



2023 South Dakota Legislature

House Bill 1008

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

1 **An Act to** to revise provisions relating to actuarial terminology used by the South Dakota
2 Retirement System.

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

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

5 **3-12C-101.** Terms as used in this chapter mean:

- 6 (1) "Actuarial accrued liability," the present value of all benefits less the present value
7 of future normal cost contributions;
- 8 (2) "Actuarial experience analysis," a periodic report that reviews basic experience
9 data and furnishes actuarial analysis that substantiates the assumptions adopted
10 for the purpose of making an actuarial valuation of the system;
- 11 (3) "Actuarial valuation," a projection of the present value of all benefits and the
12 current funded status of the system, based upon stated assumptions as to rates of
13 interest, mortality, disability, salary progressions, withdrawal, and retirement as
14 established by a periodic actuarial experience analysis that takes into account
15 census data of all active members, vested terminated members, and retired
16 members and their beneficiaries under the system;
- 17 (4) "Actuarial value funded ratio," the actuarial value of assets divided by the actuarial
18 accrued liability;
- 19 (5) "Actuarial value of assets," equal to the fair value of assets;
- 20 (6) "Actuarially determined contribution rate," the fixed, statutory contribution rate,
21 no less than the normal cost rate with expenses assuming the minimum COLA, and
22 no greater than the normal cost rate with expenses assuming the maximum COLA;
- 23 (7) "Air rescue firefighters," employees of the Department of the Military who are
24 stationed at Joe Foss Field, Sioux Falls, and who are directly involved in firefighting
25 activities on a daily basis;

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

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

- 1 (32) "Deputy county sheriff," an employee of a county that is a participating unit,
2 appointed by the board of county commissioners pursuant to §§ 7-12-9 and 7-12-
3 10, whose position is subject to the minimum educational and training standards
4 established by the law enforcement standards commission pursuant to chapter 23-
5 3. The term does not include jailers or clerks appointed pursuant to §§ 7-12-9 and
6 7-12-10 unless the participating unit has requested that the jailer be considered
7 as a deputy county sheriff and the board has approved the request;
- 8 (33) "Effective date of retirement," the first day of the month in which retirement
9 benefits are payable;
- 10 (34) "Eligible retirement plan," the term eligible retirement plan includes those plans
11 described in section 402(c)(8)(B) of the Internal Revenue Code;
- 12 (35) "Eligible rollover distribution," any distribution to a member of accumulated
13 contributions pursuant to § 3-12C-602. The term does not include any portion of a
14 distribution that represents contributions made to the system on an after tax basis
15 nor distributions paid as a result of the member reaching the required beginning
16 date;
- 17 (36) "Employer," the State of South Dakota and any department, bureau, board, or
18 commission of the State of South Dakota, or any of its governmental or political
19 subdivisions or any public corporation of the State of South Dakota that elects to
20 become a participating unit;
- 21 (37) "Employer contributions," amounts contributed by the employer of a contributing
22 member, excluding member contributions made by an employer after June 30,
23 1984, pursuant to § 3-12C-401;
- 24 (38) "Equivalent public service," any public service other than as a justice, a judge, or
25 a magistrate judge and comparable to Class B service as defined by this section, if
26 the service is in the employ of a public entity that is not a participating unit;
- 27 (39) "Fair value of assets," the total assets of the system at fair market value for
28 securities traded on exchanges; for securities not traded on exchanges, a value
29 based on similar securities; and for alternative investments, reported net asset
30 value;
- 31 (40) "Fair value funded ratio," the fair value of assets divided by the actuarial accrued
32 liability;
- 33 (41) "Fiduciary," any person who exercises any discretionary authority or control over
34 the management of the system or the management or disposition of its assets,
35 renders investment advice for a fee or other compensation, direct or indirect, or

- 1 has any authority or responsibility to do so, or has any discretionary authority or
2 responsibility in the administration of the system;
- 3 (42) "Foundation member," any member of the system whose contributory service
4 began before July 1, 2017;
- 5 (43) "Foundation retiree," any foundation member who has retired with a benefit
6 payable from the system;
- 7 (44) "Firefighter," any full-time firefighter who works at least twenty hours a week and
8 at least six months a year. The term does not include any volunteer firefighter;
- 9 (45) "Full-time employee," any employee who is considered full-time by the
10 participating unit and is customarily employed by the participating unit for twenty
11 hours or more a week and at least six months a year, regardless of classification
12 of employment as seasonal, temporary, leased, contract, or any other designation;
- 13 (46) "Fund," public employees' retirement fund or funds established for the purposes of
14 administration of this chapter;
- 15 (47) "Gaming enforcement agent," any employee of the South Dakota Commission on
16 Gaming who is appointed pursuant to § 42-7B-56 and who must, as a condition of
17 employment, be law enforcement certified;
- 18 (48) "General employee," any full-time municipal employee who is not a firefighter or a
19 police officer;
- 20 (49) "Generational member," any member of the system whose contributory service
21 began after June 30, 2017;
- 22 (50) "Generational retiree," any generational member who has retired with a benefit
23 payable from the system;
- 24 (51) "Health care provider," a physician or other health care practitioner licensed,
25 registered, certified, or otherwise authorized by law to provide specified health
26 services;
- 27 (52) "Internal Revenue Code," or "code," the Internal Revenue Code as in effect as of
28 January 1, 2022;
- 29 (53) "Juvenile corrections agent," a designee of the secretary of corrections charged
30 with the care, custody, and control of juveniles committed to the Department of
31 Corrections until the age of twenty-one or a person who is charged with the care,
32 custody, and control of juveniles at a juvenile corrections facility under the control
33 of a participating unit;

- 1 (54) "Law enforcement officer," any agent of the state division of criminal investigation,
2 officer of the South Dakota Highway Patrol, police officer, county sheriff, deputy
3 county sheriff, or firefighter;
- 4 (55) "Member," any person who is contributing or has made contributions to the system
5 and is either a foundation member or generational member. A person's
6 membership ceases when the person withdraws his or her accumulated
7 contributions after termination of employment;
- 8 (56) "Member contributions," amounts contributed by members, including member
9 contributions made by an employer after June 30, 1984, pursuant to § 3-12C-401;
- 10 (57) "Military service," a period of active duty with the United States Army, the United
11 States Navy, the United States Air Force, the United States Marine Corps, or the
12 United States Coast Guard, from which duty the member received an honorable
13 discharge or an honorable release;
- 14 (58) "Municipality," any incorporated municipal government under chapter 9-3 or any
15 chartered governmental unit under the provisions of Article IX of the Constitution
16 of the State of South Dakota;
- 17 (59) "Noncontributory service," for foundation members, service delineated in
18 subdivisions 3-12C-502(2), (5), (7), and (8), and for generational members,
19 service pursuant to § 3-12C-514;
- 20 (60) "Normal cost," the expected long-term cost of the system benefits and expenses
21 expressed as a percentage of payroll;
- 22 (61) "Normal retirement," the termination of employment and application for benefits
23 by a member with three or more years of contributory service or noncontributory
24 service on or after the member's normal retirement age;
- 25 (62) "Other public benefits," eighty percent of the primary insurance amount or primary
26 social security benefits that would be provided under federal social security;
- 27 (63) "Other public service," service for the government of the United States, including
28 military service; service for the government of any state or political subdivision
29 thereof; service for any agency or instrumentality of any of the foregoing; or
30 service as an employee of an association of government entities described in this
31 subdivision;
- 32 (64) "Park rangers," employees of the Department of Game, Fish and Parks within the
33 Division of Parks and Recreation and whose positions are subject to the
34 requirements as to education and training provided in chapter 23-3 and whose
35 primary duty is law enforcement in the state park system;

- 1 (65) "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;
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- 4 (66) "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;
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- 8 (67) "Plan year," a period extending from July first of one calendar year through June thirtieth of the following calendar year;
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- 10 (68) "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;
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- 20 (69) "Political subdivision" includes any municipality, school district, county, chartered governmental unit, public corporation or entity, and special district created for any governmental function;
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- 23 (70) "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;
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- 26 (71) "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 the benefits payable at retirement to terminated members, and the actuarial accrued liability of active members, based on their earnings and credited service to date of the actuarial assumptions and methods used in the actuarial valuation;
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- 32 (72) "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,
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- 1 whichever occurred earlier, and the date the member would attain normal
2 retirement age or the benefit commences, whichever occurred earlier;
- 3 (73) "Projected service," the credited service plus the service that the member would
4 have been credited with at normal retirement age had the member continued in
5 the system and received credit at the same rate the member was credited during
6 the year covered by the compensation that was used in the calculation of the
7 disability or family benefit;
- 8 (74) "Qualified military service," service in the uniformed services as defined in
9 § 414(u)(5) of the Internal Revenue Code;
- 10 (75) "Required beginning date," the later of April first of the calendar year following the
11 calendar year in which the member attains age seventy and one-half or April first
12 of the calendar year following the calendar year in which the member retires;
- 13 (76) "Retiree," any foundation or generational member who retires with a lifetime
14 benefit payable from the system;
- 15 (77) "Retirement," the severance of a member from the employ of a participating unit
16 with a retirement benefit payable from the system;
- 17 (78) "Retirement benefit," the monthly amount payable upon the retirement of a
18 member;
- 19 (79) "Single premium," the lump-sum amount paid by a supplemental pension
20 participant pursuant to a supplemental pension contract in consideration for a
21 supplemental pension benefit;
- 22 (80) "Social investment," investment, divestment, or prohibition of investment of the
23 assets of the system for purposes other than maximum risk-adjusted investment
24 return, which other purposes include ideological purposes, environmental
25 purposes, political purposes, religious purposes, or purposes of local or regional
26 economic development;
- 27 (81) "State employees," employees of the departments, bureaus, commissions, and
28 boards of the State of South Dakota;
- 29 (82) "Supplemental pension benefit," any single-premium immediate pension benefit
30 payable pursuant to §§ 3-12C-1504 and 3-12C-1505;
- 31 (83) "Supplemental pension contract," any agreement between a participant and the
32 system upon which a supplemental pension is based, including the amount of the
33 single premium, the type of pension benefit, and the monthly supplemental pension
34 payment amount;

- 1 (84) "Supplemental pension contract record," the record for each supplemental pension
 2 participant reflecting relevant participant data; a designation of any beneficiary, if
 3 any; the amount of the participant's funds rolled into the fund; the provisions of
 4 the participant's supplemental pension contract; and supplemental pension
 5 payments made pursuant to the contract;
- 6 (85) "Supplemental pension participant," any member who is a retiree receiving a
 7 benefit from the system, or, if the member is deceased, the member's surviving
 8 spouse who is receiving a benefit from the system, and who chooses to purchase
 9 a supplemental pension benefit pursuant to the provisions of this chapter;
- 10 (86) "Supplemental pension spouse," any person who was married to a supplemental
 11 pension participant at the time the participant entered into the supplemental
 12 pension contract;
- 13 (87) "System," the South Dakota Retirement System created in this chapter;
- 14 (88) "Trustee," a member of the board of trustees;
- 15 (89) "Unfunded actuarial accrued liability," the actuarial accrued liability less the
 16 actuarial value of assets.

17 **Section 2. That § 3-12C-102 be AMENDED:**

18 **3-12C-102.** For the purposes of this chapter, the term, actuarial equivalent, is a
 19 benefit of equal value, computed on the basis of the interest rate, mortality, and baseline
 20 COLA assumptions adopted by the board for purposes of the actuarial valuation. If the
 21 board adopts a select and ultimate rate of interest, the interest rate is the ultimate rate.
 22 Mortality is based on a unisex rate that is fifty percent male and fifty percent female for
 23 employees and beneficiaries, based on the mortality rates for retired employees and
 24 beneficiaries, including, if the board adopts a generational mortality table, a generational
 25 projection of mortality improvement to the year specified by the board based on with the
 26 member's and beneficiary's ages as of the date of the calculation and projected
 27 generationally after that year assumed to be in the calendar year in which the plan year
 28 containing the date of the calculation begins. If the board adopts distinct mortality tables
 29 for the different categories of retired members or beneficiaries, the mortality rates must
 30 be based on a weighted blend of the tables with the weighting based on the percentage
 31 of accrued benefits for each category of members as the actuarial valuation immediately
 32 preceding the date of adoption of the mortality tables. The system shall make the interest
 33 rate, mortality, and baseline COLA assumptions public.

1 **Section 3. That § 3-12C-109 be AMENDED:**

2 **3-12C-109.** For the purposes of this chapter, the phrase, minimum actuarial
3 requirement to support benefits, means the normal cost and the interest on and
4 amortization of the unfunded actuarial accrued liability over a period not to exceed twenty
5 years, all expressed in terms of a percentage of covered payroll and based on the baseline
6 COLA or the restricted COLA, as applicable. If the actuarial value of assets exceeds the
7 actuarial accrued liability, the minimum actuarial requirement to support benefits includes
8 ~~a thirty year amortization~~recognition of the amount by which the actuarial value of assets
9 exceeds the actuarial accrued liability. However, in no event may the recognition reduce
10 the minimum actuarial requirement to support benefits to a percentage less than the
11 contribution rate.

12 **Section 4. That § 3-12C-704 be AMENDED:**

13 **3-12C-704.** The COLA payable is the baseline COLA or the restricted COLA, as
14 applicable. The baseline COLA is equal to the increase in the consumer price index, but no
15 less than zero percent and no greater than three and one-half percent. The restricted
16 COLA is equal to the increase in the consumer price index, but no less than zero percent
17 and no greater than the restricted COLA maximum as determined in subdivision (2) of this
18 section. The board shall establish the COLA payable for each fiscal year, based on the fair
19 value funded ratio and ~~actuarially determined contribution rate of the system~~the minimum
20 actuarial requirement to support benefits as of the prior July first and the increase in the
21 consumer price index for the preceding third calendar quarter compared to the consumer
22 price index for the third calendar quarter for the base year (the previous year in which the
23 consumer price index was the highest), by utilizing one of the following subdivisions, as
24 applicable:

- 25 (1) If the system meets the criteria in subdivisions 3-12C-228(1) and (2) based on the
26 baseline COLA assumption adopted by the board, the COLA payable is the baseline
27 COLA; or
- 28 (2) If the system does not meet the criteria in subdivisions 3-12C-228(1) and (2)
29 based on the baseline COLA assumption adopted by the board, the system shall
30 calculate a restricted COLA maximum in accordance with the board's funding policy
31 that is equal to the actuarially determined annual COLA rate that results in the
32 criteria in subdivisions 3-12C-228(1) and (2) being satisfied, if achievable. The

- 1 COLA payable is the restricted COLA. If the criteria in subdivisions 3-12C-228(1)
- 2 and (2) cannot be satisfied, the COLA payable is zero percent.