

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

400S0231

HOUSE BILL NO. 1022

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 certain provisions regarding veterans credited
2 service and benefits under the South Dakota Retirement System and under the South Dakota
3 deferred compensation plan.

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

5 Section 1. That § 3-12-47 be amended by adding thereto a NEW SUBDIVISION to read as
6 follows:

7 "Qualified military service," service in the uniformed services as defined in § 414(u)(5) of
8 the Internal Revenue Code as in effect on January 1, 2011;

9 Section 2. That § 3-12-86 be amended to read as follows:

10 3-12-86. A member shall receive credited service for leave of absence due to qualified
11 military service, authorized in advance by the employer, without contribution by the employee
12 or employer if the member returns to the employ of a participating unit within one year from the
13 member's date of discharge from the member's initial period of ~~active~~ qualified military service
14 and if the member remains in the employ of a participating unit for at least one year. The
15 member may not receive credited service for any voluntary extension of qualified military



1 service at the instance of the member beyond the initial period of enlistment, induction, or call
2 to active duty. Credited service granted under this section shall be only for the initial period of
3 time that the member is ~~on active~~ performing qualified military duty service. No credited service
4 granted under this section may be considered to represent either member contributions or
5 employer contributions for purposes of contribution withdrawals pursuant to this chapter.

6 If the member returns to the employ of the member's employer unit within one year of
7 discharge from the initial period of qualified military service, but does not remain in the employ
8 of the unit for at least one year, the member shall be granted credited service for the initial
9 period of qualified military service pursuant to § 414(u)(8) of the Internal Revenue Code as in
10 effect on January 1, 2011, if the member deposits with the system employee contributions for
11 the initial period of the qualified military service as provided for in § 414(u)(8)(C). The
12 contributions shall be made in a lump sum, shall be based on the member's compensation
13 immediately prior to the leave of absence, and shall be without interest. The participating unit
14 that was the member's employer prior to the leave of absence shall deposit employer
15 contributions in an equal amount with the system. Other provisions of this chapter
16 notwithstanding, the member need not be a contributing member at the time the member
17 deposits the contributions. The member is subject to the time limitations for payment provided
18 for in § 414(u)(8)(C).

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

21 If a member on leave of absence performing initial qualified military service dies, the
22 member shall be considered to have returned from the leave of absence on the day prior to the
23 member's death and become a contributing member for purposes of survivor benefits pursuant
24 to § 3-12-95, if the member has at least one year of credited service prior to the member's death,

1 including the initial period of qualified military service. If the member was contributing for
2 additional survivor protection benefits pursuant to § 3-12-104 immediately prior to the leave of
3 absence, the member shall be considered to have resumed such contributions on the day prior
4 to the member's death.

5 If a member on leave of absence performing initial qualified military service becomes
6 disabled pursuant to the disability criteria set out in chapter 3-12 and ARSD chapter 62:01:04,
7 the member shall be considered to have returned from the leave of absence on the day prior to
8 the member's discharge date and become a contributing member for purposes of eligibility for
9 disability benefits pursuant to § 3-12-98, if the member has at least three years of credited
10 service including the period of initial qualified military service. The provisions of § 3-12-98
11 notwithstanding, the member need not have been deemed to be a contributing member on the
12 date of the member's disabling event.

13 Section 4. That § 3-13-54 be amended to read as follows:

14 3-13-54. The board may ~~adopt~~ promulgate rules pursuant to chapter 1-26 concerning the
15 time and amount of compensation which may be deferred, the persons who may participate in
16 the plan, the conditions of participation, the time and manner in which accumulated deferrals
17 may be made available to a participant or beneficiary, the establishment of administrative
18 changes, and participation by political subdivisions. Except pursuant to the provisions of an
19 automatic enrollment feature established under subdivision 3-13-56(4), in no event may the
20 accumulated deferred compensation become available to the participant prior to thirty days
21 following the participant's separation from employment with a participating employer unless
22 such the participant is faced with an unforeseeable emergency as determined by the board,
23 unless an in-service distribution of a small amount of funds is made, or unless a distribution is
24 made to a participant who has been called to perform qualified military service for a period in

1 excess of thirty days. If a participant returns to service with a participating employer within
2 thirty days following separation from service, the accumulated deferred compensation is not
3 available to the participant.