



2022 South Dakota Legislature  
**Senate Bill 56**  
**ENROLLED**

AN ACT

**ENTITLED An Act to revise certain provisions relating to the South Dakota Retirement System.**

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

**Section 1. That § 3-12C-101 be AMENDED:**

**3-12C-101.** Terms as used in this chapter mean:

- (1) "Actuarial accrued liability," the present value of all benefits less the present value of future normal cost contributions;
- (2) "Actuarial experience analysis," a periodic report that reviews basic experience data and furnishes actuarial analysis that substantiates the assumptions adopted for the purpose of making an actuarial valuation of the system;
- (3) "Actuarial valuation," a projection of the present value of all benefits and the current funded status of the system, based upon stated assumptions as to rates of interest, mortality, disability, salary progressions, withdrawal, and retirement as established by a periodic actuarial experience analysis that takes into account census data of all active members, vested terminated members, and retired members and their beneficiaries under the system;
- (4) "Actuarial value funded ratio," the actuarial value of assets divided by the actuarial accrued liability;
- (5) "Actuarial value of assets," equal to the fair value of assets;
- (6) "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;
- (7) "Air rescue firefighters," employees of the Department of the Military who are stationed at Joe Foss Field, Sioux Falls, and who are directly involved in firefighting activities on a daily basis;

- (8) "Approved actuary," any actuary who is a member of the American Academy of Actuaries or an Associate or a Fellow of the Society of Actuaries who meets the qualification standards of the American Academy of Actuaries to issue actuarial opinions regarding the system or any firm retaining such an actuary on its staff and who is appointed by the board to perform actuarial services;
- (9) "Assumed rate of return," the actuarial assumption adopted by the board pursuant to § 3-12C-227 as the annual assumed percentage return on trust fund assets, compounded;
- (10) "Beneficiary," the person designated by a member of the system to receive any payments after the death of such member;
- (11) "Benefits," the amounts paid to a member, spouse, child, or beneficiary as a result of the provisions of this chapter;
- (12) "Board," the Board of Trustees of the South Dakota Retirement System;
- (13) "Calendar quarter," a period of three calendar months ending March thirty-first, June thirtieth, September thirtieth, or December thirty-first of any year;
- (14) "Campus security officers," employees of the Board of Regents whose positions are subject to the minimal educational training standards established by the law enforcement standards commission pursuant to chapter 23-3, who satisfactorily complete the training required by chapter 23-3 within one year of employment, and whose primary duty as sworn law enforcement officers is to preserve the safety of the students, faculty, staff, visitors, and the property of the university. The employer shall file with the system evidence of the appointment as a sworn law enforcement officer at the time of employment and shall file evidence of satisfactory completion of the training program pursuant to chapter 23-3 within one year of employment;
- (15) "Certified school employee," any employee of a participating unit who is required to have a certificate as defined in subdivision 13-42-1(3);
- (16) "Class A credited service," service credited as a Class A member of the system;
- (17) "Class A member," any member other than a Class B member or a Class C member and is either a foundation member or a generational member;
- (18) "Class B credited service," service credited as a Class B member of the system;
- (19) "Class B member," a member who is a justice, judge, state law enforcement officer, magistrate judge, police officer, firefighter, county sheriff, deputy county sheriff, correctional security staff, parole agent, air rescue firefighter, campus security

- officer, court services officer, juvenile corrections agent, conservation officer, or park ranger and is either a foundation member or a generational member;
- (20) "Class C credited service," service credited as a Class C member of the system;
  - (21) "Class C member," any member of the cement plant retirement plan including any retiree or any vested member;
  - (22) "Class D credited service," service credited as a Class D member of the system;
  - (23) "Class D member," any member that was a member of the Department of Labor and Regulation employees' retirement plan as of June 30, 2020;
  - (24) "Classified employee," an employee of a public school district who is not required by law to be a certified school employee, an employee of any college or university under the control of the Board of Regents who is not a faculty member or an administrator and comes within the provisions of chapter 3-6D, an employee of a public corporation, an employee of a chartered governmental unit, and any other participating employee not elsewhere provided for in this chapter;
  - (25) "Comparable level position," a member's position of employment that is generally equivalent to the member's prior position of employment in terms of required education, required experience, required training, required work history, geographic location, and compensation and benefits;
  - (26) "Conservation officers," employees of the Department of Game, Fish and Parks and the Division of Wildlife or Division of Custer State Park who are employed pursuant to § 41-2-11 and whose positions are subject to the requirements as to education and training provided in chapter 23-3;
  - (27) "Consumer price index," the consumer price index for urban wage earners and clerical workers calculated by the United States Bureau of Labor Statistics;
  - (28) "Contributory service," service to a participating unit during which contributions were made to a South Dakota retirement system, which may not include years of credited service as granted in § 3-12C-509 or 3-12C-511;
  - (29) "Correctional security staff," the warden, deputy warden, and any other correctional staff holding a security position as verified by the Department of Corrections and approved by the Bureau of Human Resources and the Bureau of Finance and Management, and determined by the board as Class B members;
  - (30) "Court services officers," persons appointed pursuant to § 26-7A-8;
  - (31) "Covered employment," a member's employment as a full-time employee of a participating unit;

- (32) "Deputy county sheriff," an employee of a county that is a participating unit, appointed by the board of county commissioners pursuant to §§ 7-12-9 and 7-12-10, whose position is subject to the minimum educational and training standards established by the law enforcement standards commission pursuant to chapter 23-3. The term does not include jailers or clerks appointed pursuant to §§ 7-12-9 and 7-12-10 unless the participating unit has requested that the jailer be considered as a deputy county sheriff and the board has approved the request;
- (33) "Effective date of retirement," the first day of the month in which retirement benefits are payable;
- (34) "Eligible retirement plan," the term eligible retirement plan includes those plans described in section 402(c)(8)(B) of the Internal Revenue Code;
- (35) "Eligible rollover distribution," any distribution to a member of accumulated contributions pursuant to § 3-12C-602. The term does not include any portion of a distribution that represents contributions made to the system on an after tax basis nor distributions paid as a result of the member reaching the required beginning date;
- (36) "Employer," the State of South Dakota and any department, bureau, board, or commission of the State of South Dakota, or any of its governmental or political subdivisions or any public corporation of the State of South Dakota that elects to become a participating unit;
- (37) "Employer contributions," amounts contributed by the employer of a contributing member, excluding member contributions made by an employer after June 30, 1984, pursuant to § 3-12C-401;
- (38) "Equivalent public service," any public service other than as a justice, a judge, or a magistrate judge and comparable to Class B service as defined by this section, if the service is in the employ of a public entity that is not a participating unit;
- (39) "Fair value of assets," the total assets of the system at fair market value for securities traded on exchanges; for securities not traded on exchanges, a value based on similar securities; and for alternative investments, reported net asset value;
- (40) "Fair value funded ratio," the fair value of assets divided by the actuarial accrued liability;
- (41) "Fiduciary," any person who exercises any discretionary authority or control over the management of the system or the management or disposition of its assets, renders investment advice for a fee or other compensation, direct or indirect, or

- has any authority or responsibility to do so, or has any discretionary authority or responsibility in the administration of the system;
- (42) "Foundation member," any member of the system whose contributory service began before July 1, 2017;
  - (43) "Foundation retiree," any foundation member who has retired with a benefit payable from the system;
  - (44) "Firefighter," any full-time firefighter who works at least twenty hours a week and at least six months a year. The term does not include any volunteer firefighter;
  - (45) "Full-time employee," any employee who is considered full-time by the participating unit and is customarily employed by the participating unit for twenty hours or more a week and at least six months a year, regardless of classification of employment as seasonal, temporary, leased, contract, or any other designation;
  - (46) "Fund," public employees' retirement fund or funds established for the purposes of administration of this chapter;
  - (47) "General employee," any full-time municipal employee who is not a firefighter or a police officer;
  - (48) "Generational member," any member of the system whose contributory service began after June 30, 2017;
  - (49) "Generational retiree," any generational member who has retired with a benefit payable from the system;
  - (50) "Health care provider," a physician or other health care practitioner licensed, registered, certified, or otherwise authorized by law to provide specified health services;
  - (51) "Internal Revenue Code," or "code," the Internal Revenue Code as in effect as of January 1, 2022;
  - (52) "Juvenile corrections agent," a designee of the secretary of corrections charged with the care, custody, and control of juveniles committed to the Department of Corrections until the age of twenty-one or a person who is charged with the care, custody, and control of juveniles at a juvenile corrections facility under the control of a participating unit;
  - (53) "Law enforcement officer," any agent of the state division of criminal investigation, officer of the South Dakota Highway Patrol, police officer, county sheriff, deputy county sheriff, or firefighter;
  - (54) "Member," any person who is contributing or has made contributions to the system and is either a foundation member or generational member. A person's

- membership ceases when the person withdraws his or her accumulated contributions after termination of employment;
- (55) "Member contributions," amounts contributed by members, including member contributions made by an employer after June 30, 1984, pursuant to § 3-12C-401;
  - (56) "Military service," a period of active duty with the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, or the United States Coast Guard, from which duty the member received an honorable discharge or an honorable release;
  - (57) "Municipality," any incorporated municipal government under chapter 9-3 or any chartered governmental unit under the provisions of Article IX of the Constitution of the State of South Dakota;
  - (58) "Noncontributory service," for foundation members, service delineated in subdivisions 3-12C-502(2), (5), (7), and (8), and for generational members, service pursuant to § 3-12C-514;
  - (59) "Normal cost," the expected long-term cost of the system benefits and expenses expressed as a percentage of payroll;
  - (60) "Normal retirement," the termination of employment and application for benefits by a member with three or more years of contributory service or noncontributory service on or after the member's normal retirement age;
  - (61) "Other public benefits," eighty percent of the primary insurance amount or primary social security benefits that would be provided under federal social security;
  - (62) "Other public service," service for the government of the United States, including military service; service for the government of any state or political subdivision thereof; service for any agency or instrumentality of any of the foregoing; or service as an employee of an association of government entities described in this subdivision;
  - (63) "Park rangers," employees of the Department of Game, Fish and Parks within the Division of Parks and Recreation and whose positions are subject to the requirements as to education and training provided in chapter 23-3 and whose primary duty is law enforcement in the state park system;
  - (64) "Parole agent," an employee of the Department of Corrections employed pursuant to § 24-15-14 who is actually involved in direct supervision of parolees on a daily basis;
  - (65) "Participating unit," the State of South Dakota and any department, bureau, board, or commission of the State of South Dakota, and any of its political subdivisions or

- any public corporation of the State of South Dakota that has employees who are members of the retirement system created in this chapter;
- (66) "Plan year," a period extending from July first of one calendar year through June thirtieth of the following calendar year;
- (67) "Police officer," any employee in the police department of any participating municipality holding the rank of patrol officer, including probationary patrol officer, or higher rank and whose position is subject to the minimum educational and training standards established by the law enforcement officers standards commission pursuant to chapter 23-3. The term does not include civilian employees of a police department nor any person employed by a municipality whose services as a police officer require less than twenty hours a week and six months a year. If a municipality which is a participating unit operates a city jail, the participating unit may request that any jailer appointed pursuant to § 9-29-25 be considered a police officer, subject to the approval of the board;
- (68) "Political subdivision" includes any municipality, school district, county, chartered governmental unit, public corporation or entity, and special district created for any governmental function;
- (69) "Present value of all benefits," the present value of all benefits expected to be paid to all retired, terminated, and active members and beneficiaries, based on past and future credited service and future compensation increases;
- (70) "Present value of benefits earned to date," the present value of the benefits currently being paid to retired members and their beneficiaries and the present value of benefits payable at retirement to active members, based on their earnings and credited service to date of the actuarial valuation;
- (71) "Projected compensation," a deceased or disabled member's final average compensation multiplied by the COLA commencing each July first for each complete twelve-month period elapsed between the date of the member's death or disability, whichever occurred earlier, and the date the member would attain normal retirement age or the benefit commences, whichever occurred earlier;
- (72) "Projected service," the credited service plus the service that the member would have been credited with at normal retirement age had the member continued in the system and received credit at the same rate the member was credited during the year covered by the compensation that was used in the calculation of the disability or family benefit;

- (73) "Qualified military service," service in the uniformed services as defined in § 414(u)(5) of the Internal Revenue Code;
- (74) "Required beginning date," the later of April first of the calendar year following the calendar year in which the member attains age seventy and one-half or April first of the calendar year following the calendar year in which the member retires;
- (75) "Retiree," any foundation or generational member who retires with a lifetime benefit payable from the system;
- (76) "Retirement," the severance of a member from the employ of a participating unit with a retirement benefit payable from the system;
- (77) "Retirement benefit," the monthly amount payable upon the retirement of a member;
- (78) "Single premium," the lump-sum amount paid by a supplemental pension participant pursuant to a supplemental pension contract in consideration for a supplemental pension benefit;
- (79) "Social investment," investment, divestment, or prohibition of investment of the assets of the system for purposes other than maximum risk-adjusted investment return, which other purposes include ideological purposes, environmental purposes, political purposes, religious purposes, or purposes of local or regional economic development;
- (80) "State employees," employees of the departments, bureaus, commissions, and boards of the State of South Dakota;
- (81) "Supplemental pension benefit," any single-premium immediate pension benefit payable pursuant to §§ 3-12C-1504 and 3-12C-1505;
- (82) "Supplemental pension contract," any agreement between a participant and the system upon which a supplemental pension is based, including the amount of the single premium, the type of pension benefit, and the monthly supplemental pension payment amount;
- (83) "Supplemental pension contract record," the record for each supplemental pension participant reflecting relevant participant data; a designation of any beneficiary, if any; the amount of the participant's funds rolled into the fund; the provisions of the participant's supplemental pension contract; and supplemental pension payments made pursuant to the contract;
- (84) "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;
- (85) "Supplemental pension spouse," any person who was married to a supplemental pension participant at the time the participant entered into the supplemental pension contract;
- (86) "System," the South Dakota Retirement System created in this chapter;
- (87) "Trustee," a member of the board of trustees;
- (88) "Unfunded actuarial accrued liability," the actuarial accrued liability less the actuarial value of assets.

**Section 2. That § 3-12C-206 be AMENDED:**

**3-12C-206.** Each trustee, after being appointed or elected, shall take and file in the Office of the Secretary of State the oath required by § 3-1-5.

**Section 3. That § 3-12C-818 be AMENDED:**

**3-12C-818.** The disability benefit approved pursuant to § 3-12C-817 is the greater of the following calculations:

- (1) Twenty-five percent of the foundation member's final average compensation at the date of disability; or
- (2) The foundation member's unreduced accrued retirement benefit at the date of disability.

The disability benefit must be paid in monthly installments for the life of the foundation member unless the benefit terminates pursuant to § 3-12C-822.

For purposes of determining the eligibility of a surviving spouse benefit and administering a qualified domestic relations order, the disability benefit of a foundation member is considered a retirement benefit when the member attains normal retirement age.

**Section 4. That § 3-12C-826 be AMENDED:**

**3-12C-826.** Upon the death of a member receiving disability benefits, who dies prior to normal retirement age, a family benefit must be paid on behalf of any eligible child of the member. The monthly amount of the family benefit is the amount of the monthly disability benefits the member received before death. The monthly family benefit must be equally apportioned among any eligible children of the member and must be paid

on behalf of any child in accordance with § 3-12C-902. However, if the child is eighteen years of age or older, the benefit is payable directly to the child. As a child becomes ineligible, the family benefit shall be reallocated among any remaining eligible children of the deceased member. The family benefit terminates if there are no eligible children of the deceased member.

**Section 5. That § 3-12C-902 be AMENDED:**

**3-12C-902.** Any payment of any benefit to a minor pursuant to the provisions of this chapter shall be made on the minor's behalf to a custodian or conservator appointed by law. However, if no custodian or conservator is appointed and the amount payable does not exceed ten thousand dollars each calendar year, payment shall be made to any parent having the care and custody of the minor and with whom the minor resides.

If the child is eighteen years of age or older, the benefit is payable directly to the child. If any payment exceeds ten thousand dollars in a calendar year, payment must be made on the minor's behalf to a custodian or conservator appointed by law.

**Section 6. That § 3-12C-907 be AMENDED:**

**3-12C-907.** On the death of a contributing member after June 30, 2015, who has acquired at least three years of contributory service or noncontributory service, or who died while performing usual duties for an employer, and prior to the earlier of the member attaining normal retirement age or the member's retirement, a family benefit must be paid on behalf of any child of the member. The total family benefit is the greater of:

- (1) Twenty-five percent of the member's final average compensation at the time of death; or
- (2) The member's unreduced accrued retirement benefit at the time of death.

The family benefit is effective the first day of the month following the date on which the member's contributory service terminates and is payable upon the receipt of a completed application. The family benefit, which must be paid in monthly installments, shall be equally apportioned among any children of the member and shall be paid on behalf of any child in accordance with § 3-12C-902. As a child becomes ineligible, the family benefit must be reallocated among any remaining eligible children of the deceased member. The family benefit terminates if there are no eligible children of the deceased member.

**Section 7. That § 3-12C-1301 be AMENDED:**

**3-12C-1301.** Each generational member shall have a variable retirement account, which consists of variable retirement contributions and the credited investment return. The investment return shall be credited annually as of June thirtieth for all generational members with a variable retirement account on that date. The credited investment return is the South Dakota Investment Council's reported money-weighted investment return of the system, net of fees, for the completed fiscal year. In the case of a distribution during the fiscal year, the credited investment return is the estimated investment return to the end of the month before payment. Any variable retirement contributions made during the fiscal year shall receive one-half year's credited investment return.

**Section 8. That § 3-12C-1303 be AMENDED:**

**3-12C-1303.** The variable retirement account is payable to the generational member when the member commences a retirement benefit or a disability benefit or to the generational member's eligible spouse at the death of the member. For the purpose of paying a distribution, the variable retirement account is the amount in the member's variable retirement account or the total of the variable retirement contributions made on behalf of the member, whichever is greater.

The variable retirement account may be paid in a lump sum, rolled over to the South Dakota deferred compensation plan, rolled over to another eligible plan, or used to purchase a supplemental pension benefit.

The variable retirement account is not payable to any member who withdraws his or her accumulated contributions from the system and is not payable in the case of the death of a member without an eligible spouse.

**Section 9. That § 3-12C-1402 be AMENDED:**

**3-12C-1402.** If a retired member whose benefits have been reduced pursuant to § 3-12C-1111 becomes employed as a permanent full-time employee by a participating unit before July 1, 2004, the member's monthly retirement benefit shall be reduced by fifteen percent and the COLA shall be eliminated throughout the period that the member reenters covered employment. If the member remains in such reemployment for at least three years pursuant to the provisions of § 3-12C-1403 and then again retires, the member's additional benefit shall be recalculated to consider only the member's credited service and final compensation earned during reentry.

**Section 10. That § 3-12C-1404 be AMENDED:**

**3-12C-1404.** If a retired member whose benefits have been reduced pursuant to § 3-12C-1111 becomes employed as a permanent full-time employee by a participating unit on or after July 1, 2004, but before April 1, 2010, the member's monthly retirement benefit must be reduced by fifteen percent and the COLA must be eliminated throughout the period that the member reenters covered employment. If the member remains in reemployment for at least three years pursuant to the provisions of § 3-12C-1403, the member upon subsequent retirement must receive an additional benefit based upon the member's credited service and final average compensation earned during the reentry. Only the member's credited service from the subsequent employment must be taken into account in calculating a reduction pursuant to § 3-12C-1111, if any, in the member's additional benefit. If the member remains in reemployment for a period of less than three years, the member upon subsequent retirement must receive a refund of the member's accumulated contributions. No matter the duration of the member's reemployment, the COLA applied to the original benefit pursuant to § 3-12C-703 must be eliminated for the period of reemployment.

**Section 11. That § 3-12C-1503 be AMENDED:**

**3-12C-1503.** 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 pretax funds held by the member in a variable retirement account, in contribution credit, or in either or both of the plans created in chapters 3-13 and 3-13A into the fund. Any rollover must be in compliance with the provisions of § 401(a)(31) of the Internal Revenue Code and must be recorded in the participant's supplemental pension contract record. All of a participant's funds rolled into the fund must 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 must be made within two months after the contract is in effect.

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

I certify that the attached Act originated in the:  
Senate as Bill No. 56

Received at this Executive Office this \_\_\_\_ day of \_\_\_\_\_, 2022 at \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of the Senate

By \_\_\_\_\_ for the Governor

\_\_\_\_\_  
President of the Senate

The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2022

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

\_\_\_\_\_  
Speaker of the House

Attest:

Filed \_\_\_\_\_, 2022 at \_\_\_\_\_ o'clock \_\_\_ M.

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
Secretary of State

Senate Bill No. 56  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

By \_\_\_\_\_  
Asst. Secretary of State