



**North Dakota
Public Employees Retirement System**
1600 East Century Avenue, Suite 2 • PO Box 1657
Bismarck, North Dakota 58502-1657

Rebecca Fricke
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July 31, 2025

Ms. Liz Fordahl
Assistant Code Revisor
North Dakota Legislative Council
State Capitol
600 East Boulevard, 2nd Floor
Bismarck, ND 58505-0360

RE: Emergency Rulemaking for Proposed Amendments to/Adoption of Rules in N.D. Admin.
Code Articles 71-02 & 71-08 – Elected County Officials

Dear Ms. Fordahl:

Attached for filing in the office of the Legislative Council as required by N.D.C.C. §§ 28-32-03 and 28-32-10 are the following:

1. Full Notice of Intent to Adopt and Amend Administrative Rules Relating to N.D.A.C. Articles 71-02 & 71-08 regarding elected county officials;
2. Finding and Statement of Reason of need for emergency rulemaking of Mike Seminary, Chair of the North Dakota Public Employees Retirement System (NDPERS) Board;
3. Interim final rules effective July 31, 2025; and
4. Letter dated July 23, 2025, from Governor Armstrong approving the emergency rulemaking request.

Chairman Seminary found that emergency rulemaking is necessary to meet a mandate of federal law due to conflict between North Dakota law and the Internal Revenue Code. See N.D.C.C. § 28-32-03(2)(d). Accordingly, Chairman Seminary has declared these proposed amendments to be interim final rules effective July 31, 2025.

NDPERS has determined that appropriate measures to make the interim final rules known to every person who may have a substantial interest in them consists of providing a copy of the interim final rules (proposed administrative rules) and full hearing notice to each county participating in a NDPERS retirement plan (participating county), to each member of each participating county, to the North Dakota Association of Counties, and to persons or entities who have expressed an interest in receiving notice of such rulemaking.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca Fricke". The signature is fluid and cursive, with the first and last names clearly legible.

Rebecca Fricke
Executive Director

Enclosures: Full Notice
NDPERS Board Chair Finding and Statement of Reason
Interim Final Rules
Governor's Approval

FULL NOTICE OF INTENT TO ADOPT AND AMEND
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. ARTICLES 71-02 & 71-08
REGARDING ELECTED COUNTY OFFICIALS
PARTICIPATION IN NDPERS RETIREMENT PLANS

TAKE NOTICE that the North Dakota Public Employees Retirement System will hold a public hearing to address proposed adoption of and amendments to administrative rules in N.D. Admin. Code sections 71-02-02-01, 71-02-02-02, 71-02-07-02, 71-08-02-03, 71-08-09-01, and 71-08-10-01 at 11:00 A.M. on Wednesday, September 10, 2025, at 1600 East Century Avenue Suite 2, Bismarck, North Dakota. The purpose of the proposed rules and amendments is to meet a mandate of federal law due to a conflict between North Dakota law and the Internal Revenue Code related to the participation of elected county officials in NDPERS retirement plans. The proposed rules and amendments address:

Section 71-02-02-01. Membership - General rule is amended to remove subsection 5 giving elected county and state officials the option to enroll or waive participation in the public employees retirement system.

Section 71-02-02-02. Nonstate Elected Officials – Membership and Return to Service is created to establish rules governing membership of county elected officials in the public employees retirement system and to permit county elected officials to receive in-service benefit distributions in certain narrow circumstances.

Section 71-02-07-02. Return to service - Retired member is amended to add a cross-reference to the new provision at section 71-02-02-02 on county elected official return to service.

Section 71-08-02-03. Nonstate Elected Officials – Membership and Return to Service is created to establish rules governing membership of county elected officials in the defined contribution retirement plan and to permit county elected officials to receive in-service benefit distributions in certain narrow circumstances.

Section 71-08-09-01. Return to service - Retired member is amended to add a cross-reference the new provision at section 71-08-02-03 on county elected official return to service.

Section 71-08-10-01. Permanent employee participation is amended to add a cross-reference to the new provision section 71-08-02-03 on county elected official participation in the defined contribution retirement plan.

The proposed rules and amendments are not expected to have an impact on the regulated community in excess of \$50,000.

These rules are emergency rules with an effective date of July 31, 2025.

The proposed rules may be reviewed on the website of the North Dakota Public Employees Retirement System (www.ndpers.nd.gov) or at the office of the North Dakota Public Employees Retirement System, 1600 East Century Avenue Suite 2, Bismarck, North Dakota. A copy of the proposed rules may be requested by writing to PO Box 1657, Bismarck, ND 58502, e-mailing NDPERS-info@nd.gov, or calling 701-328-3900. Written comments on the proposed rules can be mailed to PO Box 1657, Bismarck, ND 58502 or emailed to NDPERS-info@nd.gov. Oral comments can be submitted by calling 701-328-3900. Comments received by no later than 5:00 p.m. on September 22, 2025, will be fully considered.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Public Employees Retirement System at the above telephone number or address at least seven days prior to the public hearing.

Dated this 31st day of July, 2025


Rebecca Fricke
Executive Director



**North Dakota
Public Employees Retirement System**

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**FINDING AND STATEMENT OF REASON
NORTH DAKOTA PUBLIC EMPLOYEE RETIREMENT SYSTEM BOARD
REGARDING PROPOSED AMENDMENTS TO
NORTH DAKOTA ADMINISTRATIVE CODE ARTICLES 71-02 & 71-08
REGARDING ELECTED COUNTY OFFICIALS**

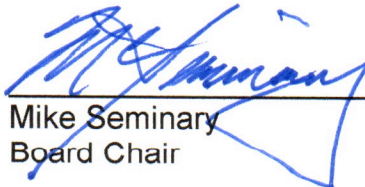
FINDING

I find that emergency rulemaking to amend N.D. Admin. Code chapters 71-02-02, 71-02-07, 71-08-02, 71-08-09, and 71-08-10, regarding county elected officials' participation in North Dakota Public Employees Retirement System retirement plans, is necessary to meet a mandate of federal law.

STATEMENT OF REASON

Emergency rulemaking is necessary for the North Dakota Public Employees Retirement System to meet a mandate of federal law due a conflict between North Dakota law and the Internal Revenue Code.

Dated this 16 day of July, 2025.


Mike Seminary
Board Chair

July 23, 2025

Mike Seminary
Chairman
Retirement Board
North Dakota Public Employees Retirement System
1600 E. Century Ave., Suite 2
P.O. Box 1657
Bismarck, ND 58502-1657

Dear Chairman Seminary,

On July 22, 2025, my office received your request on behalf of the North Dakota Public Employees Retirement System (NDPERS) Retirement Board ("Board") for approval of emergency rulemaking to amend N.D. Admin. Code. chapters 71-02-02, 71-02-07, 71-08-02, 71-08-09, and 71-08-1 regarding county elected officials' participation in NDPERS retirement plans. These amendments are necessary to address a conflict between federal law and North Dakota state law.

My administration has reviewed the request pursuant to North Dakota Century Code § 28-32-03, received and reviewed information from the NDPERS Board, and agrees that emergency effectiveness is necessary to meet a mandate of federal law. Therefore, your request is granted.

Sincerely,


Kelly Armstrong
Governor