

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

554J0431

## HOUSE BILL NO. 1037

Introduced by: The Committee on Retirement Laws at the request of the South Dakota Retirement System

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

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

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

5 3-12-82. If less than ~~one year~~ three years of credited service is performed after ~~last a retired~~  
6 member's reentry, a retired into covered employment, the member upon subsequent retirement  
7 shall receive ~~an allowance equal to the allowance the member would have received had the~~  
8 ~~member not returned to employment, plus a refund of the member's accumulated contributions~~  
9 and seventy-five percent of the employer's contributions, plus interest on both at the effective  
10 rate, made during the period after ~~last~~ reentry.

11 If ~~one year~~ three years or more of credited service ~~is are~~ performed after a retired member's  
12 reentry into covered employment, ~~a retired~~ the member shall receive upon subsequent retirement  
13 shall receive an additional allowance based upon the member's ~~total~~ credited service and final  
14 compensation ~~from both initial and subsequent retirement. The member's total credited service~~  
15 ~~from both initial and subsequent employment shall be taken into account in calculating a~~



1 ~~reduction, if any, in the member's allowance pursuant to § 3-12-106 earned during such reentry.~~  
2 Only the member's credited service from the subsequent employment shall be taken into account  
3 in calculating a reduction pursuant to § 3-12-106, if any, in the member's additional allowance.  
4 In addition, the annual increase applied to the original allowance pursuant to § 3-12-88 shall be  
5 eliminated for such period of reemployment, unless the member retired as a Class B member  
6 other than a justice, judge, or magistrate judge and subsequently has reentered covered  
7 employment as a Class A member.

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

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

11 3-12-88. All benefits except those depending on the member's contribution balance shall be  
12 annually increased by the improvement factor. However, the annual increase shall be eliminated  
13 for any period of time that a retired member reenters covered employment in the system, unless  
14 the member retired as a Class B member other than a justice, judge, or magistrate judge and  
15 subsequently has reentered covered employment as a Class A member, or unless the member  
16 retired prior to July 1, 2004. Such elimination shall cease when the member again retires and  
17 draws either a refund or an additional retirement allowance.

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

19 3-12-111. If a ~~retiree~~ retired member whose benefits have been reduced pursuant to § 3-12-  
20 106 becomes employed as a permanent full-time employee by a participating unit prior to  
21 normal retirement age July 1, 2004, the payment of the member's annuity retirement allowance,  
22 including the annual increase pursuant to § 3-12-88, shall be suspended during the employment  
23 such period of reemployment. If the member remains in such reemployment for at least three  
24 years pursuant to the provisions of § 3-12-82 and then again retires, the member's annuity

1 additional allowance shall be recalculated to consider ~~all~~ only the member's credited service and  
2 final compensation from both initial and subsequent employment, adjusted for the present value  
3 of annuity payments made during the member's first period of retirement. Any adjustment due  
4 to the annuity payments shall be calculated over the member's life expectancy. This section  
5 applies only to a member who retires with a reduction of the member's retirement allowance  
6 pursuant to § 3-12-106 earned during reentry.

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

9 If a retired member whose benefits have been reduced pursuant to § 3-12-106 becomes  
10 employed as a permanent full-time employee by a participating unit on or after July 1, 2004, the  
11 payment of the member's retirement allowance shall be suspended during the period of  
12 reemployment. If the member remains in reemployment for at least three years pursuant to the  
13 provisions of § 3-12-82, the member upon subsequent retirement shall receive an additional  
14 allowance based upon the member's credited service and final compensation earned during the  
15 reentry. Only the member's credited service from the subsequent employment shall be taken into  
16 account in calculating a reduction pursuant to § 3-12-106, if any, in the member's additional  
17 allowance. In addition, the annual increase applied to the original allowance pursuant to § 3-12-  
18 88 shall be eliminated for the period of reemployment.

19 Section 5. The provisions of law in effect prior to July 1, 2004, continue to apply to any  
20 retired member whose benefits were not suspended pursuant to the provisions of § 3-12-111 and  
21 who reentered active status prior to July 1, 2004.

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

24 If a retired member becomes reemployed as a permanent full-time employee by a

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

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

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

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

22 3-12-81. For purposes of earning retirement benefits, ~~such a reemployed former employee~~  
23 ~~member who did not have five years of credited service and did~~ does not ~~redeposit his the~~  
24 member's contributions with the system shall be treated as a new employee in establishing

1 eligibility for benefits and meeting other service requirements.