

AN ACT

ENTITLED, An Act to revise certain provisions regarding the South Dakota Retirement System.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That subdivision (2) of § 3-12-47 be amended to read:

(2)

Section 2. That subdivision (5) of § 3-12-47 be amended to read:

(5) "Actuarial value of assets," equal to the fair value of assets;

Section 3. That § 3-12-47 be amended by adding a NEW SUBDIVISION to read:

(5A) "Actuarially determined contribution rate," the fixed, statutory contribution rate, no less than the normal cost rate with expenses assuming the minimum COLA, and no greater than the normal cost rate with expenses assuming the maximum COLA;

Section 4. That subdivision (21) of § 3-12-47 be amended to read:

(21) "Classified employees," employees of public school districts who are not required by law to be certified as teachers, employees of the colleges and universities under the control of the board of regents who are not faculty or administrators and come within the provisions of chapter 3-6D, employees of public corporations, employees of chartered governmental units, and all other participating employees not elsewhere provided for in this chapter;

Section 5. That subdivision (50) of § 3-12-47 be amended to read:

(50) "Internal Revenue Code," or "code," the Internal Revenue Code as in effect as of January 1, 2018;

Section 6. That subdivision (85) of § 3-12-47 be amended to read:

(85) "Supplemental pension participant," any member who is a retiree receiving a benefit from the system, or, if the member is deceased, the member's surviving spouse who is receiving a benefit from the system, and who chooses to purchase a supplemental pension benefit

pursuant to the provisions of this chapter;

Section 7. That § 3-12-48 be amended to read:

3-12-48. There is created a governing authority of the system to consist of a board known as the Board of Trustees. Voting representation on the board shall be the following:

- (1) Two state employee members;
- (2) Two teacher members;
- (3) A participating municipality member;
- (4) A participating county member;
- (5) A participating classified employee member;
- (6) A current contributing Class B member other than a justice, judge, or magistrate judge;
- (7) A justice, judge, or magistrate judge;
- (8) One head of a principal department established pursuant to § 1-32-2, or one head of a bureau under the Department of Executive Management established pursuant to § 1-33-3 appointed by the Governor;
- (9) An individual appointed by the Governor;
- (10) A county commissioner of a participating county;
- (11) A school district board member;
- (12) An elected municipal official of a participating municipality;
- (13) A retiree; and
- (14) A faculty or administrative member employed by the Board of Regents and not subject to the provisions of chapter 3-6D.

A representative of the State Investment Council shall serve as an ex officio nonvoting member.

Section 8. That § 3-12-57.1 be amended to read:

3-12-57.1. Any person aggrieved by a final determination made by the system's staff may request

review of the final determination and a decision by the executive director if the request is made in writing within thirty days after receiving the final determination. The person, if then aggrieved by the executive director's decision, may appeal the decision, if the person files a written notice of appeal with the executive director within thirty days of the date of the decision. The notice shall identify the person appealing and the decision appealed. The appeal shall be conducted by a hearing examiner in accordance with chapter 1-26. The hearing examiner, after hearing the evidence in the matter, shall make proposed findings of fact and conclusions of law, and a proposed decision. The executive director shall accept, reject, or modify the findings, conclusions, and decision of the hearing examiner and such action constitutes the final agency decision. Alternatively, the executive director may appoint the hearing examiner to make the final agency decision. The final agency decision may be appealed to circuit court pursuant to chapter 1-26. The executive director may arrange for the assistance of private counsel throughout the appeal process.

Section 9. That § 3-12-76 be amended to read:

3-12-76. A member who terminates public service may withdraw the sum of the member's accumulated contributions upon application to the system. A member who withdraws the member's accumulated contributions pursuant to this section forfeits all credited service and benefits provided in this chapter.

The right to withdraw accumulated contributions ceases if the member returns to employment with a participating unit.

Section 10. That § 3-12-76.1 be repealed.

Section 11. That chapter 3-12 be amended by adding a NEW SECTION to read:

For purposes of § 3-12-115, the system shall determine if a domestic relations order is a qualified domestic relations order. Upon receipt of a domestic relations order, the system shall promptly issue a written notice of receipt to the member and any alternate payee. Within a reasonable period of time,

the system shall issue a determination indicating if the domestic relations order qualifies as a plan-approved domestic relations order in accordance with § 414(p) of the Internal Revenue Code.

No order may require the payment of benefits to an alternate payee before the retirement of a member or the withdrawal of a member's accumulated contributions for a distribution to an alternate payee. In addition, no order may require the payment of monthly benefits to an alternate payee after the death of the member.

No order approved after July 1, 2018, may require the payment of benefits to the alternate payee's estate after the death of the alternate payee. The amount paid in monthly benefits to the alternate payee shall be paid to the member after the death of the alternate payee.

Section 12. That § 3-12-120 be amended to read:

3-12-120. To determine and verify the adequacy of the member and employer contributions to the system, an actuarial valuation of the system shall be made annually by an approved actuary.

The actuarial valuation shall include:

- (1) A demonstration of the relationship of the current member and employer contributions, expressed as a percentage of payroll, to the minimum actuarial requirement to support benefits; and
- (2) The current year's funded ratio as well as the ratios from the prior actuarial valuations performed after July 1, 1974.

Section 13. That chapter 3-12 be amended by adding a NEW SECTION to read:

For the purposes of this chapter, the phrase, minimum actuarial requirement to support benefits, means the normal cost and the interest on and amortization of the unfunded actuarial accrued liability over a period not to exceed twenty years, all expressed in terms of a percentage of covered payroll and based on the baseline COLA or the restricted COLA, as applicable. If the actuarial value of assets exceeds the actuarial accrued liability, the minimum actuarial requirement to support benefits

includes a thirty year amortization of the amount by which the actuarial value of assets exceeds the actuarial accrued liability.

Section 14. That § 3-12-122 be amended to read:

3-12-122. The board shall review the funding of the system and shall make a report to the Governor and the Retirement Laws Committee if the funding of the system does not meet both of the following conditions:

- (1) The fair value funded ratio is greater than or equal to one hundred percent; and
- (2) The contribution rate meets or exceeds the minimum actuarial requirement to support benefits.

The report shall include recommendations for the circumstances and timing for any corrective action, including benefit changes, to improve the conditions in subdivisions (1) and (2). Based on this report and the recommendations of the board, the Legislature may adopt corrective action to improve the conditions in subdivisions (1) and (2).

Eligibility for benefits, the amount of any benefit, and the rate of member contributions established in this chapter are not the contractual rights of any member and are subject to change by the Legislature for purposes of corrective action to improve the conditions in subdivisions (1) and (2).

Section 15. That § 3-12-191 be amended to read:

3-12-191. A member who is a retiree receiving a benefit from the system, or, if the member is deceased, the member's surviving spouse who is receiving a benefit from the system and is a beneficiary of the funds subject to this section, may become a supplemental pension participant by direct rollover of funds held by the member in a variable retirement account or in either or both of the plans created in chapters 3-13 and 3-13A into the fund. Any rollover shall be in compliance with the provisions of § 401(a)(31) of the Internal Revenue Code and shall be recorded in the participant's

supplemental pension contract record. All of a participant's funds rolled into the fund shall be expended in full as the single premium for a supplemental pension contract. No single premium may be less than ten thousand dollars. A supplemental pension contract goes into effect when a participant signs the supplemental pension contract. The initial monthly supplemental pension benefit is payable the first day of the first month after the contract goes into effect. Payment of any prior and current supplemental pension benefits shall be made within two months after the contract is in effect.

Section 16. That § 3-12-192 be amended to read:

3-12-192. A supplemental pension participant who is a retiree receiving a benefit from the system shall receive one of three types of supplemental pension benefits:

- (1) A supplemental pension benefit payable monthly for the lifetime of the participant;
- (2) A supplemental pension benefit payable monthly for the lifetime of the participant and, upon the death of the participant, a supplemental pension benefit payable monthly to the participant's supplemental pension spouse equal to sixty percent of the monthly benefit amount that the participant was receiving at the time of death; or
- (3) A supplemental pension benefit payable monthly for the lifetime of the participant and, upon the death of the participant, a supplemental pension benefit payable monthly to the participant's supplemental pension spouse equal to one hundred percent of the monthly benefit amount that the participant was receiving at the time of death.

A participant who is a retiree receiving a benefit from the system may contract for any of the three types of supplemental pension benefits provided in this section. A participant who is the member's surviving spouse may contract only for a supplemental pension benefit payable monthly for the lifetime of the surviving spouse. The contract shall be signed by both the supplemental pension participant and the supplemental pension spouse, if applicable, and each signature shall be witnessed

by a representative of the system or notarized.

An Act to revise certain provisions regarding the South Dakota Retirement System.

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I certify that the attached Act
originated in the
SENATE as Bill No. 36

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 36
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,
20__ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

=====
STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State