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As of: July 25, 2014 (12:39pm)

LC0144

**** Bill No. ****

Introduced By *****

By Request of the State Administration and Veterans' Affairs

Interim Committee

A Bill for an Act entitled: "An Act providing that a portion of the member and employer contributions to the public employees' retirement system may be adjusted by the public employees' retirement board; revising the allocation of contributions in the public employees' retirement system defined contribution retirement plan and the university system retirement program; amending sections 19-3-315, 19-3-316, 19-3-2117, 19-3-2121, and 19-21-214, MCA; providing effective dates; and providing a retroactive applicability date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Adjustable member contribution**

rate. (1) One percent of the member contribution under 19-3-315 is an adjustable member contribution rate.

(2) After the contributions in 19-3-316(3) terminate pursuant to 19-3-316(4)(b), the board may decrease the adjustable member contribution rate in subsection (1) if:

(a) the average funded ratio of the defined benefit plan based on the last three annual actuarial valuations is equal to or greater than 90%; and

(b) the period necessary to amortize all liabilities of the

defined benefit plan based on the most recent annual actuarial valuation is less than 15 years.

(3) After the adjustable contribution rate is decreased pursuant to subsection (2), the board may increase the adjustable member contribution rate to a rate not exceeding 1% if:

(a) the average funded ratio of the defined benefit plan based on the last three annual actuarial valuations is equal to or less than 80%; and

(b) the period necessary to amortize all liabilities of the defined benefit plan based on the most recent annual actuarial valuation is greater than 20 years.

(4) After the board has actuarially determined the need to impose, increase, or decrease an adjustable contribution rate under this section, the increase or decrease is effective July 1 in the calendar year following the board's determination.

NEW SECTION. **Section 2. Adjustable employer contribution rate.** (1) One percent of the employer contribution rate under 19-3-316(1) is an adjustable employer contribution rate.

(2) After the additional employer contribution under 19-3-316(3) terminates pursuant to 19-3-316(4)(b), the board may decrease the adjustable employer contribution rate in subsection (1) if:

(a) the average funded ratio of the defined benefit plan based on the last three annual actuarial valuations is equal to or greater than 90%;

(b) the period necessary to amortize all liabilities of the

defined benefit plan based on the most recent actuarial valuation is less than 15 years; and

(c) the guaranteed annual benefit adjustment has been increased to the maximum allowed under 19-3-1605.

(3) After the adjustable contribution rate is decreased pursuant to subsection (2), the board may increase the adjustable employer contribution rate to a rate not exceeding 1% if:

(i) the average funded ratio of the defined benefit plan based on the last three annual actuarial valuations is equal to or less than 80%; and

(ii) the period necessary to amortize all liabilities of the defined benefit plan based on the most recent annual actuarial valuation is greater than 20 years.

(4) After the board has actuarially determined the need to impose, increase, or decrease an adjustable employer contribution rate under this section, the increase or decrease is effective July 1 in the calendar year following the board's determination.

Section 3. Section 19-3-315, MCA, is amended to read:

"19-3-315. Member's contribution to be deducted. (1) (a) ~~Except as provided in subsection (2)~~ Subject to [section 1], each member's contribution is 7.9% of the member's compensation.

(b) The board shall annually review the required contributions under this section and recommend future adjustments to the legislature as needed to maintain the amortization schedule set by the board for the payment of the system's unfunded liability.

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~~(2) Each member's contribution must be reduced to 6.9% on January 1 following the system's annual actuarial valuation if the valuation determines that reducing the employee contribution pursuant to this subsection and reducing the employer contribution pursuant to 19-3-316(4) would not cause the system's amortization period to exceed 25 years.~~

~~—(3) Payment of salaries or wages less the contribution is full and complete discharge and acquittance of all claims and demands for the service rendered by members during the period covered by the payment, except their claims to the benefits to which they may be entitled under the provisions of this chapter.~~

~~(4)~~(3) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code, 26 U.S.C. 414(h)(2), shall pick up and pay the contributions that would be payable by the member under subsection (1) ~~or (2)~~ for service rendered after June 30, 1985.

~~(5)~~(4) (a) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system.

(b) In the case of a member of the defined benefit plan, these contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(c) In the case of a member of the defined contribution plan, these contributions must be allocated as provided in

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19-3-2117.

~~(6)~~(5) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages, as defined in 19-1-102, and compensation. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

{*Internal References to 19-3-315:*

<i>x19-2-1004</i>	<i>a19-3-316</i>	<i>x19-3-511</i>	<i>x19-3-1113</i>
<i>x19-3-2117</i>	<i>x19-21-214</i>	}	

Section 4. Section 19-3-316, MCA, is amended to read:

"19-3-316. Employer contribution rates. (1) Each employer shall contribute to the system. Except as provided in subsection (2) and subject to [section 2], the employer shall pay as employer contributions ~~6.9%~~ 7.9% of the compensation paid to all of the employer's employees plus any additional contribution under subsection (3), except for those employees properly excluded from membership. Of employer contributions made under this subsection for both defined benefit plan and defined contribution plan members, a portion must be allocated for educational programs as provided in 19-3-112. Employer contributions for members under the defined contribution plan must be allocated as provided in 19-3-2117.

(2) Local government and school district employer contributions must be the total employer contribution rate provided in subsection (1) minus the state contribution rates

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under 19-3-319.

(3) (a) Subject to subsection (4)(b), each employer shall contribute to the system an additional employer contribution equal to the percentage specified in subsection (3)(b) of the compensation paid to all of the employer's employees, except for those employees properly excluded from membership.

(b) The percentage of compensation to be contributed under subsection (3)(a) is ~~1.27%~~ .27% for fiscal year 2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation to be contributed under subsection (3)(a) is ~~2.27%~~ 1.27%.

(4) (a) The board shall annually review the additional employer contribution provided for under subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.

(b) The employer contribution required under subsection (3) terminates on January 1 following the board's receipt of the system's actuarial valuation if the actuarial valuation determines that terminating the additional employer contribution pursuant to this subsection (4)(b) ~~and reducing the employee contribution pursuant to 19-3-315(2)~~ would not cause the amortization period to exceed 25 years."

{*Internal References to 19-3-316:*

x19-3-108	x19-3-112	x19-3-315	x19-3-319
x19-3-511	x19-3-1113	x19-3-1113	x19-3-2117
x19-3-2117	x19-3-2117	x19-21-214	x19-21-214
x20-9-501	}		

Section 5. Section 19-3-2117, MCA, is amended to read:

"19-3-2117. Allocation of contributions and forfeitures.

(1) The member contributions made under 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the plan member's retirement account.

(2) Subject to subsection (3) and adjustment by the board as provided in 19-3-2121, of the employer contributions under 19-3-316 received:

(a) an amount equal to:

(i) 4.19% of compensation must be allocated to the member's retirement account;

(ii) 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate;

(iii) 0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(b); and

(iv) 0.3% of compensation must be allocated to the long-term disability plan trust fund established pursuant to 19-3-2141;

(b) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-316(4)(b), the percentage of compensation specified in subsection (3) of this section ~~of compensation~~ must be allocated ~~in the following order:~~

~~——(i) to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability; and~~

~~(ii) to the long-term disability plan trust fund to provide disability benefits to eligible members; and~~

(c) on July 1, 2013, continuing until ~~the additional~~

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~~employer contributions terminate pursuant to 19-3-316(4)(b) June 30, 2015, 1% of compensation must be allocated to the defined benefit plan unfunded liabilities; and~~

(d) on July 1, 2015, continuing until the plan choice rate unfunded liability in the defined benefit plan is fully paid, 1% of compensation, or, if the 1% rate is adjusted pursuant to [section 2], the adjusted rate, must be allocated to the defined benefit plan to pay the plan choice rate unfunded actuarial liability. Effective the first full pay period of the month following the board's verification that the plan choice rate unfunded actuarial liability is fully paid, the 1% of compensation, or the adjusted contribution rate if the 1% rate is adjusted, must be allocated to the member's account.

(3) The percentage of compensation to be contributed under subsection (2)(b) is 0.27% for fiscal year 2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation to be contributed under subsection (2)(b) is 1.27%. If the plan choice rate liability is paid off prior to the termination of the additional contributions pursuant to 19-3-316(4)(b), effective the first full pay period of the month following the board's verification that the plan choice rate liability is fully paid, the percentage of compensation allocated to the plan choice rate liability under this subsection must be allocated to the member's account until the additional contributions terminate pursuant to 19-3-316(4)(b).

(4) Forfeitures of employer contributions and investment

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income on the employer contributions may not be used to increase a member's retirement account. The board shall allocate the forfeitures under 19-3-2116 to meet the plan's administrative expenses, including startup expenses."

{ *Internal References to 19-3-2117: x to all*

19-2-303	19-2-405	19-2-715	19-3-315
19-3-316	19-3-2114	19-3-2114	19-3-2114
19-3-2116	19-3-2121	19-3-2121	19-3-2121
19-3-2121	19-3-2121	19-3-2121	19-3-2121
19-3-2121	19-3-2121	19-3-2121	19-3-2121
19-3-2126	19-3-2126		

}

Section 6. Section 19-3-2121, MCA, is amended to read:

"19-3-2121. Determination and adjustment of plan choice rate and contribution allocations. (1) The board shall periodically review the sufficiency of the plan choice rate and shall adjust the allocation of contributions under 19-3-2117 as specified in this section. The board shall collect and maintain the data necessary to comply with this section.

(2) The plan choice rate set in 19-3-2117(2)(a)(ii) must be adjusted as provided in this section, taking into account:

(a) as determined under subsection (3), the change in the normal cost contribution rate in the defined benefit plan that is the result of member selection of the defined contribution plan; and

(b) as determined under subsection (4), the sufficiency of the plan choice rate to actuarially fund the defined contribution plan member's appropriate share of the defined benefit plan's unfunded liabilities.

(3) The change in the normal cost contribution rate must be

an amount equal to the difference between the normal cost contribution rate in the defined benefit plan that would have resulted if all system members remained in the defined benefit plan and the normal cost contribution rate in the defined benefit plan for the actual members of the defined benefit plan, multiplied by the compensation paid to all of the members in the defined benefit plan, divided by the compensation paid to all of the members in the defined contribution plan. The measurements under this subsection must be based on the defined benefit plan in effect on the effective date of the defined contribution plan until the board determines that the defined benefit plan has been amended in a manner that significantly affects plan choices available to system members. After a board determination that the defined benefit plan has been significantly changed, the measurements in this subsection with respect to members entering the system after the significant change must be made on the basis of the defined benefit plan, as amended.

(4) The sufficiency of the plan choice rate to actuarially fund the appropriate share of the defined benefit plan's unfunded liabilities must be determined as follows:

(a) The board shall determine the number of years required to actuarially fund the defined benefit plan's unfunded liabilities as of the June 30, 1998, actuarial valuation, which must be the initial schedule for the defined contribution plan to actuarially fund the plan's share of the unfunded liabilities. The board shall reduce the schedule by 1 year each biennium.

(b) During each subsequent actuarial valuation of the

defined benefit plan conducted pursuant to 19-2-405, the board shall determine whether the plan choice rate minus the amount provided in subsection (2)(a) of this section is sufficient to pay the unfunded liability obligations within the schedule determined under subsection (4)(a) of this section. If the amount is insufficient to fund the liability over a period of 10 years longer than the scheduled period or is more than sufficient to fund the liability over a period of 10 years earlier than the scheduled period, the board shall determine to the nearest 0.1% the amount of the increase or decrease in the plan choice rate that is required to actuarially fund the liabilities according to the established schedule.

(5) If the board determines that the plan choice rate should be increased or decreased, the plan choice rate under 19-3-2117(2)(a)(ii) must be increased or decreased accordingly. If the plan choice rate is increased, the allocation of employer contributions to member accounts under 19-3-2117(2)(a)(i) must be decreased by that amount. If the plan choice rate is decreased, the allocation of employer contributions to member accounts under 19-3-2117(2)(a)(i) must be increased by that amount.

(6) If the board determines that the contribution rate to the disability plan under 19-3-2117(2)(a)(iv) should be increased, the employer contribution to each member's account under 19-3-2117(2)(a)(i) must be decreased by that amount. If the board determines that the contribution rate to the disability plan under 19-3-2117(2)(a)(iv) should be decreased, the employer contribution to each member's account under 19-3-2117(2)(a)(i)

must be increased by that amount.

(7) By November 1 of the year of a determination pursuant to this section that the allocation of employer contributions under 19-3-2117(2) must be changed, the board shall notify system members, participating employers, employee and employer organizations, the governor, and the legislature of its determination and of the changes required.

(8) ~~Effective~~ A change in the allocation of contributions pursuant to this section is effective January 1 ~~of the year after the regular legislative session that immediately follows a determination under this section, the plan choice rate and the allocation of contributions under 19-3-2117(2) must be adjusted according to~~ following the board's determination."

{*Internal References to 19-3-2121:*

x19-2-303 x19-2-407 x19-3-2117 x19-21-214 }

Section 7. Section 19-21-214, MCA, is amended to read:

"19-21-214. Contributions and allocations for employees in positions covered under the public employees' retirement system.

(1) The contribution rates for employees in positions covered under the public employees' retirement system who elect to become program members pursuant to 19-3-2112 are as follows:

(a) the member's contribution rate must be the rate provided in 19-3-315; and

(b) the employer's contribution rate must be the rate provided in 19-3-316.

(2) Subject to subsection (3), of the employer's

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contribution:

(a) an amount equal to:

(i) 4.49% of compensation must be allocated to the participant's program account;

(ii) 2.37% of compensation must be allocated to the defined benefit plan under the public employees' retirement system as the plan choice rate; and

(iii) 0.04% of compensation must be allocated to the education fund pursuant to 19-3-112(1)(b); and

(b) (i) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-316(4)(b), 0.27% of compensation must be allocated to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability.

(ii) on July 1, 2013, continuing until the additional employer contributions terminate pursuant to 19-3-316(4)(b), the 0.27% contribution rate under subsection (2)(b)(ii) must be increased by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation allocated under this subsection (2) must be 1.27%. If the plan choice rate liability is paid off before the additional employer contributions terminate pursuant to 19-3-316(4)(b), effective the first full pay period of the month following the board's verification that the plan choice rate is fully paid, the percentage of compensation allocated to the plan choice rate under this subsection must be allocated to the program participant's account until the additional contributions

terminate pursuant to 19-3-316(4)(b).

(c) on July 1, 2013, continuing until June 30, 2015, 1% of compensation must be allocated to the defined benefit plan unfunded liabilities.

(d) on July 1, 2015, 1% of compensation, or if the 1% employer contribution rate is adjusted pursuant to [section 2], the adjusted contribution, must be allocated to the defined benefit plan to pay the plan choice rate unfunded actuarial liability. Effective the first full pay period of the month following verification by the public employees' retirement board that the plan choice rate unfunded actuarial liability is fully paid, the 1% of compensation, or the adjusted contribution, if applicable, must be allocated to the program participant's account.

(3) The allocations under subsection (2)(a) are subject to adjustment by the public employees' retirement board, but only as described in and in a manner consistent with the express provisions of 19-3-2121."

{*Internal References to 19-21-214:*
x19-21-203 }

NEW SECTION. Section 8. {standard} Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 19, chapter 3, part 3, and the provisions of Title 19, chapter 3, part 3, apply to [sections 1 and 2].

NEW SECTION. Section 9. {standard} Effective dates. (1)

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Except as provided in subsection (2), [this act] is effective July 1, 2015.

(2) [Sections 5, 6 and 7] are effective on passage and approval.

NEW SECTION. **Section 10. {standard} Retroactive applicability.** [Section 7(2)(b) and (c)] applies retroactively, within the meaning of 1-2-109, to contributions under 19-21-214(2)(b) on and after July 1, 2013.

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