

HOUSE BILL NO. 1271

Introduced by

Representatives Schatz, Hauck, D. Ruby, Strinden

Senator Myrdal

1 A BILL for an Act to amend and reenact sections 15-39.1-19.1 and 15-39.1-19.2 of the North
2 Dakota Century Code, relating to retired teachers returning to employment.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 15-39.1-19.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **15-39.1-19.1. Retired teachers return to active service - Annuities discontinued on**
7 **resumption of teaching over annual hour limit.**

8 1. a. Except as otherwise provided in section 15-39.1-19.2, a retired teacher who is
9 receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may not
10 return to covered employment until thirty calendar days have elapsed from the
11 member's retirement date. A retired member may then return to covered
12 employment under an annual hour limit and continue receiving a monthly
13 retirement benefit. The annual hour limit is based on the length of the
14 re-employed retiree's contract as follows:

15 (1) Retiree reemployment of nine months or less, annual limit is seven hundred
16 hours;

17 (2) Retiree reemployment of ten months, annual limit is eight hundred hours;

18 (3) Retiree reemployment of eleven months, annual limit is nine hundred hours;
19 or

20 (4) Retiree reemployment of twelve months, annual limit is one thousand hours.

21 b. Employment as a noncontracted substitute teacher does not apply to the annual
22 hour limit. Professional development and extracurricular duties do not apply to
23 the annual hour limit.

- 1 c. The retired member and the retired member's employer must notify the fund
2 office in writing within thirty days of the retired member's return to covered
3 employment.
- 4 d. A retired member who returns to teaching shall make a determination of whether
5 to opt to pay the member contributions ~~required by~~under section 15-39.1-09 on
6 the salary received by the retired member. The member contributions must be
7 included in the retired member's account value and may not be refunded except
8 as provided under subdivision a of subsection 2 of section 15-39.1-19.1 and
9 section 15-39.1-17.
- 10 e. A participating employer ~~whethat~~ employs a retired member who opts to pay the
11 member contribution under this section shall pay the employer contributions
12 required by section 15-39.1-09 on the salary of the retired member. If the retired
13 member opts to not pay the member contribution, the participating employer is
14 not required to contribute under section 15-39.1-09.
- 15 f. A retired teacher who returns to teaching and does not exceed the annual hour
16 limit must be treated as retired for all other purposes under this chapter. A retired
17 teacher may not earn any additional service during the period of re-employment.
18 The retired teacher's benefits may not be adjusted to reflect changes in the
19 retired teacher's age or final average monthly salary at the end of the period of
20 re-employment, any optional form of payment elected under section 15-39.1-16
21 remains effective during and after the period of re-employment, and additional
22 benefits normally available to an active member, such as disability benefits, are
23 not available to a retired teacher re-employed under this section.
- 24 g. A retired teacher who returns to teaching and exceeds the annual hour limit ~~must~~
25 immediately shall notify the fund office in writing. Failure to notify the fund office
26 results in the loss of one month's annuity benefit for the member. The retired
27 member's monthly benefit must be discontinued the first of the month following
28 the date the member reaches the annual hour limit.
- 29 2. Upon the retired teacher's subsequent retirement, the member's benefit must be
30 resumed as follows:

- 1 a. If the teacher subsequently retires with less than two years of additional earned
2 credited service, the teacher's contributions paid to the fund after the member's
3 benefit was suspended must be refunded in accordance with section 15-39.1-20
4 and the teacher is entitled to receive the discontinued annuity, plus any
5 postretirement benefit adjustments granted during the period of re-employment,
6 the first day of the month following the teacher's re-retirement.
- 7 b. If the teacher subsequently retires with two or more but less than five years of
8 additional earned credited service, the retired person's annuity is the greater of
9 the sum of the discontinued annuity, plus an additional annuity computed
10 according to this chapter based upon years of service and average salaries
11 earned during the period of re-employment plus any postretirement benefit
12 adjustments granted during the period of re-employment, or a recalculated
13 annuity computed according to this chapter based on total years of service credit
14 earned during both employment periods offset by the actuarial value of payments
15 already received. The new annuity is payable the first day of the month following
16 the member's re-retirement.
- 17 c. If the teacher subsequently retires with five or more years of additional earned
18 credited service, the retired person's annuity is the greater of the sum of the
19 discontinued annuity plus an additional annuity based upon years of service and
20 average salaries earned during the period of re-employment plus any
21 postretirement benefit adjustments granted during the period of re-employment,
22 or a recalculated annuity based on all years of service computed under
23 subsection 2 of section 15-39.1-10. The new annuity is payable the first day of
24 the month following the member's re-retirement.

25 **SECTION 2. AMENDMENT.** Section 15-39.1-19.2 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **15-39.1-19.2. Retired teachers return to active service - Critical shortage areas and**
28 **disciplines - Rules.**

- 29 1. A retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1,
30 or 15-39.2 may elect to return to teaching without losing any benefits under the

- 1 provisions of this section or elect to return to teaching under the provisions of section
2 15-39.1-19.1. To return to teaching under this section, a retired teacher must:
- 3 a. Return to teach in a critical shortage geographical area or subject discipline as
4 determined by the education standards and practices board by rule;
- 5 b. If retired after January 1, 2001, have been receiving a retirement annuity for at
6 least one year. A retired teacher may perform noncontracted substitute teaching
7 duties but may not engage in full-time or part-time teaching duties during the
8 one-year separation from service; and
- 9 c. Notify the fund office in writing within thirty days of the retired member's return to
10 covered employment. The retired member's employer ~~must~~ also shall notify the
11 fund office in writing within thirty days of the retired member's return to covered
12 employment.
- 13 2. A retired teacher who returns to teaching under this section shall make a
14 determination of whether to opt to pay the member contributions required by under
15 section 15-39.1-09 on the salary of the retired member. The member contributions
16 must be included in the retired member's account value and may not be refunded
17 except as provided under section 15-39.1-17. A retired teacher who returns to teaching
18 under the provisions of this section must be treated as retired for all other purposes
19 under this chapter. A retired teacher may not earn any additional service during the
20 period of re-employment. The retired teacher's benefits may not be adjusted to reflect
21 changes in the retired teacher's age or final average monthly salary at the end of the
22 period of re-employment, any optional form of payment elected under section
23 15-39.1-16 remains effective during and after the period of re-employment, and
24 additional benefits normally available to an active member, such as disability benefits,
25 are not available to a retired teacher re-employed under this section.
- 26 3. A participating employer ~~who~~that employs a retired member who opts to pay the
27 member contribution under this section shall pay the employer contributions required
28 by section 15-39.1-09 on the salary of the retired member. If the retired member opts
29 to not pay the member contribution, the participating employer is not required to
30 contribute under section 15-39.1-09.