

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1575
(Representatives Grande, Wald)
(Senators Krebsbach, Lyson)

AN ACT to create and enact a new section to chapter 54-52 of the North Dakota Century Code, relating to participation by peace officers employed by the bureau of criminal investigation in the defined benefit retirement plan; to amend and reenact subsection 11 of section 54-52-01, subsection 3 of section 54-52-05, and subsection 3 of section 54-52-17 of the North Dakota Century Code, relating to participation by peace officers employed by the bureau of criminal investigation in the defined benefit retirement plan; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 11 of section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

11. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.

SECTION 2. AMENDMENT. Subsection 3 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, ~~and 54-52-06.3,~~ and section 3 of this Act or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee or from the levy authorized by subsection 5 of section 57-15-28.1. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the board in writing.

SECTION 3. A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Contribution by peace officers employed by the bureau of criminal investigation - Employer contribution. Each peace officer employed by the bureau of criminal investigation who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the peace officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's assessment.

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

3. Retirement dates are defined as follows:

- a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:
 - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
 - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- b. Normal retirement date for a national guard security officer or firefighter is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three consecutive years of employment as a national guard security officer or firefighter immediately preceding retirement.
- c. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:
 - (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three consecutive years of employment as a peace officer or correctional officer immediately preceding retirement; or
 - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- d. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
 - (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three consecutive years of employment as a peace officer immediately preceding retirement; or
 - (2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.

- e. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
- e. f. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.
- f. g. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the board or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:
 - (1) Became disabled during the period of eligible employment; and
 - (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines that a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services it deems necessary and these payments are appropriated from the retirement fund for those purposes.

SECTION 5. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$185,946, or so much of the sum as may be necessary, and \$15,164 in other funds, or so much of the sum as may be necessary, to the attorney general for the purpose of implementing this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1575.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 46 Nays 1 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State