

AN ACT

ENTITLED, An Act to revise the retirement provisions for retired members of the South Dakota Retirement System who return to covered employment.

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

Section 1. That § 3-12-82 be amended to read as follows:

3-12-82. If less than three years of credited service is performed after a retired member's reentry into covered employment, the member upon subsequent retirement shall receive a refund of the member's contributions and seventy-five percent of the employer's contributions, plus interest on both at the effective rate, made during the period after reentry.

If three years or more of credited service are performed after a retired member's reentry into covered employment, the member upon subsequent retirement shall receive an additional allowance based upon the member's credited service and final compensation earned during such reentry. Only the member's credited service from the subsequent employment shall be taken into account in calculating a reduction pursuant to § 3-12-106, if any, in the member's additional allowance. In addition, the annual increase applied to the original allowance pursuant to § 3-12-88 shall be eliminated for such period of reemployment, unless the member retired as a Class B member other than a justice, judge, or magistrate judge and subsequently has reentered covered employment as a Class A member.

The provisions of this section apply to any member who retired without any reduction in benefits pursuant to § 3-12-106 and who reenters covered employment on or after July 1, 2004.

Section 2. That § 3-12-88 be amended to read as follows:

3-12-88. All benefits except those depending on the member's contribution balance shall be annually increased by the improvement factor. However, the annual increase shall be eliminated for any period of time that a retired member reenters covered employment in the system, unless the

member retired as a Class B member other than a justice, judge, or magistrate judge and subsequently has reentered covered employment as a Class A member, or unless the member retired prior to July 1, 2004. Such elimination shall cease when the member again retires and draws either a refund or an additional retirement allowance.

Section 3. That § 3-12-111 be amended to read as follows:

3-12-111. If a retired member whose benefits have been reduced pursuant to § 3-12-106 becomes employed as a permanent full-time employee by a participating unit prior to July 1, 2004, the payment of the member's retirement allowance, including the annual increase pursuant to § 3-12-88, shall be suspended during such period of reemployment. If the member remains in such reemployment for at least three years pursuant to the provisions of § 3-12-82 and then again retires, the member's additional allowance shall be recalculated to consider only the member's credited service and final compensation earned during reentry.

Section 4. That chapter 3-12 be amended by adding thereto a NEW SECTION to read as follows:

If a retired member whose benefits have been reduced pursuant to § 3-12-106 becomes employed as a permanent full-time employee by a participating unit on or after July 1, 2004, the payment of the member's retirement allowance shall be suspended during the period of reemployment. If the member remains in reemployment for at least three years pursuant to the provisions of § 3-12-82, the member upon subsequent retirement shall receive an additional allowance based upon the member's credited service and final compensation earned during the reentry. Only the member's credited service from the subsequent employment shall be taken into account in calculating a reduction pursuant to § 3-12-106, if any, in the member's additional allowance. In addition, the annual increase applied to the original allowance pursuant to § 3-12-88 shall be eliminated for the period of reemployment.

Section 5. The provisions of law in effect prior to July 1, 2004, continue to apply to any retired

member whose benefits were not suspended pursuant to the provisions of § 3-12-111 and who reentered active status prior to July 1, 2004.

Section 6. That chapter 3-12 be amended by adding thereto a NEW SECTION to read as follows:

If a retired member becomes reemployed as a permanent full-time employee by a participating unit, the member first shall have terminated the member's employment relationship with the initial participating unit, as outlined in subdivision 3-12-47(70) and as required pursuant to Revenue Ruling 57-115 by the Internal Revenue Service. The initial participating unit's system representative shall certify to the system that the termination of the employment relationship took place. In addition, the member shall have been subject to all proceedings and requirements associated with the hiring and employment of any new employee by the second participating unit, and that unit's system representative shall so certify to the system. If a single participating unit is both the member's initial participating unit and the member's second participating unit, it shall follow all termination procedures and all hiring procedures relative to the member as outlined by this section, and its system representative shall so certify.

Section 7. That subdivision (70) of § 3-12-47 be amended to read as follows:

(70) "Terminated," complete severance of employment from public service of any member by resignation or discharge, not including leave of absence, layoff, vacation leave, sick leave, or jury duty, and involving all termination proceedings routinely followed by the member's participating unit, including payment to the member for unused vacation leave, payment to the member for unused sick leave, payment to the member for severance of an employment contract, severance of health insurance coverage, severance of life insurance coverage, or severance of any other such perquisite of employment granted by the member's participating unit to an active employee;

Section 8. That § 3-12-81 be amended to read as follows:

3-12-81. For purposes of earning retirement benefits, a reemployed former member who does not redeposit the member's contributions with the system shall be treated as a new employee in establishing eligibility for benefits and meeting other service requirements.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1037

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1037
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

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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