

Introduced by

Representative Porter

1 A BILL for an Act to amend and reenact sections 54-52-01, 54-52-02.1, and 54-52-06.3 and
2 subsections 3 and 4 of section 54-52-17 of the North Dakota Century Code, relating to a public
3 employee retirement plan for public safety telecommunicators.

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

5 **SECTION 1. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **54-52-01. Definition of terms.**

8 As used in this chapter, unless the context otherwise requires:

- 9 1. "Account balance" means the total contributions made by the employee, vested
10 employer contributions under section 54-52-11.1, the vested portion of the vesting
11 fund as of June 30, 1977, and interest credited thereon at the rate established by the
12 board.
- 13 2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any
14 person designated by a participating member to receive benefits.
- 15 3. "Correctional officer" means a participating member who is employed as a correctional
16 officer by a political subdivision.
- 17 4. "Eligible employee" means all permanent employees who meet all of the eligibility
18 requirements set by this chapter and who are eighteen years or more of age, and
19 includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and
20 54-52-02.12, and nonteaching employees of the superintendent of public instruction,
21 including the superintendent of public instruction, who elect to transfer from the
22 teachers' fund for retirement to the public employees retirement system under section
23 54-52-02.13, and employees of the state board for career and technical education who
24 elect to transfer from the teachers' fund for retirement to the public employees

1 retirement system under section 54-52-02.14. Eligible employee does not include
2 nonclassified state employees who elect to become members of the retirement plan
3 established under chapter 54-52.6 but does include employees of the judicial branch
4 and employees of the board of higher education and state institutions under the
5 jurisdiction of the board.

6 5. "Employee" means any individual employed by a governmental unit, whose
7 compensation is paid out of the governmental unit's funds, or funds controlled or
8 administered by a governmental unit, or paid by the federal government through any of
9 its executive or administrative officials; licensed employees of a school district means
10 those employees eligible to participate in the teachers' fund for retirement who, except
11 under subsection 2 of section 54-52-17.2, are not eligible employees under this
12 chapter.

13 6. "Employer" means a governmental unit.

14 7. "Firefighter" means a participating member who is employed as a firefighter by a
15 political subdivision and, notwithstanding subsection 13, for an individual employed
16 after July 31, 2017, is employed at least thirty-two hours per week and at least twenty
17 weeks each year of employment. A firefighter who is a participating member of the law
18 enforcement retirement plan created by this chapter who begins employment after
19 July 31, 2017, is ineligible to participate concurrently in any other retirement plan
20 administered by the public employees retirement system. The term does not include a
21 firefighter employee of the North Dakota national guard.

22 8. "Funding agent" or "agents" means an investment firm, trust bank, or other financial
23 institution which the retirement board may select to hold and invest the employers' and
24 members' contributions.

25 9. "Governmental unit" means the state of North Dakota, except the highway patrol for
26 members of the retirement plan created under chapter 39-03.1, or a participating
27 political subdivision thereof.

28 10. "National guard security officer or firefighter" means a participating member who is:
29 a. A security police employee of the North Dakota national guard; or
30 b. A firefighter employee of the North Dakota national guard.

- 1 11. "Participating member" means an eligible employee who through payment into the
2 plan has established a claim against the plan.
- 3 12. "Peace officer" means a participating member who is a peace officer as defined in
4 section 12-63-01 and is employed as a peace officer by the bureau of criminal
5 investigation or by a political subdivision and, notwithstanding subsection 13, for
6 persons employed after August 1, 2005, is employed thirty-two hours or more per
7 week and at least twenty weeks each year of employment. A peace officer who is a
8 participating member of the law enforcement retirement plan created by this chapter
9 who begins employment after August 1, 2005, is ineligible to participate concurrently in
10 any other retirement plan administered by the public employees retirement system.
- 11 13. "Permanent employee" means a governmental unit employee whose services are not
12 limited in duration and who is filling an approved and regularly funded position in an
13 eligible governmental unit, and is employed twenty hours or more per week and at
14 least twenty weeks each year of employment.
- 15 14. "Prior service" means service or employment before July 1, 1966.
- 16 15. "Prior service credit" means such credit toward a retirement benefit as the retirement
17 board may determine under the provisions of this chapter.
- 18 16. "Public employees retirement system" means the retirement plan and program
19 established by this chapter.
- 20 17. "Public safety telecommunicator" means a participating member who is employed by a
21 political subdivision who has the primary duties of receiving, processing, and
22 transmitting public safety information received through an emergency services
23 communication system and, notwithstanding subsection 13, for an individual employed
24 after July 31, 2021, who is employed at least thirty-two hours per week and at least
25 twenty weeks each year of employment. A public safety telecommunicator who is a
26 participating member of the law enforcement retirement plan created by this chapter
27 who begins employment after July 31, 2021, is ineligible to participate concurrently in
28 any other retirement plan administered by the public employees retirement system.
- 29 18. "Retirement" means the acceptance of a retirement allowance under this chapter upon
30 either termination of employment or termination of participation in the retirement plan.

- 1 ~~18-19.~~ "Retirement board" or "board" means the governing authority created under section
2 54-52-03.
- 3 ~~19-20.~~ "Seasonal employee" means a participating member who does not work twelve
4 months a year.
- 5 ~~20-21.~~ "Service" means employment on or after July 1, 1966.
- 6 ~~21-22.~~ "Service benefit" means the credit toward retirement benefits as determined by the
7 retirement board under the provisions of this chapter.
- 8 ~~22-23.~~ "Temporary employee" means a governmental unit employee who is not eligible to
9 participate as a permanent employee, who is at least eighteen years old and not
10 actively contributing to another employer-sponsored pension fund, and, if employed by
11 a school district, occupies a noncertified teacher's position.
- 12 ~~23-24.~~ "Wages" and "salaries" means the member's earnings in eligible employment under
13 this chapter reported as salary on the member's federal income tax withholding
14 statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,
15 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as
16 payments for unused sick leave, personal leave, vacation leave paid in a lump sum,
17 overtime, housing allowances, transportation expenses, early retirement incentive pay,
18 severance pay, medical insurance, workforce safety and insurance benefits, disability
19 insurance premiums or benefits, or salary received by a member in lieu of previously
20 employer-provided fringe benefits under an agreement between the member and
21 participating employer. Bonuses may be considered as salary under this section if
22 reported and annualized pursuant to rules adopted by the board.

23 **SECTION 2. AMENDMENT.** Section 54-52-02.1 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **54-52-02.1. Political subdivisions authorized to join public employees retirement**
26 **system.**

- 27 1. A political subdivision may, on behalf of its permanent employees, on behalf of its
28 peace officers, firefighters, public safety telecommunicators, and correctional officers
29 separately from its other employees, and permanent noncertified employees only in
30 the case of school districts, enter agreements with the retirement board for the
31 purpose of extending the benefits of the public employees retirement system, as

1 provided in this chapter, to those employees. The agreement may, in accordance with
2 this chapter, contain provisions relating to benefits, contributions, effective date,
3 modification, administration, and other appropriate provisions as the retirement board
4 and the political subdivision agree upon, but the agreement must provide:

5 a. The political subdivision will contribute on behalf of each eligible employee an
6 amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace
7 officers, firefighters, public safety telecommunicators, and correctional officers
8 participating separately from other political subdivision employees.

9 b. A portion of the moneys paid by the political subdivision may be used to pay
10 administrative expenses of the retirement board.

11 2. Notwithstanding any other provision of law, a political subdivision having an existing
12 police, public safety telecommunicator, or firefighter pension plan may merge that plan
13 into the public employees retirement system under rules adopted by and in a manner
14 determined by the board.

15 3. Notwithstanding any other provision of this chapter, a political subdivision of this state
16 not currently participating in the public employees retirement system may not become
17 a participant in the retirement system until an actuarial study is performed under the
18 direction of the board to calculate the required employer contribution for any past
19 service liability and the required employer contribution must be an amount determined
20 sufficient to amortize and fund any past service liability over a period not to exceed
21 thirty years as determined by the board. Any fees incurred in performing the actuarial
22 study must be paid for by the political subdivision in a manner determined by the
23 board.

24 **SECTION 3. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **54-52-06.3. Contribution by peace officers, firefighters, public safety**
27 **telecommunicators, and correctional officers employed by political subdivisions -**
28 **Employer contribution.**

29 Each peace officer, firefighter, public safety telecommunicator, or correctional officer
30 employed by a political subdivision that enters an agreement with the retirement board on
31 behalf of its peace officers, firefighters, public safety telecommunicators, and correctional

1 officers separately from its other employees and who is a member of the public employees
2 retirement system is assessed and shall pay monthly four percent of the employee's monthly
3 salary. Peace officer, firefighter, public safety telecommunicator, or correctional officer
4 contributions increase by one-half of one percent of the member's monthly salary beginning with
5 the monthly reporting period of January 2012, and with an additional increase of one-half of one
6 percent, beginning with the monthly reporting period of January 2013, and with an additional
7 increase of one-half of one percent, beginning with the monthly reporting period of January
8 2014. The assessment must be deducted and retained out of the employee's salary in equal
9 monthly installments. The peace officer's, firefighter's, public safety telecommunicator's, or
10 correctional officer's employer shall contribute an amount determined by the board to be
11 actuarially required to support the level of benefits specified in section 54-52-17. If the peace
12 officer's, firefighter's, public safety telecommunicator's, or correctional officer's assessment is
13 paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in
14 addition, an amount equal to the required peace officer's, firefighter's, public safety
15 telecommunicator's, or correctional officer's assessment.

16 **SECTION 4. AMENDMENT.** Subsections 3 and 4 of section 54-52-17 of the North Dakota
17 Century Code are amended and reenacted as follows:

- 18 3. Retirement dates are defined as follows:
- 19 a. Normal retirement date, except for a national guard security officer or firefighter, a
20 firefighter or public safety telecommunicator employed by a political subdivision,
21 or a peace officer or correctional officer employed by the bureau of criminal
22 investigation or by a political subdivision, is:
- 23 (1) The first day of the month next following the month in which the member
24 attains the age of sixty-five years; or
- 25 (2) When the member has a combined total of years of service credit and years
26 of age equal to eighty-five and has not received a retirement benefit under
27 this chapter.
- 28 b. Normal retirement date for members first enrolled after December 31, 2015,
29 except for a national guard security officer or firefighter, a firefighter or public
30 safety telecommunicator employed by a political subdivision, a peace officer or

- 1 correctional officer employed by the bureau of criminal investigation or by a
2 political subdivision, or a supreme court or district court judge, is:
- 3 (1) The first day of the month next following the month in which the member
4 attains the age of sixty-five years; or
- 5 (2) When the member has a combined total of years of service credit and years
6 of age equal to ninety and the member attains a minimum age of sixty and
7 has not received a retirement benefit under this chapter.
- 8 c. Normal retirement date for a national guard security officer or firefighter is:
- 9 (1) The first day of the month next following the month in which the national
10 guard security officer or firefighter attains the age of fifty-five years and has
11 completed at least three eligible years of employment; or
- 12 (2) When the national guard security officer or firefighter has a combined total
13 of years of service credit and years of age equal to eighty-five and has not
14 received a retirement benefit under this chapter.
- 15 d. Normal retirement date for a peace officer, firefighter, public safety
16 telecommunicator, or correctional officer employed by a political subdivision is:
- 17 (1) The first day of the month next following the month in which the peace
18 officer, firefighter, public safety telecommunicator, or correctional officer
19 attains the age of fifty-five years and has completed at least three eligible
20 years of employment; or
- 21 (2) When the peace officer, firefighter, public safety telecommunicator, or
22 correctional officer has a combined total of years of service credit and years
23 of age equal to eighty-five and has not received a retirement benefit under
24 this chapter.
- 25 e. Normal retirement date for a peace officer employed by the bureau of criminal
26 investigation is:
- 27 (1) The first day of the month next following the month in which the peace
28 officer attains the age of fifty-five years and has completed at least three
29 eligible years of employment; or

1 (2) When the peace officer has a combined total of years of service credit and
2 years of age equal to eighty-five and has not received a retirement benefit
3 under this chapter.

4 f. Postponed retirement date is the first day of the month next following the month
5 in which the member, on or after July 1, 1977, actually severs or has severed the
6 member's employment after reaching the normal retirement date.

7 g. Early retirement date, except for a national guard security officer or firefighter, a
8 firefighter or public safety telecommunicator employed by a political subdivision,
9 or a peace officer or correctional officer employed by the bureau of criminal
10 investigation or by a political subdivision, is the first day of the month next
11 following the month in which the member attains the age of fifty-five years and
12 has completed three years of eligible employment. For a national guard security
13 officer or firefighter, early retirement date is the first day of the month next
14 following the month in which the national guard security officer or firefighter
15 attains the age of fifty years and has completed at least three years of eligible
16 employment. For a firefighter or public safety telecommunicator employed by a
17 political subdivision or a peace officer or correctional officer employed by the
18 bureau of criminal investigation or by a political subdivision, early retirement date
19 is the first day of the month next following the month in which the peace officer,
20 firefighter, public safety telecommunicator, or correctional officer attains the age
21 of fifty years and has completed at least three years of eligible employment.

22 h. Disability retirement date is the first day of the month after a member becomes
23 permanently and totally disabled, according to medical evidence called for under
24 the rules of the board, and has completed at least one hundred eighty days of
25 eligible employment. For supreme and district court judges, permanent and total
26 disability is based solely on a judge's inability to perform judicial duties arising out
27 of physical or mental impairment, as determined pursuant to rules adopted by the
28 board or as provided by subdivision a of subsection 3 of section 27-23-03.

29 (1) A member is eligible to receive disability retirement benefits only if the
30 member became disabled during the period of eligible employment and

1 applies for disability retirement benefits within twelve months of the date the
2 member terminates employment.

3 (2) A member is eligible to continue to receive disability benefits as long as the
4 permanent and total disability continues and the member submits the
5 necessary documentation and undergoes medical testing required by the
6 board, or for as long as the member participates in a rehabilitation program
7 required by the board, or both. If the board determines a member no longer
8 meets the eligibility definition, the board may discontinue the disability
9 retirement benefit. The board may pay the cost of any medical testing or
10 rehabilitation services the board deems necessary and these payments are
11 appropriated from the retirement fund for those purposes. A member's
12 receipt of disability benefits under this section is limited to receipt from the
13 fund to which the member was actively contributing at the time the member
14 became disabled.

15 4. The board shall calculate retirement benefits as follows:

16 a. Normal retirement benefits for all retirees, except supreme and district court
17 judges, reaching normal retirement date equal an annual amount, payable
18 monthly, comprised of a service benefit and a prior service benefit, as defined in
19 this chapter, which is determined as follows:

20 (1) For members first enrolled:

21 (a) Before January 1, 2020, service benefit equals two percent of final
22 average salary multiplied by the number of years of service
23 employment.

24 (b) After December 31, 2019, service benefit equals one and seventy-five
25 hundredths percent of final average salary multiplied by the number of
26 years of service employment.

27 (2) Prior service benefit equals two percent of final average salary multiplied by
28 the number of years of prior service employment.

29 b. Normal retirement benefits for all supreme and district court judges under the
30 public employees retirement system reaching normal retirement date equal an

1 annual amount, payable monthly, comprised of a benefit as defined in this
2 chapter, determined as follows:

3 (1) Benefits must be calculated from the time of appointment or election to the
4 bench and must equal three and one-half percent of final average salary
5 multiplied by the first ten years of judicial service, two and eighty hundredths
6 percent of final average salary multiplied by the second ten years of judicial
7 service, and one and one-fourth percent of final average salary multiplied by
8 the number of years of judicial service exceeding twenty years.

9 (2) Service benefits must include, in addition, an amount equal to the percent
10 specified in subdivision a of final average salary multiplied by the number of
11 years of nonjudicial employee service and employment.

12 c. Postponed retirement benefits are calculated as for single life benefits for those
13 members who retired on or after July 1, 1977.

14 d. Early retirement benefits are calculated as for single life benefits accrued to the
15 date of termination of employment, but must be actuarially reduced to account for
16 benefit payments beginning before the normal retirement date, as determined
17 under subsection 3. Except for a national guard security officer or firefighter, a
18 firefighter or public safety telecommunicator employed by a political subdivision,
19 a peace officer or correctional officer employed by the bureau of criminal
20 investigation or by a political subdivision, or a supreme court or district court
21 judge, early retirement benefits for members first enrolled after December 31,
22 2015, are calculated for single life benefits accrued to the date of termination of
23 employment, but must be reduced by fixed rate of eight percent per year to
24 account for benefit payments beginning before the normal retirement date. A
25 retiree, other than a supreme or district court judge, is eligible for early retirement
26 benefits only after having completed three years of eligible employment. A
27 supreme or district court judge retiree is eligible for early retirement benefits only
28 after having completed five years of eligible employment.

29 e. Except for supreme and district court judges, disability retirement benefits are
30 twenty-five percent of the member's final average salary. Disability retirement
31 benefits for supreme and district court judges are seventy percent of final

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- 1 average salary reduced by the member's primary social security benefits and by
- 2 any workforce safety and insurance benefits paid. The minimum monthly
- 3 disability retirement benefit under this section is one hundred dollars.