

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2048

Introduced by

Government and Veterans Affairs Committee

(At the request of the Public Employees Retirement System)

1 A BILL for an Act to amend and reenact section 54-52-02.9, subsection 2 of section 54-52-05,
2 section 54-52-06, subsection 6 of section 54-52.6-02, and section 54-52.6-09 of the North
3 Dakota Century Code, relating to increased employer and employee contributions under the
4 public employees retirement system defined benefit and defined contribution plans.

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

6 **SECTION 1. AMENDMENT.** Section 54-52-02.9 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **54-52-02.9. Participation by temporary employees.**

9 ~~A temporary employee may elect, within~~ Within one hundred eighty days of beginning
10 employment, a temporary employee may elect to participate in the public employees retirement
11 system and receive credit for service after enrollment. ~~The~~ Monthly, the temporary employee
12 shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the
13 temporary employee's present monthly salary. The amount required to be paid by ~~a~~ the
14 temporary employee increases by two percent times the temporary employee's present monthly
15 salary beginning with the monthly reporting period of January 2012, ~~and;~~ with an additional two
16 percent increase, beginning with the reporting period of January 2013, ~~and;~~ with an additional
17 increase of two percent, beginning with the monthly reporting period of January 2014; and with
18 an additional increase of two percent, beginning with the monthly reporting period of January
19 2021. ~~The~~ In addition, the temporary employee shall also pay the required monthly contribution
20 to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must
21 be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not
22 pay the temporary employee's contributions. ~~A~~ The temporary employee may continue to
23 participate as a temporary employee in the public employees retirement system until
24 termination of employment or reclassification of the temporary employee as a permanent

1 employee. ~~A~~The temporary employee may not purchase any additional credit, including
2 additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

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

- 5 2. Each member must be assessed and required to pay monthly four percent of the
6 monthly salary or wage paid to the member, and such assessment must be deducted
7 and retained out of such salary in equal monthly installments commencing with the
8 first month of employment. Member contributions increase by one percent of the
9 monthly salary or wage paid to the member beginning with the monthly reporting
10 period of January 2012, ~~and;~~ with an additional increase of one percent, beginning
11 with the monthly reporting period of January 2013, ~~and;~~ with an additional increase of
12 one percent, beginning with the monthly reporting period of January 2014; and with an
13 additional increase of one percent, beginning with the monthly reporting period of
14 January 2021.

15 **SECTION 3. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **54-52-06. Employer's contribution to retirement plan - Report to legislative assembly.**

- 18 1. Each governmental unit shall contribute an amount equal to four and
19 twelve-hundredths percent of the monthly salary or wage of a participating member.
20 Governmental unit contributions increase by one percent of the monthly salary or
21 wage of a participating member beginning with the monthly reporting period of
22 January 2012, ~~and;~~ with an additional increase of one percent, beginning with the
23 reporting period of January 2013, ~~and;~~ with an additional increase of one percent,
24 beginning with the monthly reporting period of January 2014; and with an additional
25 increase of one percent, beginning with the monthly reporting period of January 2021.
- 26 2. For those members who elect to exercise their rights under section 54-52-17.14, the
27 employing governmental unit, or in the case of a member not presently under covered
28 employment the most recent employing governmental unit, shall pay the associated
29 employer contribution. If the employee's contribution is paid by the governmental unit
30 under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition,
31 an amount equal to the required employee's contribution. Each governmental unit

shall pay the contribution monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement fund from ~~its~~the governmental unit's funds appropriated for payroll and salary or any other funds available for these purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction ~~thereof~~of a month after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date ~~they~~the contributions became due, penalty and interest to be paid on delinquent contributions may be waived.

3. An employer ~~is required to~~shall submit contributions for any past eligible employee who was employed after July 1, 1977, for which contributions were not made if the employee would have been eligible to become vested had the employee participated and if the employee elects to join the public employees retirement system. Employer contributions may not be assessed for eligible service that an employee has waived pursuant to subsection 1 of section 54-52-05.

4. The board shall report to each session of the legislative assembly the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

SECTION 4. AMENDMENT. Subsection 6 of section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

6. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the board within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by ~~at~~the temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the

monthly reporting period of January 2012;~~and;~~ with an additional increase of two percent, beginning with the monthly reporting period of January 2013;~~and;~~ with an additional increase of two percent, beginning with the monthly reporting period of January 2014; and with an additional increase of two percent, beginning with the monthly reporting period of January 2021. ~~The~~In addition, the temporary employee shall ~~also~~ pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. ~~A~~The temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.

SECTION 5. AMENDMENT. Section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-09. Contributions - Penalty.

1. Each participating member shall contribute monthly four percent of the monthly salary or wage paid to the participant, and this assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined contribution retirement plan established under this chapter. Participating member contributions increase by one percent of the monthly salary or wage paid to the participant beginning with the monthly reporting period of January 2012;~~and;~~ with an additional increase of one percent, beginning with the reporting period of January 2013;~~and;~~ with an additional increase of one percent, beginning with the monthly reporting period of January 2014; and with an additional increase of one percent, beginning with the monthly reporting period of January 2021.
2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012;~~and;~~ with an additional increase of one percent, beginning with the monthly reporting period of January 2013;~~and;~~ with an additional increase of one percent, beginning with the monthly reporting period of January 2014; and with an additional increase of one percent, beginning with

1 the monthly reporting period of January 2021. If the employee's contribution is paid by
2 the employer under subsection 3, the employer shall contribute, in addition, an amount
3 equal to the required employee's contribution. Monthly, the employer shall pay such
4 contribution into the participating member's account from the employer's funds
5 appropriated for payroll and salary or any other funds available for such purposes. If
6 the employer fails to pay the contributions monthly, the employer is subject to a civil
7 penalty of fifty dollars and, as interest, one percent of the amount due for each month
8 of delay or fraction thereof after the payment became due. In lieu of assessing a civil
9 penalty or one percent per month, or both, interest at the actuarial rate of return may
10 be assessed for each month the contributions are delinquent. If contributions are paid
11 within ninety days of the date the contributions became due, penalty and interest to be
12 paid on delinquent contributions may be waived.

- 13 3. Each employer, at ~~its~~the employer's option, may pay the employee contributions
14 required by this section for all compensation earned after December 31, 1999. The
15 amount paid must be paid by the employer in lieu of contributions by the employee. If
16 the employer decides not to pay the contributions, the amount that would have been
17 paid will continue to be deducted from the employee's compensation. If contributions
18 are paid by the employer, ~~they~~the contributions must be treated as employer
19 contributions in determining tax treatment under this code and the federal Internal
20 Revenue Code. Contributions paid by the employer may not be included as gross
21 income of the employee in determining tax treatment under this code and the federal
22 Internal Revenue Code until ~~they~~the contributions are distributed or made available.
23 The employer shall pay these employee contributions from the same source of funds
24 used in paying compensation to the employee. The employer shall pay these
25 contributions by effecting an equal cash reduction in the gross salary of the employee
26 or by an offset against future salary increases or by a combination of a reduction in
27 gross salary and offset against future salary increases. Employee contributions paid
28 by the employer must be treated for the purposes of this chapter in the same manner
29 and to the same extent as employee contributions made before the date on which
30 employee contributions were assumed by the employer. An employer shall exercise

- 1 ~~its~~the employer's option under this subsection by reporting ~~its~~the employer's choice to
- 2 the board in writing.