13.0103.01000

Sixty-third
Legislative Assembly
of North Dakota

**BILL NO.**

Introduced by

(At the request of the Public Employees Retirement System Board)

A BILL for an Act to amend and reenact sections 39-03.1-09, 39-03.1-10, 54-52-02.9, 54-52-05, 54-52-06, 54-52-06.1, 54-52-06.3, and 54-52-06.4, subsection 6 of section 54-52.6-02, and section 54-52.6-09 of the of the North Dakota Century Code, relating to increased employer and employee contributions under the highway patrolmen's retirement plan and public employees retirement system.

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

**SECTION 1. AMENDMENT.** Section 39-03.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-09. Payments by contributors - Employer payment of employee contribution.**

1. Every member, except as provided in section 39-03.1-07, shall contribute into the fund ten and thirty-hundredths percent of the member's monthly salary, which sum must be deducted from the member's salary and credited to the member's account in the fund. Member contributions increase by one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, and ~~with an additional~~ increase ~~of~~annually by one percent, ~~beginning~~ with the monthly reporting period of January 2013, January 2014, and January 2015.
2. The state of North Dakota, at its option, may pay the member contributions required by subsection 1 for all compensation earned after June 30, 1983, and may pay the member contributions required to purchase service credit on a pretax basis pursuant to subsection 8 of section 39-03.1-08.2. The amount paid must be paid by the state in lieu of contributions by the member. A member may not receive the contributed amounts directly once the employer has elected to pay the member contributions. If the state decides not to pay the contributions, the amount that would have been paid will continue to be deducted from compensation. If contributions are paid by the state,

they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the state, they must not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The state shall pay these member contributions from the same source of funds used in paying compensation to the members. The state shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. If member contributions are paid by the state, they must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made prior to the date the contributions were assumed by the state. The option given employers by this subsection must be exercised in accordance with rules adopted by the board.

3. For compensation earned after August 1, 2009, all employee contributions required under subsection 1, and not otherwise paid under subsection 2, must be paid by the state in lieu of contributions by the member. All contributions paid by the state under this subsection must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the state under this subsection may not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until the contributions are distributed or made available. Contributions paid by the state in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made before the date the contributions were assumed by the state. The state shall pay these member contributions from the same source of funds used in paying compensation to the members. The state shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee. The state shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation or by law.

**SECTION 2. AMENDMENT.** Section 39-03.1-10 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-10. Contributions by the state.**

The state shall contribute to the fund a sum equal to sixteen and seventy-hundredths percent of the monthly salary or wage of a participating member. State 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~~annually by one percent, ~~beginning~~ with the reporting period of January 2013, January 2014, and January 2015. If the member's contribution is paid by the state under subsection 2 of section 39-03.1-09, the state shall contribute, in addition, an amount equal to the required member's contribution. The state shall pay the associated employer contribution for those members who elect to exercise their rights under subsection 3 of section 39-03.1-10.1.

**SECTION 3. AMENDMENT.** Section 54-52-02.9 of the North Dakota Century Code is amended and reenacted as follows:

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

A temporary employee may elect, within one hundred eighty days of beginning employment, to participate in the public employees retirement system and receive credit for service after enrollment. The temporary employee 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~~increases annually by two percent ~~increase, beginning~~ with the reporting period of January 2013, January 2014, and January 2015. 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 temporary employee may continue to participate as a temporary employee in the public employees retirement system until termination of employment or reclassification of the temporary employee as a permanent employee. A temporary employee may not purchase any additional credit, including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

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

**54-52-05. Membership and assessments - Employer payment of employee contributions.**

1. Every eligible governmental unit employee concurring in the plan must so state in writing and all future eligible employees are participating members. An employee who was not enrolled in the retirement system when eligible to participate must be enrolled immediately upon notice of the employee's eligibility, unless the employee waives in writing the employee's right to participate for the previous time of eligibility, to avoid contributing to the fund for past service. An employee who is eligible for normal retirement who accepts a retirement benefit under this chapter and who subsequently becomes employed with a participating employer other than the employer with which the employee was employed at the time the employee retired under this chapter may, before reenrolling in the retirement plan, elect to permanently waive future participation in the retirement plan and the retiree health program and maintain that employee's retirement status. An employee making this election is not required to make any future employee contributions to the public employees retirement system nor is the employee's employer required to make any further contributions on behalf of that employee.
2. Each member must be assessed and required to pay monthly four percent of the monthly salary or wage paid to the member, and such assessment must be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment. Member contributions increase by one percent of the monthly salary or wage paid to the member beginning with the monthly reporting period of January 2012, and ~~with an additional~~ increase ~~of~~annually by one percent, ~~beginning~~ with the monthly reporting period of January 2013, January 2014, and January 2015.
3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of

1 contributions by the employee. If the state determines not to pay the contributions, the
2 amount that would have been paid must continue to be deducted from the employee's
3 compensation. If contributions are paid by the employer, they must be treated as
4 employer contributions in determining tax treatment under this code and the federal
5 Internal Revenue Code. If contributions are paid by the employer, they may not be
6 included as gross income of the employee in determining tax treatment under this
7 code and the Internal Revenue Code until they are distributed or made available. The
8 employer shall pay these employee contributions from the same source of funds used
9 in paying compensation to the employee or from the levy authorized by subsection 5
10 of section 57-15-28.1. The employer shall pay these contributions by effecting an
11 equal cash reduction in the gross salary of the employee or by an offset against future
12 salary increases or by a contribution of a reduction in gross salary and offset against
13 future salary increases. If employee contributions are paid by the employer, they must
14 be treated for the purposes of this chapter in the same manner and to the same extent
15 as employee contributions made prior to the date on which employee contributions
16 were assumed by the employer. An employer exercising its option under this
17 subsection shall report its choice to the board in writing.
18 4. For compensation earned after August 1, 2009, all employee contributions required
19 under section 54-52-06.1 and the job service North Dakota retirement plan, and not
20 otherwise paid under subsection 3, must be paid by the employer in lieu of
21 contributions by the member. All contributions paid by the employer under this
22 subsection must be treated as employer contributions in determining tax treatment
23 under this code and the Internal Revenue Code. Contributions paid by the employer
24 under this subsection may not be included as gross income of the member in
25 determining tax treatment under this code and the Internal Revenue Code until the
26 contributions are distributed or made available. Contributions paid by the employer in
27 accordance with this subsection must be treated for the purposes of this chapter in the
28 same manner and to the same extent as member contributions made before the date
29 the contributions were assumed by the employer. The employer shall pay these
30 member contributions from the same source of funds used in paying compensation to
31 the employee. The employer shall pay these contributions by effecting an equal cash

reduction in the gross salary of the employee. The employer shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation or by amendment to law.

**SECTION 5. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06. Employer's contribution to retirement plan.**

Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Governmental unit 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~~annually by one percent, ~~beginning~~ with the reporting period of January 2013, January 2014, and January 2015. For those members who elect to exercise their rights under section 54-52-17.14, the employing governmental unit, or in the case of a member not presently under covered employment the most recent employing governmental unit, shall pay the associated employer contribution. If the employee's contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition, 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 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 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 became due, penalty and interest to be paid on delinquent contributions may be waived. An employer is required to 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. 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 6. AMENDMENT.** Section 54-52-06.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.1. Contribution by supreme and district court judges - Employer contribution.**

Each judge of the supreme or district court who is a member of the public employees retirement system must be assessed and required to pay monthly five percent of the judge's monthly salary. Member contributions increase by one percent of the judge's monthly salary beginning with the monthly reporting period of January 2012, and ~~with an additional~~ increase ~~of~~annually by one percent, beginning with the reporting period of January 2013, January 2014, and January 2015. The assessment must be deducted and retained out of the judge's salary in equal monthly installments. The state shall contribute an amount equal to fourteen and fifty-two one-hundredths percent of the monthly salary of a supreme or district court judge who is a participating member of the system, which matching contribution must be paid from its funds appropriated for salary, or from any other funds available for such purposes. State contributions increase by one percent of the monthly salary of a supreme or district court judge who is a participating member of the system beginning with the monthly reporting period of January 2012, and ~~with an additional~~ increase ~~of~~annually by one percent, ~~beginning~~ with the monthly reporting period of January 2013, January 2014, and January 2015. If the judge's contribution is paid by the state under subsection 3 of section 54-52-05, the state shall contribute, in addition, an amount equal to the required judge's contribution.

**SECTION 7. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.3. Contribution by peace officers and correctional officers employed by political subdivisions - Employer contribution.**

Each peace officer or correctional officer employed by a political subdivision that enters into an agreement with the retirement board on behalf of its peace officers and correctional officers separately from its other employees and who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer or correctional officer contributions increase by one-half of one percent of the member's

monthly salary beginning with the monthly reporting period of January 2012, and ~~with an additional~~ increase ~~of~~annually by one-half of one percent, ~~beginning~~ with the monthly reporting period of January 2013, January 2014, and January 2015. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

**SECTION 8. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.4. Contribution by peace officers employed by the bureau of criminal investigation - Employer contribution.**

Each peace officer employed by the bureau of criminal investigation who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer contributions increase by one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, and ~~with an additional~~ increase ~~of~~annually by one percent, ~~beginning~~ with the reporting period of January 2013, January 2014, and January 2015. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the peace officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's assessment.

**SECTION 9. 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 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~~increases annually by two percent, ~~beginning~~ with the monthly reporting period of January 2013, January 2014, and January 2015. 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 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 10. 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~~annually by one percent, ~~beginning~~ with the reporting period of January 2013, January 2014, and January 2015.
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~~annually by one percent, ~~beginning~~ with the monthly reporting period of

January 2013, January 2014, and January 2015. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. The employer shall pay monthly such contribution into the participating member's account from its funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, it 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 after the payment became due.

3. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer may not be included as gross income of the employee in determining tax treatment under this code and the federal Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a 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.