

## **CHAPTER 71-05-04 SERVICE CREDIT**

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### **71-05-04-01. Service credit - General rule.**

A member receives credit for each month a contribution is made.

**History:** Effective October 1, 1991; amended effective July 1, 1998.

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-11

### **71-05-04-02. Military credit.**

Eligible service credit may be granted as it pertains to the North Dakota highway patrol retirement system as established in chapter 71-02-11.

**History:** Effective October 1, 1991.

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** 38 USC 2021-2026

### **71-05-04-03. Repurchase of service credit and purchase of additional service credit.**

To purchase additional credit or repurchase past service, a contributor must notify the public employees retirement system, in writing, of the service for which the person wishes to receive credit. In addition to the written request, the following information must be submitted, if applicable:

1. Documentation of military service by submitting a DD214 or NGB22.
2. Certification of approval by the member's employer of any leave of absence and length of that leave.

**History:** Effective October 1, 1991; amended effective June 1, 1996; April 1, 2002; May 1, 2004.

**General Authority:** NDCC 39-03.1-06, 39-03.1-10.1, 39-03.1-14.1

**Law Implemented:** NDCC 39-03.1-08.1, 39-03.1-10.1, 39-03.1-14.1

### **71-05-04-03.1. Purchase of additional years of service.**

Repealed effective May 1, 2004.

### **71-05-04-04. Payment.**

The total dollar amount for repurchase or purchase may be paid in a lump sum or on a monthly, quarterly, semiannual, or annual basis. Payments may be subject to contribution limitations established

under 26 U.S.C. 415. Payments must begin within ninety days of the date the written cost confirmation is prepared. If the installment method is used, the following conditions apply:

1. Simple interest at the actuarial rate of return must accrue monthly on the unpaid balance. Interest is calculated from the fifteenth of each month.
2. The installment schedule may extend while the member is employed by the participating employer but for no longer than a fifteen-year time period.
3. Installment payments may be made by a payroll deduction where available. However, it is the responsibility of the contributor to initiate and terminate the payroll deduction.
4. Payments are due by the fifteenth of the month to be credited for the month.
5. Payments may only be received from a contributor until the fifteenth of the month following the month of the member's termination date with a participating employer.
6. Payments must be greater or equal to fifty dollars per month, large enough to pay the current interest plus a portion of the principal and an amount necessary to complete the payment contract within the fifteen-year time period.

**History:** Effective October 1, 1991; amended effective June 1, 1996; May 1, 2004; July 1, 2006; July 1, 2010.

**General Authority:** NDCC 39-03.1-06, 39-03.1-08.1, 39-03.1-10.1, 39-03.1-14.1

**Law Implemented:** NDCC 39-03.1-08.1, 39-03.1-10.1, 39-03.1-14.1

#### **71-05-04-04.1. Costs.**

The cost to repurchase service credit must be calculated by applying actuarial factors to the amount of the retirement and retiree health insurance credit being purchased by the contributor or member of an alternative retirement system. The contributor's current age, average salary as calculated under subsection 2 of North Dakota Century Code section 39-03.1-11, and current credited service on record with the North Dakota public employees retirement system in the month in which the contributor's written request is received must be used in the cost calculation. The amount of retirement and retiree health insurance credit benefits being purchased must be calculated using the benefit formulas in place at the time the written request is received from the contributor. When calculating the cost, enhancements to the benefit formula must be considered to be in place at the time the law is signed by the governor.

The retirement board must adopt actuarial assumptions necessary to determine the actuarial factors for the cost calculation. The assumptions must be reviewed concurrently with the assumptions for the retirement program.

Upon receipt of the written request from the contributor, a written cost confirmation must be prepared and mailed to the individual. The cost stated in the confirmation letter is valid for a period of ninety days from the date of the letter unless the contributor terminates employment with the employer. If the contributor terminates employment, then the cost stated in the confirmation letter is valid only until the earlier of the end of the ninety-day period or the fifteenth day of the month following the month of termination.

**History:** Effective June 1, 1996; amended effective May 1, 2004; July 1, 2006.

**General Authority:** NDCC 39-03.1-06, 39-03.1-10.1, 39-03.1-14.1

**Law Implemented:** NDCC 39-03.1-08.1, 39-03.1-10.1, 39-03.1-14.1

#### **71-05-04-05. Delinquent payment.**

If a payment to be made pursuant to section 71-05-04-04 is not received within thirty days of the due date, the public employees retirement system shall send a letter to the contributor or member of an alternative retirement system advising the person of the delinquency. If no payment is received within sixty days after the due date, the account must be closed. Payments received on a closed account must be returned to the member. The member may submit written documentation as to the cause for the delinquency to the executive director for review and to request that the purchase contract be reestablished without a new calculation.

**History:** Effective October 1, 1991; amended effective June 1, 1996; May 1, 2004.

**General Authority:** NDCC 39-03.1-06, 39-03.1-10.1, 39-03.1-14.1

**Law Implemented:** NDCC 39-03.1-08.1, 39-03.1-10.1, 39-03.1-14.1

#### **71-05-04-06. Crediting purchased or repurchased service.**

For each month the system receives a payment toward a purchase contract, the member will earn a proportion of service credit.

**History:** Effective October 1, 1991; amended effective June 1, 1996; May 1, 2004; July 1, 2010.

**General Authority:** NDCC 39-03.1-06, 39-03.1-10.1, 39-03.1-14.1

**Law Implemented:** NDCC 39-03.1-08.1, 39-03.1-10.1, 39-03.1-14.1

#### **71-05-04-07. Cancellation of credits.**

If a member terminates service and receives a return of the member's accumulated contributions, service credit for the years of such contributions must be canceled.

**History:** Effective October 1, 1991.

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-10.1, 39-03.1-14.1

#### **71-05-04-08. Conversion of sick leave.**

To convert unused sick leave to service credit, the member must notify the office, in writing, of the amount of unused sick leave to be converted and the member's employer must confirm the member's unused balance of accumulated sick leave as of the date the member terminates employment. For members transferring from one participating employer to another participating employer without terminating eligible employment, the public employees retirement system will record unused sick leave of a participating member if the new employer certifies that it will not transfer that leave. The certification must include documentation from the previous employer detailing the number of hours of sick leave. The public employees retirement system must receive the certification within sixty days after the member leaves employment with the former employer.

One month of service credit must be awarded for each one hundred seventy-three and three-tenths hours of unused accumulated sick leave. The cost to convert unused sick leave into service credit must be paid with after tax employee contributions.

1. Aftertax payments may be accepted from the member as early as six months prior to termination if the following requirements are met:
  - a. A notice of termination or application for monthly benefits form is on file with the public employees retirement system.
  - b. A written certification by the member's employer, as to the member's unused balance of accumulated sick leave as of the date the member wishes to begin payment, is on file with the public employees retirement system.

- c. At termination, the sick leave conversion payment must be recalculated using the member's unused balance of accumulated sick leave, confirmed by the member's employer, and the member's final average salary as of that date.
  - d. If there is a difference between the sick leave conversion payment amount and the amount the member has paid, any overpayment must be refunded to the member and any underpayment must be collected from the member by the fifteenth of the month following the month of the member's date of termination.
  - e. The member's record must be updated with the additional service credit once payment is made in full and the member has terminated employment.
- 2. Pretax rollover or transfer payments may be accepted from the member as early as sixty days prior to termination if the following requirements are met:
  - a. A notice of termination or application for monthly benefits form is on file with the public employees retirement system.
  - b. A written certification by the member's employer, as to the member's projected unused balance of accumulated sick leave no sooner than sixty days prior to the date of termination, is on file with the public employees retirement system. This certification must also include a certification by the employer of the projected salaries to be reported to the public employees retirement system during the final months of employment.
  - c. At termination, the sick leave conversion payment must be recalculated using the member's unused balance of accumulated sick leave confirmed by the member's employer, and the member's final average salary as of that date. If there is a difference between the sick leave balance or conversion payment amount and the amount the member has paid, then only the amount of sick leave available as of the termination date will be added to the member's record. The member account balance will be credited with the full amount of funds from the rollover or transfer.
  - d. If an underpayment has occurred, then the remaining amount must be collected from the member by the fifteenth of the month following the month of the member's date of termination.
  - e. The retiree health credit portion must be paid as a personal aftertax payment.
- 3. The member's record must be updated with the additional service credit once payment is made and the member has terminated employment.

**History:** Effective June 1, 1996; amended effective April 1, 2002; May 1, 2004; July 1, 2006; April 1, 2008.

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-30

#### **71-05-04-09. Employer purchase of service credit or sick leave program.**

An employer may elect to purchase up to five years of service credit for an employee and purchase an employee's unused sick leave that meets the requirements of section 71-02-03-08. Before offering a purchase program to its employees the employer must create a program and document the program in writing and submit a copy to the public employees retirement system. The governing authority of the employer shall also submit to the executive director of the public employees retirement system a letter indicating:

1. The program meets all the requirements of the North Dakota Century Code.

2. The program meets all applicable federal requirements.
3. The employer agrees to remit to the public employees retirement system a lump sum payment of the cost of the purchase upon being billed.
4. The employer has not given the employee the option of a cash payment in lieu of the employer purchase.
5. The employer shall clearly specify who is eligible for the program and indicate if the program is intended to be permanent or will be for a specific time period only.
6. The employer agrees that all purchases for service credit will be based upon actuarial cost as determined by the public employees retirement system. The employer also agrees that all purchases will be completed no later than the fifteenth day of the month following the month of the employee's termination or sixty days from the date the employer and employee agree to the purchase, whichever comes first.
7. The employer agrees that in offering such a program the employer will direct each employee interested in the program to first apply to the employer's authorized agent who will then certify the eligibility of the member, the amount of service credit to be purchased, and send such certification to the public employees retirement system. The employer also agrees that the employer's authorized agent will coordinate the program, authorize all purchases in writing to the public employees retirement system, and be the focal point for communications between the public employees retirement system, the employer, and the employee.
8. The employer agrees that for each employee certified to be eligible to have service credit purchased, the employer will first obtain from the employee authorization for the public employees retirement system to share confidential information with the employer.
9. The employer certifies that in offering the program, the employer is making it available to all employees or a specified class of employees on a nondiscriminatory basis.
10. The employer agrees to provide information and policies pertaining to the employer purchase program pursuant to North Dakota Century Code section 39-03.1-28.

When an employer files the above letter with the public employees retirement system, it may offer the program to its employees. An employer may terminate this program at any time upon the governing authority of the employer sending to the executive director of the public employees retirement system a letter indicating when the program is to be canceled.

**History:** Effective May 1, 2004; amended effective July 1, 2006; April 1, 2008; July 1, 2010.

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-10.2