day of the month next following the month in which the national guard  
9                     security officer or firefighter attains the age of fifty years and has completed  
10                    at least three years of eligible employment.
- 11          (3) For a correctional officer or peace officer employed by the state, other than  
12                     a peace officer employed by the bureau of criminal investigation, or a  
13                     firefighter, peace officer, or correctional officer employed by a political  
14                     subdivision, early retirement date is the first day of the month next following  
15                     the month in which the peace officer, firefighter, or correctional officer attains  
16                     the age of fifty years and has completed at least three years of eligible  
17                     employment.
- 18          (4) For a peace officer employed by the bureau of criminal investigation, early  
19                     retirement date is the first day of the month next following the month in  
20                     which the peace officer attains the age of fifty years and has completed at  
21                     least three years of eligible employment.
- 22          h. Disability retirement date is the first day of the month after a member becomes  
23                     permanently and totally disabled, according to medical evidence called for under  
24                     the rules of the board, and has completed at least one hundred eighty days of  
25                     eligible employment. For supreme and district court judges, permanent and total  
26                     disability is based solely on a judge's inability to perform judicial duties arising out  
27                     of physical or mental impairment, as determined pursuant to rules adopted by the  
28                     board or as provided by subdivision a of subsection 3 of section 27-23-03.
- 29          (1) A member is eligible to receive disability retirement benefits only if the  
30                     member became disabled during the period of eligible employment and

1 applies for disability retirement benefits within twelve months of the date the  
2 member terminates employment.

3 (2) A member is eligible to continue to receive disability benefits as long as the  
4 permanent and total disability continues and the member submits the  
5 necessary documentation and undergoes medical testing required by the  
6 board, or for as long as the member participates in a rehabilitation program  
7 required by the board, or both. If the board determines a member no longer  
8 meets the eligibility definition, the board may discontinue the disability  
9 retirement benefit. The board may pay the cost of any medical testing or  
10 rehabilitation services the board deems necessary and these payments are  
11 appropriated from the retirement fund for those purposes. A member's  
12 receipt of disability benefits under this section is limited to receipt from the  
13 fund to which the member was actively contributing at the time the member  
14 became disabled.

15 4. The board shall calculate retirement benefits as follows:

16 a. Normal retirement benefits for all retirees, except supreme and district court  
17 judges; and peace officers employed by the bureau of criminal investigation; ~~and~~  
18 ~~other peace officers employed by the state~~, reaching normal retirement date  
19 equal an annual amount, payable monthly, comprised of a service benefit and a  
20 prior service benefit, as defined in this chapter, which is determined as follows:

21 (1) For members first enrolled:

22 (a) Before January 1, 2020, service benefit equals two percent of final  
23 average salary multiplied by the number of years of service  
24 employment.

25 (b) After December 31, 2019, service benefit equals one and seventy-five  
26 hundredths percent of final average salary multiplied by the number of  
27 years of service employment.

28 (2) Prior service benefit equals two percent of final average salary multiplied by  
29 the number of years of prior service employment.

30 b. Normal retirement benefits for all supreme and district court judges under the  
31 public employees retirement system reaching normal retirement date equal an

1 annual amount, payable monthly, comprised of a benefit as defined in this  
2 chapter, determined as follows:

3 (1) Benefits must be calculated from the time of appointment or election to the  
4 bench and must equal three and one-half percent of final average salary  
5 multiplied by the first ten years of judicial service, two and eighty hundredths  
6 percent of final average salary multiplied by the second ten years of judicial  
7 service, and one and one-fourth percent of final average salary multiplied by  
8 the number of years of judicial service exceeding twenty years.

9 (2) Service benefits must include, in addition, an amount equal to the percent  
10 specified in subdivision a of final average salary multiplied by the number of  
11 years of nonjudicial employee service and employment.

12 c. Normal retirement benefits for a peace officer employed by the bureau of criminal  
13 investigation reaching the normal retirement date equals an annual amount,  
14 payable monthly, comprised of a service benefit and a prior service benefit  
15 determined as follows:

16 (1) The first twenty years of credited service multiplied by three percent of final  
17 average salary.

18 (2) For years in excess of twenty years of credited service multiplied by one  
19 and seventy-five hundredths percent of final average salary.

20 ~~d. Normal retirement benefits for a peace officer employed by the state, other than~~  
21 ~~by the bureau of criminal investigation, reaching the normal retirement date~~  
22 ~~equals an annual amount, payable monthly, comprised of a service benefit and a~~  
23 ~~prior service benefit determined as follows:~~

24 ~~(1) For members first enrolled:~~

25 ~~(a) Before January 1, 2020, service benefit equals two percent of final~~  
26 ~~average salary multiplied by the number of years of service~~  
27 ~~employment.~~

28 ~~(b) After December 31, 2019, service benefit equals one and seventy-five~~  
29 ~~hundredths percent of final average salary multiplied by the number of~~  
30 ~~years of service employment.~~

- 1                   (2) ~~Prior service benefit equals two percent of final average salary multiplied by~~  
2                   ~~the number of years of prior service employment.~~
- 3                   e. Postponed retirement benefits are calculated as for single life benefits for those  
4                   members who retired on or after July 1, 1977.
- 5                   f.e. Early retirement benefits are calculated as for single life benefits accrued to the  
6                   date of termination of employment, but must be actuarially reduced to account for  
7                   benefit payments beginning before the normal retirement date, as determined  
8                   under subsection 3. Except for a national guard security officer or firefighter, a  
9                   firefighter, ~~peace officer, or correctional officer~~ employed by a political  
10                  subdivision, a peace officer or correctional officer employed by the state  
11                  governmental unit, or a supreme court or district court judge, early retirement  
12                  benefits for members first enrolled after December 31, 2015, are calculated for  
13                  single life benefits accrued to the date of termination of employment, but must be  
14                  reduced by fixed rate of eight percent per year to account for benefit payments  
15                  beginning before the normal retirement date. A retiree, other than a supreme or  
16                  district court judge, is eligible for early retirement benefits only after having  
17                  completed three years of eligible employment. A supreme or district court judge  
18                  retiree is eligible for early retirement benefits only after having completed five  
19                  years of eligible employment.
- 20                  g-f. Except for supreme and district court judges, disability retirement benefits are  
21                  twenty-five percent of the member's final average salary. Disability retirement  
22                  benefits for supreme and district court judges are seventy percent of final  
23                  average salary reduced by the member's primary social security benefits and by  
24                  any workforce safety and insurance benefits paid. The minimum monthly  
25                  disability retirement benefit under this section is one hundred dollars.
- 26                  5. Upon termination of employment after completing three years of eligible employment,  
27                  except for supreme and district court judges, who must complete five years of eligible  
28                  employment, but before normal retirement date, a member who does not elect to  
29                  receive early retirement benefits is eligible to receive deferred vested retirement  
30                  benefits payable commencing on the member's normal retirement date in one of the  
31                  optional forms provided in subsection 9. Members who have delayed or inadvertently

1 failed to apply for retirement benefits to commence on their normal retirement date  
2 may choose to receive either a lump sum payment equal to the amount of missed  
3 payments, or an actuarial increase to the form of benefit the member has selected,  
4 which increase must reflect the missed payments.

5 6. If before retiring a member dies after completing three years of eligible employment,  
6 except for supreme and district court judges, who must have completed five years of  
7 eligible employment, the board shall pay the member's account balance to the  
8 member's designated beneficiary as provided in this subsection. If the member has  
9 designated an alternate beneficiary with the surviving spouse's written consent, the  
10 board shall pay the member's account balance to the named beneficiary. If the  
11 member has named more than one primary beneficiary, the board shall pay the  
12 member's account balance to the named primary beneficiaries in the percentages  
13 designated by the member or, if the member has not designated a percentage for the  
14 beneficiaries, in equal percentages. If one or more of the primary beneficiaries has  
15 predeceased the member, the board shall pay the predeceased beneficiary's share to  
16 the remaining primary beneficiaries. If any beneficiary survives the member, yet dies  
17 before distribution of the beneficiary's share, the beneficiary must be treated as if the  
18 beneficiary predeceased the member. If there are no remaining primary beneficiaries,  
19 the board shall pay the member's account balance to the contingent beneficiaries in  
20 the same manner. If there are no remaining designated beneficiaries, the board shall  
21 pay the member's account balance to the member's estate. If the member has not  
22 designated an alternate beneficiary or the surviving spouse is the beneficiary, the  
23 surviving spouse of the member may select a form of payment as follows:

24 a. If the member was a supreme or district court judge, the surviving spouse may  
25 select one of the following optional forms of payment:

26 (1) A lump sum payment of the member's retirement account as of the date of  
27 death.

28 (2) Payments as calculated for the deceased member as if the member was of  
29 normal retirement age at the date of death, payable until the spouse dies.

30 b. The surviving spouse of all other members may select one of the following  
31 options:

- 1           (1) A lump sum payment of the member's retirement account as of the date of  
2           death.
- 3           (2) Payment of a monthly retirement benefit equal to fifty percent of the  
4           deceased member's accrued single life retirement benefits until the spouse  
5           dies.
- 6           (3) If the member dies on or after the member's normal retirement date, the  
7           payment of a monthly retirement benefit equal to an amount that would have  
8           been paid to the surviving spouse if the member had retired on the day of  
9           the member's death and had selected a one hundred percent joint and  
10          survivor annuity, payable until the spouse dies. A surviving spouse who  
11          received a benefit under this subsection as of July 31, 1995, is entitled to  
12          the higher of that person's existing benefit or the equivalent of the accrued  
13          benefit available under the one hundred percent joint and survivor provision  
14          as if the deceased member were of normal retirement age, with the increase  
15          payable beginning August 1, 1995.
- 16        7. If a member not coming under the provisions of subsection 6 terminates employment  
17        because of death, permanent and total disability, or any voluntary or involuntary  
18        reason prior to retirement, the member or the member's designated beneficiary is  
19        entitled to the member's account balance at termination. The board automatically shall  
20        refund a member's account balance if the member has completed less than three  
21        years of eligible employment, has an account balance of less than one thousand  
22        dollars, and was not a supreme or district court judge. If the member was a supreme  
23        or district court judge, the board automatically shall refund a member's account  
24        balance if the member completed less than five years of eligible employment. A  
25        member may waive the refund if the member submits a written statement to the board,  
26        within thirty days after termination, requesting that the member's account balance  
27        remain in the fund.
- 28        8. The surviving spouse of a member receiving retirement benefits must be the  
29        member's primary beneficiary unless there is no surviving spouse or the surviving  
30        spouse designates an alternate beneficiary in writing. If a member receiving retirement  
31        benefits or the member's surviving spouse receiving retirement benefits dies before

1 the total amount of benefits paid to either or both equals the amount of the member's  
2 account balance at retirement, the difference must be paid to the named beneficiary of  
3 the recipient or, if there is no named beneficiary, to the recipient's estate. A benefit  
4 payment owed to the member, surviving spouse, or alternate beneficiary which was  
5 not paid before the death of the member, surviving spouse, or alternate beneficiary  
6 must be paid to the named beneficiary of the recipient or, if there is no named  
7 beneficiary, to the recipient's estate.

8 9. The board shall adopt rules providing for the receipt of retirement benefits in the  
9 following optional forms:

- 10 a. Single life.  
11 b. An actuarially equivalent joint and survivor option, with fifty percent or one  
12 hundred percent options.  
13 c. Actuarially equivalent life with ten-year or twenty-year certain options.  
14 d. An actuarially equivalent partial lump sum distribution option with a twelve-month  
15 maximum lump sum distribution.  
16 e. An actuarially equivalent graduated benefit option with either a one percent or  
17 two percent increase to be applied the first day of January of each year.

18 Except for supreme and district court judges, unless a member specifically requests  
19 that the member receive benefits according to one of these options at the time of  
20 applying for retirement, all retirement benefits must be in the form of a single life  
21 benefit. For supreme and district court judges, unless a member specifically requests  
22 that the member receive benefits according to one of these options at the time of  
23 applying for retirement, all retirement benefits must be in the form of a lifetime monthly  
24 pension with fifty percent of the benefit continuing for the life of the surviving spouse, if  
25 any.

26 10. The fund may accept rollovers from other eligible plans under rules adopted by the  
27 board for the purchase of additional service credit, but only to the extent the transfer is  
28 a rollover contribution that meets the requirement of section 408 of the Internal  
29 Revenue Code.

30 11. The board may accept trustee-to-trustee transfers as permitted by Internal Revenue  
31 Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code



1 section 403(b) annuity or Internal Revenue Code section 457 deferred compensation  
2 plan for the purchase of permissive service credit, as defined in Internal Revenue  
3 Code section 415(n)(3)(A) or as repayment of a cashout from a governmental plan  
4 under Internal Revenue Code section 415(k)(3).

5 12. The board may establish individual retirement accounts and individual retirement  
6 annuities as permitted under section 408(q) of the Internal Revenue Code to allow  
7 employees to make voluntary employee contributions. The board may adopt rules to  
8 implement and administer the accounts and annuities under this section.