

AN ACT

ENTITLED, An Act to provide benefit improvements for the members of 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 as follows:

(2) "Accumulated contributions," the sum of:

- (a) All contributions by a member, including member contributions made by an employer on or after July 1, 1984, pursuant to § 3-12-71;
- (b) Seventy-five percent of employer contributions if the member has less than three years credited service or one hundred percent of employer contributions if the member has three years or more credited service; and
- (c) Member redeposits pursuant to § 3-12-80 and member credited service purchases pursuant to § 3-12-83 and 3-12-84;

all together with the effective rate of interest credited thereon.

If credited service is purchased pursuant to §§ 3-12-83 and 3-12-84, only the amount of the purchase shall be included as accumulated contributions for the purposes of a refund under this chapter;

Section 2. That subdivision (27A) of § 3-12-47 be repealed.

(27A)

Section 3. That subdivision (27B) of § 3-12-47 be repealed.

(27B)

Section 4. That subdivision (27C) of § 3-12-47 be repealed.

(27C)

Section 5. That subdivision (57) of § 3-12-47 be repealed.

(57)

Section 6. That § 3-12-76 be amended to read as follows:

3-12-76. A member terminating public service is entitled to the sum of the member's accumulated contributions upon application to the system in lieu of retaining credited service and benefits provided in this chapter.

The right to withdraw accumulated contributions ceases within ninety days of a return to employment with a participating unit.

Section 7. That § 3-12-76.3 be amended to read as follows:

3-12-76.3. A member who elects to withdraw accumulated contributions as provided in § 3-12-76 or 3-12-76.1 may receive the distribution directly. Eligible rollover distributions may be transferred by the system in a direct rollover to no more than one eligible retirement plan identified by the member if a member so elects. The system is not required to make an independent determination as to whether the plan identified by the member qualifies as an eligible retirement plan. By electing a direct rollover and identifying the eligible retirement plan to which an eligible rollover distribution is to be made, the member represents to the system that the identified plan qualifies as an eligible retirement plan. If the member does not elect a direct rollover, the distribution shall be issued in the name of, and directly to, the member.

Section 8. That § 3-12-77 be amended to read as follows:

3-12-77. A member of the system who has less than five years credited service may leave the member's accumulated contributions in the system upon termination of employment for a period not to exceed five years from the date of termination. However, no additional contributions may be made to the system by the member or a participating unit following the date of termination and no benefits in the retirement system may accrue to a member of the system following the date of termination, except as provided in § 3-12-72.4. At the end of the five-year period, no further interest may be credited with respect to contributions. If the member fails to withdraw the member's accumulated contributions within six years following the member's termination, the member shall forfeit all rights

to this accumulated contributions and to any credited service in connection therewith, if the system has made reasonable efforts to notify the member of the member's withdrawal rights and the effect of this section.

Section 9. That § 3-12-79 be amended to read as follows:

3-12-79. If a nonvested member who has terminated employment and has left the member's accumulated contributions in the system does not return to employment with a participating unit within five years of the member's date of termination, the nonvested member shall withdraw the member's accumulated contributions from the system and membership in the system shall terminate.

Section 10. That § 3-12-82 be amended to read as follows:

3-12-82. If less than one year of credited service is performed after last reentry, a retired member shall receive an allowance equal to the allowance the member would have received had the member not returned to employment, plus a refund of the member's accumulated contributions made during the period after last reentry.

If one year or more of service is performed after reentry into employment, a retired member shall receive upon subsequent retirement an allowance based upon the member's total credited service and compensation from both initial and subsequent retirement. The member's total credited service from both initial and subsequent employment shall be taken into account in calculating a reduction, if any, in the member's allowance pursuant to § 3-12-106.

Section 11. That § 3-12-90.6 be repealed.

Section 12. That § 3-12-90.7 be repealed.

Section 13. That § 3-12-90.8 be repealed.

Section 14. That § 3-12-90.10 be repealed.

Section 15. That § 3-12-91 be amended to read as follows:

3-12-91. Upon retirement, a member shall receive a normal retirement allowance, commencing

at normal retirement age or thereafter as provided in § 3-12-90, for class A credited service, equal to the larger of 1.3% of final compensation for each year of class A credited service, or 2.0% of final compensation for each year of class A credited service, less other public benefits. For purposes of this section, federal military retirement or federal national guard retirement benefits are not other public benefits. Class A credited service includes all credited service under this or any of the retirement systems consolidated pursuant to § 3-12-46.

However, the allowance for each year of credited service prior to July 1, 1998, shall be as provided in § 3-12-92.5.

Section 16. That § 3-12-92 be amended to read as follows:

3-12-92. Upon retirement, a member shall receive a normal retirement allowance, commencing at normal retirement age or thereafter as provided in § 3-12-90, for class B credited service other than as a justice, judge, or magistrate judge, equal to 2.0% of final compensation for each year of class B credited service other than as a justice, judge, or magistrate judge.

However, the allowance for each year of credited service prior to July 1, 1998, shall be as provided in § 3-12-92.5.

Section 17. That § 3-12-92.4 be amended to read as follows:

3-12-92.4. Upon retirement, a member shall receive a normal retirement allowance, commencing at normal retirement age or thereafter as provided in § 3-12-90, for class B credited service as a justice, judge, or magistrate judge equal to 3.333% of final compensation for each year of class B credited service as a justice, judge, or magistrate judge up to fifteen years plus 2.0% of final compensation for each year of class B credited service as a justice, judge, or magistrate judge in excess of fifteen years.

However, the allowance for each year of credited service prior to July 1, 1998, shall be as provided in § 3-12-92.5.

Section 18. That § 3-12-92.5 be amended to read as follows:

3-12-92.5. The retirement allowance for periods prior to July 1, 1998, shall be 1.475% of final compensation for each year of class A credited service.

The retirement allowance for periods prior to July 1, 1998, shall be 2.175% of final compensation for each year of class B credited service other than as a justice, judge, or magistrate judge.

The retirement allowance for periods prior to July 1, 1998, shall be 3.508% of final compensation for each year of class B credited service as a justice, judge, or magistrate judge up to fifteen years, plus 2.175% of final compensation for each year of class B credited service as a justice, judge, or magistrate judge in excess of fifteen years.

Section 19. That § 3-12-92.6 be amended to read as follows:

3-12-92.6. Each member who retired prior to July 1, 1998, and each beneficiary of a deceased member who retired prior to July 1, 1998, shall receive a retirement allowance based on the provisions of § 3-12-92.5. Any retiree or beneficiary receiving an allowance based on the class A 2.0% formula provided in § 3-12-91 shall continue to receive that allowance unless the retiree or beneficiary would receive a higher benefit under the 1.475% formula provided in § 3-12-92.5 when improved by the improvement factor for each full fiscal year from the date of retirement to July 1, 1998.

Increased benefits as provided by any amendment to this section are prospective in nature and are effective July 1, 1998.

Each member or beneficiary of a member who retired prior to July 1, 1974, who is receiving benefits pursuant to § 3-12-126 or each member or beneficiary of a member who elected to retire pursuant to § 3-12-127, shall have a benefit increased by an additional 2.0% as of July 1, 1998, in lieu of the increase provided in this section.

If a member retired prior to normal retirement age, the allowance shall be adjusted in accordance with the law in effect at the time of retirement. If a member elected an alternate method of payment under the law in effect at the time of retirement, the allowance shall be adjusted in accordance with

the law in effect at the time of retirement. If the additional allowance is to be paid to a beneficiary of a deceased member, the additional allowance shall be adjusted in accordance with the law in effect at the time of the member's retirement.

No member or beneficiary whose retirement allowance terminated prior to July 1, 1998, may receive any benefits pursuant to this section.

Section 20. That § 3-12-104 be amended to read as follows:

3-12-104. Within ninety days of becoming a member, attaining age thirty-five, or the first anniversary of a marriage, a member may elect to provide the member's spouse with additional survivor protection by increasing the member's contribution by an additional eight-tenths of one percent of compensation, which additional contribution may not be matched by the member's employer. The additional contribution shall commence with the first payroll period following the date of the election. It shall continue until the earlier of the member's spouse attaining age sixty-five, the death or disability of the member, the death of the spouse, termination of employment or the termination of the marriage as defined in the rules of the board of trustees. The additional contribution may not be treated as a member contribution for purposes of determining the amount of refund of accumulated contributions. However, the contributions paid prior to January 1, 1979, shall be considered part of accumulated contributions for determining the amount of refund if the member terminates employment. Notwithstanding any other provision of this section, a member who is currently contributing to the system may terminate the additional survivor protection under this section, but all funds contributed for the additional survivor protection shall remain with the system and may not be considered as part of the member's accumulated contributions. For the purposes of implementing this section, the eight-tenths of one percent contribution for additional survivor protection shall be applied to all compensation received on or after January 1, 1979, regardless of when that compensation was earned.

Section 21. That § 3-12-110 be amended to read as follows:

3-12-110. If the aggregate benefits payable to a member and the member's beneficiaries pursuant to §§ 3-12-75, 3-12-91, 3-12-92, 3-12-92.4, 3-12-94, 3-12-95, 3-12-99, and 3-12-103, after all allowances currently or potentially payable under any provision of this chapter have terminated, do not total to the member's accumulated contributions including one hundred percent of employer contributions, then the balance equal to the difference between the accumulated contributions and total payments made to date shall be paid in a lump sum as provided in this section.

Amounts payable under this section shall be paid as follows:

- (1) To the beneficiary designated by the member if any is designated; or
- (2) If no beneficiary is designated, then to all surviving children, irrespective of age, on a share alike basis; or
- (3) If no beneficiary is designated and there are no surviving children, then to the recipient of the last benefit payment made by the system or to the member's estate.

This section does not apply to any member who withdraws accumulated contributions pursuant to § 3-12-76, 3-12-76.1, 3-12-77, or 3-12-79 after termination of employment, or to any nonvested member who dies after termination of employment.

Section 22. That § 3-12-144 be repealed.

Section 23. That § 3-12-145 be repealed.

Section 24. That § 3-12-146 be repealed.

Section 25. That § 3-12-147 be repealed.

Section 26. That § 3-12-148 be repealed.

Section 27. That § 3-12-149 be repealed.

Section 28. That § 3-12-150 be repealed.

Section 29. That § 3-12-151 be repealed.

Section 30. That § 3-12-152 be repealed.

Section 31. That chapter 3-12 be amended by adding thereto a NEW SECTION to read as follows:

No member or former member of the system who has withdrawn contributions from the system prior to the effective date of this Act may receive any additional refund under the provisions of this Act.

An Act to provide benefit improvements for the members of the South Dakota Retirement System.

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I certify that the attached Act originated in the

SENATE as Bill No. 45

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 45

File No. _____

Chapter No. _____

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Received at this Executive Office this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 19__

Governor

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

Filed _____ , 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State