PROPOSED AMENDMENTS TO SENATE BILL NO. 2239

Page 1, line 1, after "reenact" insert "subsection 4 of section 54-52-01, subsection 1 of section 54-52-02.9, subsection 2 of section 54-52-05,"

Page 1, line 1, remove "subsection 3 of"

Page 1, line 2, replace the first "section" with "sections"

Page 1, line 2, remove the first comma

Page 1, line 2, remove "subsection 3 of section"

Page 1, line 2, after "54-52.6-02" insert ", subsection 1 of section 54-52.6-09, and section 54-52.6-10"

Page 1, line 3, after "employer" insert "and employee"

Page 1, line 5, remove "and"

Page 1, line 5, after "application" insert "; and to provide an effective date"

Page 1, after line 6, insert:

> "**SECTION 1. AMENDMENT.** Subsection 4 of section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:
>
> 4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include ~~nonclassified~~ state employees who elect to become members of the retirement plan established under chapter 54-52.6 ~~but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board~~.
>
> **SECTION 2. AMENDMENT.** Subsection 1 of section 54-52-02.9 of the North Dakota Century Code is amended and reenacted as follows:
>
> 1. Within one hundred eighty days of beginning employment, a temporary employee may elect to participate in the public employees retirement system and receive credit for service after enrollment. Monthly, the temporary employee shall pay 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 a temporary employee increases by two percent times the temporary employee's present monthly

6.5. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.

7.6. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.

8.7. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

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

54-52.6-02. Election.

1. ~~The board shall provide an opportunity for each eligible employee who is a member of the public employees retirement system on September 30, 2001, and who has not made a written election under this section to transfer to the defined contribution retirement plan before October 1, 2001, to elect in writing to terminate membership in the public employees retirement system and elect to become a participating member under this chapter.~~ Except as provided in section 54-52.6-03, an election made by an eligible employee under this section is irrevocable. ~~The board shall accept written elections under this section from eligible employees during the period beginning on July 1, 1999, and ending 12:01 a.m. December 14, 2001.~~ An eligible employee who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. An eligible employee who makes and files a written election under this section ceases to be a member of the public employees retirement system ~~effective twelve midnight December 31, 2001~~; becomes a participating member in the defined contribution retirement plan under this chapter ~~effective 12:01 a.m. January 1, 2002~~; and waives all of that ~~person's~~employee's rights to a pension, annuity, retirement allowance, insurance benefit, or any other benefit under the public employees retirement system ~~effective December 31, 2001~~. This section does not affect ~~a person's~~an employee's right to health benefits or retiree health benefits under chapter 54-52.1. An eligible employee who is first employed and entered upon the payroll of that ~~person's~~employee's employer after ~~September 30, 2001~~December 31, 2023, may make an election to participate in the defined contribution retirement plan established under

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the highway patrol, becomes employed in a position subject to teachers' fund for retirement membership, or becomes an employee of the board of higher education or state institution under the jurisdiction of the board who is eligible to participate in an alternative retirement program established under subsection 6 of section 15-10-17, the member's status as a member of the defined contribution retirement plan is suspended, and the member becomes a new member of the retirement plan for which that member's new position is eligible. The member's account balance remains in the defined contribution retirement plan, but no new contributions may be made to that account. The member's service credit and salary history that were forfeited as a result of the member's transfer to the defined contribution retirement plan remain forfeited, and service credit accumulation in the new retirement plan begins from the first day of employment in the new position. If the member later returns to employment that is eligible for the defined contribution plan, the member's suspension must be terminated, the member again becomes a member of the defined contribution retirement plan, and the member's account resumes accepting contributions. At the member's option, and pursuant to rules adopted by the board, the member may transfer any available balance as determined by the provisions of the alternate retirement plan into the member's account under this chapter.

4. After consultation with its actuary, the board shall determine the method by which a participating member ~~or deferred member~~ may make a written election under this section. If the participating member ~~or deferred member~~ is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the board may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

5. If the board receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.

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 a 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<u>, and with an additional increase of one percent, beginning with the monthly reporting period of January 2024</u>. 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

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participate in the defined contribution retirement plan pursuant to this chapter must be credited with the years of service accrued under the public employees retirement system on the effective date of participation in the defined contribution retirement plan for the purpose of meeting vesting requirements for benefits under this section. Any forfeiture as a result of the failure of a participating member to vest in the employer contribution must be deposited in the administrative expenses account."

Page 3, line 16, replace "1" with "4"

Page 3, line 17, after "analysis" insert ", with the current contribution formula applying until January 2024"

Page 3, line 18, replace "Section 2" with "The election provision of section 6"

Page 3, line 18, replace "June 30" with "December 31"

Page 3, after line 18, insert:

"**SECTION 11. EFFECTIVE DATE.** Sections 1, 2, 3, 5, 6, 7, and 8 of this Act become effective January 1, 2024."

Renumber accordingly