



2015 SDRS Proposed Legislation

SDRS MISSION STATEMENT

To plan, implement and administer income replacement programs, and to encourage additional savings for retirement, all of which offer SDRS members and their families the resources and the opportunity to achieve financial security at retirement, death or disability by providing an outstanding, appropriate and equitable level of benefits.

The Board of Trustees believes this mission is achievable with the resources available in a progressive working environment, by sound and efficient management, through superior investment performance and by exercising the fiduciary responsibility associated with the proper stewardship of member assets.

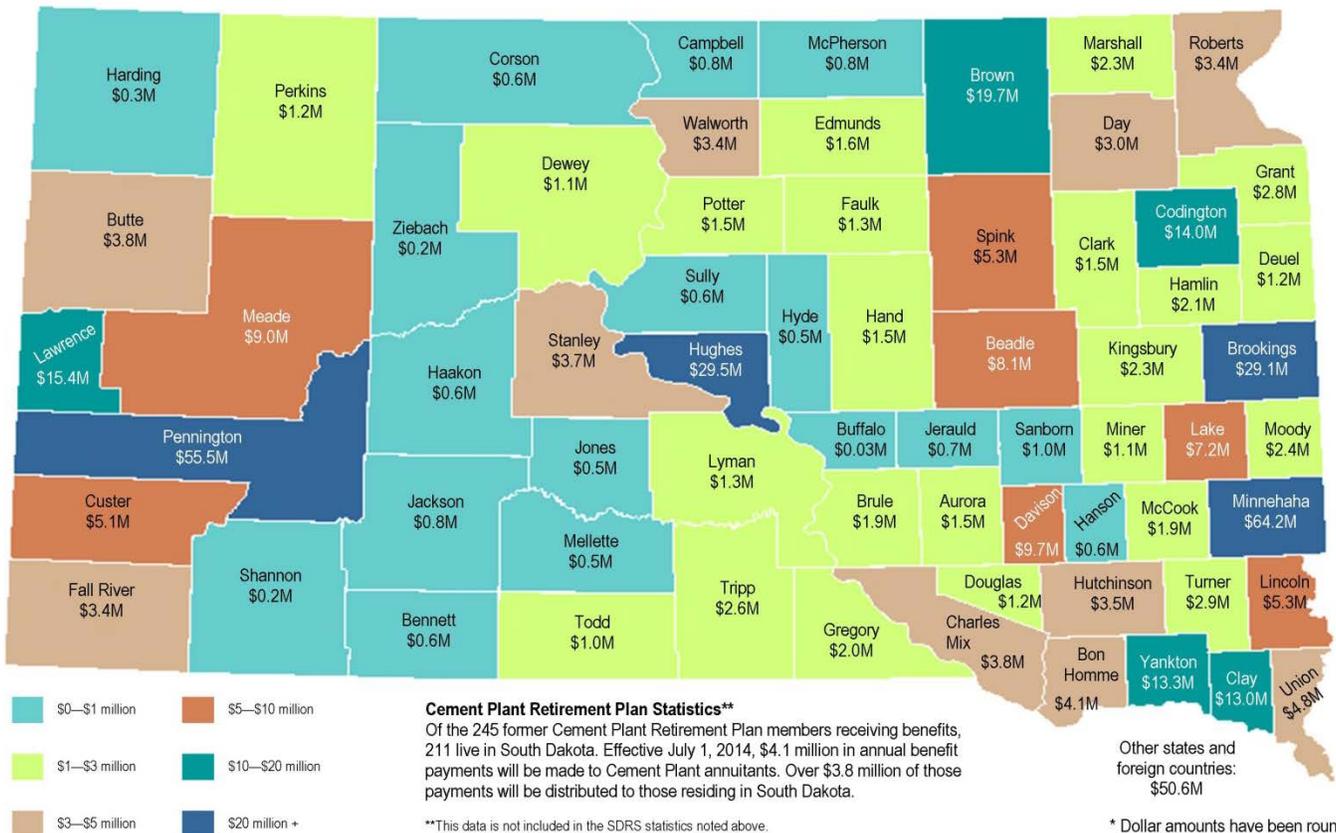
FISCAL YEAR 2014 HIGHLIGHTS

Total Membership	79,505	Plan Assets	\$10,607,554,492
Active Contributing Members	38,951	Funded Ratio	107.3%
Inactive Non-contributing Members	15,992	Contributions	\$ 218,726,863
Benefit Recipients: Class A and B	24,317	Annuitant Benefits	\$ 425,823,928
Benefit Recipients: Class C	245	Refunds/Expenses	\$ 28,524,011



South Dakota Retirement System—Benefits Payable by County*

Of the 24,317 individuals receiving Class A and B retirement benefits from SDRS, 20,985 live in South Dakota. Effective July 1, 2014, more than \$440 million in annual benefit payments will be made to SDRS annuitants. Nearly \$390 million of those payments will be distributed among South Dakota's 66 counties, positively impacting the state's economy.



HB 1007

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

THE ISSUE

The Board of Trustees must, from time to time, make certain changes to actuarial assumptions to better estimate the experience of the South Dakota Retirement System (SDRS) and enhance its sustainability, as well as make other changes for the efficient administration of SDRS.

THE SOLUTION

Amend the term, actuarial equivalent, to align provisions with the updated actuarial assumptions; the term, approved actuary, to provide additional standards for the approved actuary; and the term, Internal Revenue Code, to update the reference to 2015, and repeal a rule that provides for the date of the Internal Revenue Code. In addition, remove an unnecessary reference to cement plant workers in statute.

Legislative Summary

- ❖ The definition of actuarial equivalent is revised to reflect the changes made by the board in the areas of interest rate assumptions, mortality assumptions, and the improvement factor.
- ❖ The definition of approved actuary provides additional qualifying professional credentials, requires an expertise in public pension plans, and compels action by the board to designate the approved actuary.
- ❖ The definition of Internal Revenue Code is updated to the IRC in effect in 2015 and the administrative rule that provided the date is repealed.
- ❖ The reference to “State Cement Plant employees” is removed from a list of excluded members.

THE BACKGROUND

With new actuarial assumptions adopted by the board to enhance sustainability and better estimate SDRS experience, the definition of actuarial equivalent needs to be revised to be consistent with those assumptions.

This past year SDRS hired an internal actuary as a full-time staff member while retaining a contract with an external actuarial firm, which is currently the approved actuary. In the future, SDRS will have both an approved internal actuary and an approved external actuary.

To remain a qualified plan, SDRS must follow the most current version of the Internal Revenue Code. This requires an annual update to the reference of the IRC.

As of April 1, 2014, the former state cement plant employees became members of SDRS. There are no current state cement plant employees.

Actuarial Fiscal Note: HB 1007 has no material actuarial impact on SDRS.

HOUSE BILL 1007

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

Section 1. That subdivision (3) of § 3-12-47 be amended to read as follows:

(3) "Actuarial equivalent," a benefit of equal value, ~~including a three percent annual improvement, when discounted at a seven percent rate of interest and the 1971 group annuity mortality table, projected by Scale D to 1975, using a unisex rate that is fifty percent male and fifty percent female for employees and beneficiaries. However, for purposes of § 3-12-69.5, the 1971 group annuity mortality table, projected by Scale D to 1975 according to the sex of the payee, shall be used~~ including the improvement factor assumption adopted by the board, computed on the basis of interest rate and mortality assumptions adopted by the board for purposes of the actuarial valuation. For purposes of this definition, if the board adopts a select and ultimate rate of interest, the interest rate is the ultimate rate. Also, for purposes of this definition, mortality shall be based on a unisex rate that is fifty percent male and fifty percent female for employees and beneficiaries, based on the mortality rates for retired employees and beneficiaries including, if the board adopts a generational mortality table, projection of mortality improvement to the calendar year containing the beginning of the plan year;

Section 2. That subdivision (9) of § 3-12-47 be amended to read as follows:

(9) "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 ~~or who has at least fifteen years of service to major public employee funds 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;

Section 3. That subdivision (41A) of § 3-12-47 be amended as follows:

(41A) "Internal Revenue Code," or "code," the Internal Revenue Code as in effect as of ~~the date adopted by the board in rules promulgated pursuant to chapter 1-26~~ January 1, 2015;

Section 4. That § 3-12-63 be amended to read as follows:

3-12-63. Membership in the system shall exclude the following:

- (1) All elective officers except justices and judges, unless such person elects and is otherwise qualified to become a member of the system;
- (2) All personnel in the Department of Labor and Regulation who were employed prior to July 1, 1980, and who elect to remain participants in the retirement system provided by chapter 61-2;
- (3) ~~State Cement Plant employees;~~
- (4) The governing body of any participating county, municipality, or other political subdivision; and
- (5) All personnel employed by the municipality of Sioux Falls prior to July 1, 2013. However, any person employed prior to July 1, 2013, who separates from service with the municipality of Sioux Falls and is subsequently rehired by the municipality of Sioux Falls and begins working after June 30, 2013, as a permanent full-time employee as defined in subdivision 3-12-47(54), shall be a member of the system.

Section 5. That ARSD 62:01:01:04 be repealed.

~~62:01:01:04. Internal Revenue Code. The term, Internal Revenue Code, and the term, code, mean the Internal Revenue Code as in effect on July 1, 2014.~~

HB 1008

An Act to provide for a consistent refund methodology for members of the South Dakota Retirement System and their beneficiaries.

THE ISSUE

For a small portion of SDRS members, there is a difference in the amount a member receives if choosing a refund and the amount a beneficiary of that member receives upon the member's death.

THE SOLUTION

Revise the methodology by which accumulated contributions are paid to certain beneficiaries by removing language tying the amount of the benefit to the date of the member's death.

Legislative Summary

- ❖ SDCL 3-12-110 governs the payment of accumulated contributions remaining after the death of a member. The language in SDCL 3-12-110 that ties the amount of a refund to the date of death is removed, so that the amount of the refund will be governed by the definition of accumulated contributions, which ties the amount to the date that contributory service ended. The effect of which is to pay a little more to a very limited number of beneficiaries. Specifically, a beneficiary of a member whose contributory service ended prior to July 1, 2010, will receive 100 percent of the employer's contributions rather than 85 percent upon the member's death, which is the same amount the member would receive if the member were to refund rather than take a monthly benefit.
- ❖ This change only affects beneficiaries of members whose contributory service ended prior to July 1, 2010, and left contributions in SDRS, and upon death, still have some accumulated contributions remaining with SDRS.
- ❖ The first sentence is rearranged for clarity.
- ❖ The last sentence is removed as it is no longer necessary.

THE BACKGROUND

The amount of the refund to a beneficiary after the death of a member is governed by the date of the member's death pursuant to SDCL 3-12-110. The amount paid to a member choosing to refund rather than receive a retirement benefit is governed by the date the member's contributory service ended pursuant to SDCL 3-12-47(2), the definition of accumulated contributions. Removing the language in SDCL 3-12-110 would make both payments consistent.

Actuarial Fiscal Note: HB 1008 has no material actuarial impact on SDRS.

HOUSE BILL 1008

An Act to provide for a consistent refund methodology for members of the South Dakota Retirement System and their beneficiaries.

Section 1. That § 3-12-110 be amended to read as follows:

~~If the aggregate benefits payable to a member and the member's surviving spouse and minor children, after~~ After all benefits currently or potentially payable under any provision of this chapter have terminated, ~~do not total to~~ if the aggregate benefits paid to a member and the member's surviving spouse and minor children are less than the member's accumulated contributions including one hundred percent of employer contributions if the member died prior to July 1, 2010, or eighty-five percent of employer contributions if the member died on or after July 1, 2010, then the balance equal to the difference between, the amount by which the accumulated contributions ~~and~~ exceed total payments made to date shall be paid in a lump sum as provided in this section.

Amounts payable under this section shall be paid as follows:

- (1) To the beneficiary or entity designated by the member, if any is designated; or
- (2) If no beneficiary or entity is designated, then to the member's surviving spouse; or
- (3) If no beneficiary or entity is designated and there is no surviving spouse, then to all surviving children, irrespective of age, on a share alike basis; or
- (4) If no beneficiary or entity is designated, there is no surviving spouse, and there are no surviving children, then to the member's estate.

If no claim for payment due upon the death of a deceased member is made within three years from date of death, the payment shall revert to the system. However, a claim may be honored after the expiration of the three-year reversion period if, in the opinion of the administrator, payment of the claim is warranted by exceptional circumstances.

~~This section does not apply to any member who withdraws accumulated contributions after termination of employment, or to any nonvested member who dies after termination of employment.~~

HB 1009

An Act to limit the recovery of certain overpayments made by the South Dakota Retirement System.

THE ISSUE

There is currently no limitation on the look back period for the recovery of overpayments. Reviewing old records is problematic and after a number of years, the member or beneficiary may rely on the amount calculated in error, and to revise the amount and recover the overpayment may result in a hardship to the member or beneficiary.

THE SOLUTION

Limit the amount recoverable due to an error in overpayment and make no changes to amounts in error due to underpayments.

Legislative Summary

- ❖ If there is an overpayment, recovery of the overpayment is limited to the amount attributable to errors that occurred in the six-year period immediately prior to the discovery of the error.
- ❖ The limit does not apply if there is fraud, intentional misrepresentation, material omission, or other fault on the part of the member or beneficiary.
- ❖ There is no change for underpayments. The member or beneficiary would receive the amount that is due when an underpayment error is discovered.

THE BACKGROUND

For any overpayment or underpayment due to an error of SDRS or a participating unit, current law provides that SDRS is to correct and adjust the payment as much as practicable. Older files are more difficult to review due to insufficient documentation and prior computer system inadequacies. Also, it is important to note that years ago many calculations were done by hand, which may be less reliable than current automated calculations. Moreover, SDRS seeks to prevent errors in its current operations and concentrate its quality review of benefit calculations on recent benefit determinations rather than those that have been in place for many years. Furthermore, over time a member or beneficiary may come to rely on the amount of the benefit and attempting to revise payments that have been in place for a number of years is not practical or necessarily equitable to the member or beneficiary.

A situation involving an underpayment is not changed by this legislation. If an underpayment error is discovered at any time, the amount of the underpayment is calculated and paid to the member or beneficiary.

Actuarial Fiscal Note: HB 1009 has no material actuarial impact on SDRS.

HOUSE BILL 1009

An Act to limit the recovery of certain overpayments made by the South Dakota Retirement System.

Section 1. That § 3-12-114 be amended to read as follows:

3-12-114. ~~Should~~ If any change or error in the records of the system or any participating unit ~~result~~ results in any person receiving from the system ~~more or less than he~~ the person would have been entitled to receive had the records been correct, the administrator shall correct such error and, as far as practicable, shall adjust the payment ~~in such manner that the actuarial equivalent of the benefit to which~~ to provide such person ~~was~~ the amount to which the person is correctly entitled ~~shall be paid~~.

If any change or error in the records of the system or any participating unit results in any person receiving from the system more than the person would have been entitled to receive had the records been correct, the administrator shall correct such error and, as far as practicable, shall recover such overpayment to reflect the amount to which the person is correctly entitled. The board shall adopt, by rules promulgated pursuant to chapter 1-26, the methods by which an overpayment shall be repaid, including an actuarial equivalent. However, the recovery of an overpayment is limited to the amount attributable to any error that occurred during the six-year period immediately prior to the discovery of the error. This limitation does not apply in the case of fraud, intentional misrepresentation, material omission, or other fault on the part of a member or beneficiary.

HB 1010

An Act to revise certain provisions relating to disability and surviving spouse benefits for members of the South Dakota Retirement System.

THE ISSUE

The 2014 legislation revising the calculation of disability, family, and survivor benefits requires clarification.

THE SOLUTION

Amend last year's disability and survivor legislation in two minor respects.

Legislative Summary

- ❖ After the death of an active contributing member, the spouse shall receive a surviving spouse benefit only if the member was vested or died while on the job. Specific language to that effect is added.
- ❖ The disability benefit is payable for the life of the member unless terminated pursuant to the provisions of SDCL 3-12-210. This correct citation replaces the incorrect citation currently in statute.

THE BACKGROUND

During the last legislative session a comprehensive bill revising disability and survivor benefits was enacted. As SDRS was preparing for the implementation of the new legislation, which becomes effective July 1, 2015, two areas in need of revision were identified.

The first was the surviving spouse benefit in the case of an active member death. Although it was the intent that the surviving spouse benefit be payable only if the member was vested or died on the job, those qualifications were not explicit in the legislation.

The second necessary revision is in the section that provides for the calculation of a disability benefit. The section states that the benefit is paid for the life of the member unless the benefit is terminated pursuant to § 3-12-211. Benefit termination, however, is in § 3-12-210, so the reference must be changed.

Actuarial Fiscal Note: HB 1010 has no material actuarial impact on SDRS.

HOUSE BILL 1010

An Act to revise certain provisions relating to disability and surviving spouse benefits for members of the South Dakota Retirement System.

Section 1. That § 3-12-95.5 be amended to read as follows:

3-12-95.5. If no family benefit is being paid pursuant to § 3-12-95.4, a surviving spouse of a contributing member who had acquired at least three years of contributory service or noncontributory service as delineated in subsections (b), (e), (g), and (h) of subdivision 3-12-47(24) or died while performing usual duties for the employer and who died after June 30, 2015, shall, upon attaining the age sixty-five, receive a surviving spouse benefit calculated as follows, whichever is applicable:

- (1) If a family benefit had been paid, sixty percent of the family benefit paid at the time the family benefit ended, increased by the improvement factor from the date the last family benefit was paid; or
- (2) If a family benefit had not been paid, sixty percent of the amount calculated pursuant to subsection (a) or (b), whichever is greater, increased by the improvement factor from the date of the member's death:
 - (a) Twenty-five percent of the member's final average compensation at the time of the member's death; or
 - (b) The member's unreduced accrued retirement benefit at the time of the member's death.

The surviving spouse benefit shall be paid in monthly installments for the life of the surviving spouse.

Section 2. That § 3-12-207 be amended to read as follows:

3-12-207. The disability benefit approved pursuant to § 3-12-206 is the greater of the following calculations:

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

The disability benefit shall be paid in monthly installments for the life of the member unless the benefit terminates pursuant to ~~§ 3-12-211~~ § 3-12-210.

For purposes of determining the eligibility of a surviving spouse benefit, the disability benefit is considered a retirement benefit when the member attains the age of sixty-five.

HB 1011

An Act to provide for automatic increases in the accounts of automatically-enrolled participants of the deferred compensation plan of the South Dakota Retirement System.

THE ISSUE

Many automatic-enrollees of the deferred compensation plan, also known as the supplemental retirement plan (SRP), of the South Dakota Retirement System do not increase their deferrals in the SRP.

THE SOLUTION

Provide rule-making authority to the Board of Trustees so the board may establish a process by which deferrals made by automatic enrollees would automatically increase each year.

Legislative Summary

- ❖ The legislation grants the Board of Trustees rule-making authority to adopt rules to automatically increase the deferral of an automatic enrollee each year. The rules will include the ability to opt out of the increase or elect to defer a lesser or greater amount.
- ❖ The specific details will be adopted in administrative rules and the process will be subject to the Administrative Procedures Act in SDCL chapter 1-26.

THE BACKGROUND

The automatic enrollment feature of the supplemental retirement plan was enacted in July 2008. Administrative rules were adopted later that year. Participating units of SDRS (i.e., employers) could elect to become automatic enrollment units. If an employer decided to become an automatic enrollment unit, any permanent employee of that unit beginning employment after July 1, 2009, became an automatic enrollee.

The initial deferral amount was established at \$25 each month and has not changed. Many of the automatic enrollees do not increase their deferrals.

One component of SDRS' mission statement is "to encourage additional savings for retirement". The Board of Trustees will be proposing a ten dollar increase each year in the amount of monthly deferrals to encourage automatic enrollees to increase their retirement savings.

Actuarial Fiscal Note: HB 1011 has no material actuarial impact on SDRS.

HOUSE BILL 1011

An Act to provide for automatic increases in the accounts of automatically-enrolled participants in the deferred compensation plan of the South Dakota Retirement System.

Section 1. That § 3-13-56 be amended to read as follows:

3-13-56. The board may establish an automatic enrollment feature within the plan by rules promulgated pursuant to chapter 1-26 and § 3-13-54. Any automatic enrollment feature established by the board shall include:

- (1) A provision that automatic enrollment shall apply only to newly-employed members hired after a specified future date;
- (2) A provision that automatic enrollment shall apply only to the employees of those participating units that choose the automatic enrollment feature for the unit's employees;
- (3) A provision that automatic enrollment may not require more than an established maximum contribution per month per automatically-enrolled participant;
- (4) A provision that a participant who is automatically enrolled shall have as long as ninety days after the start of employment to discontinue participation in the plan;
- (5) A provision that an automatically-enrolled participant who discontinues participation in the plan within ninety days of enrollment shall receive a refund of the participant's account within thirty days after discontinuing participation;
- (6) A provision that the state investment officer shall select a default investment fund to receive contributions by any automatically-enrolled participant who does not choose an investment alternative to receive the participant's contributions;
- (7) A provision authorizing participating units and the system to make contributions to the plan for the benefit of participants;
- (8) A provision that the plan shall adhere to notice requirements to automatically-enrolled participants in accord with Internal Revenue Service Rulings 98-30 and 2000-8; ~~and~~
- (9) A provision that automatic enrollment does not require advance authorization by a participant, which is hereby deemed to be an exception to the provisions of any state law requiring employee authorization for a payroll deduction or any similar ordinance of a local participating unit; and
- (10) A provision that the amount of compensation deferred by an automatically-enrolled participant shall automatically increase by a specified amount each year unless the participant elects not to participate in automatic escalation or elects to defer a different amount than specified.

If a participant discontinues participation pursuant to subdivision (4), that act is a permissive withdrawal pursuant to § 414(w) of the Internal Revenue Code.