

FIRST ENGROSSMENT

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2046

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 subsection 1 of section 54-52-02.9, subsection 2 of
2 section 54-52-05, subsection 1 of section 54-52-06, subsection 6 of section 54-52.6-02, and
3 section 54-52.6-09 of the North Dakota Century Code, relating to increased employer and
4 employee contributions under the public employees retirement system defined benefit and
5 defined contribution plans; ~~and to provide a statement of legislative intent: to provide for a~~
6 ~~legislative management study;~~ to provide a penalty: ~~to provide an appropriation: and to provide~~
7 ~~a transfer.~~

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

9 **SECTION 1. AMENDMENT.** Subsection 1 of section 54-52-02.9 of the North Dakota
10 Century Code is amended and reenacted as follows:

- 11 1. Within one hundred eighty days of beginning employment, a temporary employee may
12 elect to participate in the public employees retirement system and receive credit for
13 service after enrollment. Monthly, the temporary employee shall pay to the fund an
14 amount equal to eight and twelve hundredths percent times the temporary employee's
15 present monthly salary. The amount required to be paid by a temporary employee
16 increases by two percent times the temporary employee's present monthly salary
17 beginning with the monthly reporting period of January 2012; ~~and;~~ with an additional
18 ~~two percent increase~~ of two percent, beginning with the reporting period of
19 January 2013; ~~and;~~ with an additional increase of two percent, beginning with the
20 monthly reporting period of January 2014; ~~and with an additional increase of~~
21 ~~one two percent.~~ beginning with the monthly reporting period of January 2022.

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

1 2. Each member must be assessed and required to pay monthly four percent of the
2 monthly salary or wage paid to the member, and such assessment must be deducted
3 and retained out of such salary in equal monthly installments commencing with the
4 first month of employment. Member contributions increase by one percent of the
5 monthly salary or wage paid to the member beginning with the monthly reporting
6 period of January 2012; ~~and;~~ with an additional increase of one percent, beginning
7 with the monthly reporting period of January 2013; ~~and;~~ with an additional increase of
8 one percent, beginning with the monthly reporting period of January 2014; and with an
9 additional increase of ~~one-half of~~ one percent, beginning with the monthly reporting
10 period of January 2022.

11 **SECTION 3. AMENDMENT.** Subsection 1 of section 54-52-06 of the North Dakota Century
12 Code is amended and reenacted as follows:

13 1. Each governmental unit shall contribute an amount equal to four and
14 twelve-hundredths percent of the monthly salary or wage of a participating member.
15 Governmental unit contributions increase by one percent of the monthly salary or
16 wage of a participating member beginning with the monthly reporting period of
17 January 2012; with an additional increase of one percent, beginning with the reporting
18 period of January 2013; ~~and~~ with an additional increase of one percent, beginning with
19 the monthly reporting period of January 2014; and with an additional increase of
20 ~~one-half of~~ one percent, beginning with the monthly reporting period of January 2022.
21 For a participating member who first enrolls after December 31, 2019, the
22 governmental unit shall contribute an additional amount equal to one and fourteen-
23 hundredths percent of the monthly salary or wage of the participating member.

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

26 6. A participating member who becomes a temporary employee may still participate in
27 the defined contribution retirement plan upon filing an election with the board within
28 one hundred eighty days of transferring to temporary employee status. The
29 participating member may not become a member of the defined benefit plan as a
30 temporary employee. The temporary employee electing to participate in the defined
31 contribution retirement plan shall pay monthly to the fund an amount equal to eight

1 and twelve hundredths percent times the temporary employee's present monthly
2 salary. The amount required to be paid by a temporary employee increases by two
3 percent times the temporary employee's present monthly salary beginning with the
4 monthly reporting period of January 2012; ~~and~~ with an additional increase of two
5 percent, beginning with the monthly reporting period of January 2013; ~~and~~ with an
6 additional increase of two percent, beginning with the monthly reporting period of
7 January 2014; and with an additional increase of ~~one~~two percent, beginning with the
8 monthly reporting period of January 2022. The temporary employee also shall ~~also~~
9 pay the required monthly contribution to the retiree health benefit fund established
10 under section 54-52.1-03.2. This contribution must be recorded as a member
11 contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary
12 employee's contributions. A temporary employee may continue to participate as a
13 temporary employee until termination of employment or reclassification of the
14 temporary employee as a permanent employee.

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

17 **54-52.6-09. Contributions - Penalty.**

- 18 1. Each participating member shall contribute monthly four percent of the monthly salary
19 or wage paid to the participant, and this assessment must be deducted from the
20 participant's salary in equal monthly installments commencing with the first month of
21 participation in the defined contribution retirement plan established under this chapter.
22 Participating member contributions increase by one percent of the monthly salary or
23 wage paid to the participant beginning with the monthly reporting period of
24 January 2012; with an additional increase of one percent, beginning with the reporting
25 period of January 2013; ~~and~~ with an additional increase of one percent, beginning with
26 the monthly reporting period of January 2014; and with an additional increase of
27 ~~one-half of one~~ percent, beginning with the monthly reporting period of January 2022.
- 28 2. The employer shall contribute an amount equal to four and twelve-hundredths percent
29 of the monthly salary or wage of a participating member. Employer contributions
30 increase by one percent of the monthly salary or wage of a participating member
31 beginning with the monthly reporting period of January 2012; with an additional

- 1 increase of one percent, beginning with the monthly reporting period of January 2013;
2 and with an additional increase of one percent, beginning with the monthly reporting
3 period of January 2014; and with an additional increase of ~~one-half of one percent.~~
4 beginning with the monthly reporting period of January 2022. For members first
5 enrolled after December 31, 2019, the employer contribution includes an additional
6 increase of one and fourteen-hundredths percent. If the employee's contribution is
7 paid by the employer under subsection 3, the employer shall contribute, in addition, an
8 amount equal to the required employee's contribution. Monthly, the employer shall pay
9 such contribution into the participating member's account from the employer's funds
10 appropriated for payroll and salary or any other funds available for such purposes. If
11 the employer fails to pay the contributions monthly, the employer is subject to a civil
12 penalty of fifty dollars and, as interest, one percent of the amount due for each month
13 of delay or fraction of a month after the payment became due. In lieu of assessing a
14 civil penalty or one percent per month, or both, interest at the actuarial rate of return
15 may be assessed for each month the contributions are delinquent. If contributions are
16 paid within ninety days of the date the contributions became due, penalty and interest
17 to be paid on delinquent contributions may be waived.
- 18 3. Each employer, at its option, may pay the employee contributions required by this
19 section for all compensation earned after December 31, 1999. The amount paid must
20 be paid by the employer in lieu of contributions by the employee. If the employer
21 decides not to pay the contributions, the amount that would have been paid will
22 continue to be deducted from the employee's compensation. If contributions are paid
23 by the employer, they must be treated as employer contributions in determining tax
24 treatment under this code and the federal Internal Revenue Code. Contributions paid
25 by the employer may not be included as gross income of the employee in determining
26 tax treatment under this code and the federal Internal Revenue Code until they are
27 distributed or made available. The employer shall pay these employee contributions
28 from the same source of funds used in paying compensation to the employee. The
29 employer shall pay these contributions by effecting an equal cash reduction in the
30 gross salary of the employee or by an offset against future salary increases or by a
31 combination of a reduction in gross salary and offset against future salary increases.

Employee contributions paid by the employer must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made before the date on which employee contributions were assumed by the employer. An employer shall exercise its option under this subsection by reporting its choice to the board in writing.

**SECTION 6. LEGISLATIVE MANAGEMENT STUDY - PUBLIC EMPLOYEES
RETIREMENT SYSTEM.**

1. During the 2021-22 interim, the legislative management shall study the public employees retirement system retirement plans. In conducting the study, the legislative management shall:
 - a. Identify a strategy for the main system plans reaching full funding within thirty years.
 - b. Review the financial status of the plans under chapters 54-52 and 54-52.6.
 - c. Contract for actuarial analyses of the plans under chapters 54-52 and 54-52.6 to determine the feasibility and desirability of remaining open as defined benefit plans versus closing and moving to a defined contribution plan.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 7. APPROPRIATION - TRANSFER - GENERAL FUND TO PUBLIC
EMPLOYEES RETIREMENT SYSTEM FUND.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000,000, which the office of management and budget shall transfer to the public employees retirement system main system plan for the purpose of reducing the unfunded actuarial liability of the public employees retirement system main system plan, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 8. LEGISLATIVE INTENT - PUBLIC EMPLOYEES RETIREMENT SYSTEM. In addition to the funding provided in section 7, it is the intent of the sixty-seventh legislative assembly that the unfunded liability of the public employees retirement system main system plan be reduced further in the future from legacy fund earnings transferred to the public employees retirement system main system plan.

