

HOUSE BILL NO. 452

INTRODUCED BY J. WHITAKER, LEWIS, D. MOOD, NEWMAN, OLSON

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A DEFERRED RETIREMENT OPTION PLAN IN
 5 THE MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM; SPECIFYING ELIGIBILITY AND
 6 PARTICIPATION CRITERIA; SPECIFYING CONTRIBUTIONS AND THE INTEREST RATE TO BE CREDITED;
 7 PROVIDING FOR SURVIVORSHIP BENEFITS AND DISTRIBUTION OPTIONS; AND PROVIDING EFFECTIVE
 8 DATES."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11

12 NEW SECTION. **Section 1. Short title.** [Sections 1 through 7 8] may be cited as the "deferred
 13 retirement option plan" or DROP.

14

15 NEW SECTION. **Section 2. Definitions.** Unless the context requires otherwise, as used in [sections
 16 1 through 7 8], the following definitions apply:

17 (1) "DROP" means the deferred retirement option plan established pursuant to [sections 1 through
 18 7 8].

19 (2) "DROP BENEFIT" MEANS THE LUMP-SUM BENEFIT CALCULATED AND DISTRIBUTED AS PROVIDED IN [SECTIONS
 20 1 THROUGH 8].

21 (3) "DROP PERIOD" MEANS THE PERIOD OF TIME THAT A MEMBER IRREVOCABLY ELECTS TO PARTICIPATE IN THE
 22 DROP PURSUANT TO [SECTION 4].

23 ~~(2)~~(4) "Participant" means a member of the retirement system who has elected to participate in
 24 the DROP pursuant to [sections 1 through 7 8].

25

26 NEW SECTION. **Section 3. Deferred retirement option plan established -- compliance with federal**
 27 **law -- rulemaking.** (1) The board shall establish a DROP for eligible members of the retirement system who
 28 elect to participate.

29 (2) The board shall administer the DROP in compliance with THE INTERNAL REVENUE CODE AND THE
 30 applicable rules, regulations, and determinations of the internal revenue service.

1 (3) The board may adopt rules to administer [sections 1 through 7 8].

2

3 NEW SECTION. Section 4. Eligibility -- participation criteria -- membership status -- service
 4 interruptions. (1) Any member eligible to retire under 19-9-801(2) is eligible and may elect to participate
 5 in the DROP by filing a one-time irrevocable election with the board on a form prescribed by the board.

6 (2) A member electing to participate in the DROP shall participate for a minimum of 1 month and
 7 may not participate for more than 5 years.

8 (3) A member may participate in the DROP only once.

9 (4) A participant remains a member of the retirement system, but may not receive MEMBERSHIP
 10 SERVICE OR service credit in the system for the duration of the member's ~~participation in the DROP~~ PERIOD.

11 (5) If participation is interrupted by military service or disability and the participant has not
 12 received any distribution from the DROP, then the duration of the absence may not be included in
 13 calculating the ~~minimum or maximum term of participation established in this section~~ DROP PERIOD.

14

15 NEW SECTION. Section 5. Retirement system contributions -- benefit payments to individual
 16 accounts -- investment returns. (1) During a member's participation in the DROP, state contributions under
 17 19-9-702, employer contributions under 19-9-703, and member contributions under 19-9-710 must
 18 continue to be made to the retirement system. ~~Employer contributions may not be used to fund the DROP.~~

19 (2) For each DROP participant, THE BOARD SHALL CALCULATE A DROP BENEFIT EQUAL TO the monthly
 20 benefit, including any postretirement adjustments, that would have been payable had the participant
 21 terminated employment and retired ~~must be credited to the participant's individual DROP account~~
 22 MULTIPLIED BY EACH MONTH OF THE DROP PERIOD THAT THE PARTICIPANT COMPLETES.

23 ~~———— (3) Each DROP account must earn the same interest that is earned on the entire investment~~
 24 ~~portfolio of the retirement system. The interest must be credited to each participant's DROP account~~
 25 ~~balance on an annual basis.~~

26 ~~———— (3) ON OR BEFORE DECEMBER 31 EACH YEAR, A PRO RATA PORTION OF THE RETIREMENT SYSTEM'S INVESTMENT~~
 27 ~~PORTFOLIO EARNINGS WILL BE CREDITED TO EACH DROP ACCOUNT. IF A DROP ACCOUNT IS OPEN FOR ONLY A PORTION~~
 28 ~~OF THE FISCAL YEAR DURING WHICH EARNINGS ARE MEASURED, EARNINGS PROPORTIONAL TO THE FRACTION OF THE YEAR~~
 29 ~~THE ACCOUNT WAS OPEN WILL BE CREDITED TO THE ACCOUNT OR, IF THE ACCOUNT IS CLOSED ON DATE OF PAYMENT,~~
 30 ~~EARNINGS WILL BE PAID TO THE PARTICIPANT.~~

1

2 NEW SECTION. Section 6. Survivorship benefits. (1) If a participant dies PRIOR TO THE RECEIPT OF
 3 THE DROP BENEFIT PURSUANT TO [SECTION 8], the participant's ~~designated beneficiary~~ SURVIVING SPOUSE OR
 4 DEPENDENT CHILD is entitled to receive a lump-sum payment equal to the participant's DROP account
 5 balance, plus any accrued interest BENEFIT.

6 ~~(2) If the participant did not designate a beneficiary or the designated beneficiary predeceased the~~
 7 ~~member, the participant's spouse or dependent child is eligible for the lump-sum distribution.~~

8 ~~—— (3) If there is no surviving spouse, dependent child, or living designated beneficiary, then the~~
 9 ~~lump-sum distribution must be made to the participant's estate.~~

10 (2) IF THERE IS NO SURVIVING SPOUSE OR DEPENDENT CHILD, THE DESIGNATED BENEFICIARY IS ENTITLED TO
 11 RECEIVE THE A LUMP-SUM DISTRIBUTION PAYMENT EQUAL TO THE PARTICIPANT'S DROP BENEFIT.

12 (3) THE BENEFIT PAID PURSUANT TO THIS SECTION MUST INCLUDE INTEREST REFLECTING THE RETIREMENT
 13 SYSTEM'S ANNUAL INVESTMENT EARNINGS FROM THE DATE THE MEMBER'S DROP PERIOD COMMENCED.

14

15 NEW SECTION. SECTION 7. EMPLOYMENT AND BENEFITS AFTER DROP PARTICIPATION PERIOD. (1) EXCEPT
 16 AS OTHERWISE PROVIDED IN THIS SECTION, IF A MEMBER CONTINUES EMPLOYMENT IN A COVERED POSITION AFTER
 17 TERMINATING PARTICIPATION IN THE DROP PERIOD ENDS, THE BOARD SHALL CONSIDER THE MEMBER NEWLY HIRED AS OF
 18 THE DATE THE MEMBER'S DROP PARTICIPATION TERMINATED PERIOD ENDED.

19 (2) WHEN A MEMBER, AFTER THE END OF THE DROP PERIOD, CONTINUES EMPLOYMENT IN A COVERED POSITION,
 20 STATE CONTRIBUTIONS UNDER 19-9-702, EMPLOYER CONTRIBUTIONS UNDER 19-9-703, AND MEMBER CONTRIBUTIONS
 21 UNDER 19-9-710 MUST CONTINUE TO BE MADE TO THE RETIREMENT SYSTEM.

22 ~~(2)(3) A MEMBER WHO, AFTER TERMINATING THE END OF THE DROP PARTICIPATION PERIOD, CONTINUES~~
 23 EMPLOYMENT IN A COVERED POSITION:

24 (A) IS IMMEDIATELY VESTED FOR BENEFITS ACCRUED SUBSEQUENT TO TERMINATING THE END OF THE DROP
 25 PARTICIPATION PERIOD; AND

26 ~~—— (b) WHEN ELIGIBLE, IS ENTITLED TO A SERVICE RETIREMENT BENEFIT BASED ON:~~

27 ~~—— (i) THE MEMBER'S SERVICE AND FINAL AVERAGE COMPENSATION DURING MEMBERSHIP SUBSEQUENT TO~~
 28 TERMINATING DROP PARTICIPATION; AND

29 ~~—— (ii) THE BENEFIT AMOUNT LAST DEPOSITED TO THE MEMBER'S DROP ACCOUNT;~~

30 ~~—— (c) SHALL CONTINUE TO MAKE CONTRIBUTIONS BASED ON THE RATE THE MEMBER PAID WHEN THE MEMBER~~

1 ~~STARTED PARTICIPATING IN THE DROP.~~

2 (B) IS, UPON TERMINATING COVERED EMPLOYMENT, ENTITLED TO:

3 (I) THE MEMBER'S SERVICE RETIREMENT BENEFIT EARNED PRIOR TO THE DROP PERIOD, INCLUDING ANY
4 POSTRETIREMENT BENEFIT ADJUSTMENT FOR WHICH THE MEMBER IS ELIGIBLE UNDER THIS CHAPTER;

5 (II) A SERVICE RETIREMENT BENEFIT BASED ON THE MEMBER'S SERVICE AND FINAL AVERAGE COMPENSATION
6 DURING MEMBERSHIP SUBSEQUENT TO THE END OF THE DROP PERIOD, INCLUDING ANY POSTRETIREMENT BENEFIT
7 ADJUSTMENT FOR WHICH THE MEMBER IS ELIGIBLE UNDER THIS CHAPTER; AND

8 (III) THE MEMBER'S DROP BENEFIT.

9

10 NEW SECTION. Section 8. ~~Distributions~~ DISTRIBUTION OF DROP BENEFIT. (1) Upon termination of
11 ~~service~~ COVERED EMPLOYMENT, a participant is entitled to:

12 (a) receive a lump-sum distribution of the participant's DROP ~~account balance, plus any accrued~~
13 ~~interest~~ BENEFIT;

14 (b) roll the participant's DROP ~~account balance, plus any accrued interest,~~ BENEFIT into another
15 qualified plan in a manner prescribed and authorized by the board; or

16 (c) any other distribution or method of payment OF THE DROP BENEFIT approved by the board.

17 (2) A distribution pursuant to this section is subject to the provisions of 19-2-907 and 19-2-909
18 and all other applicable provisions of Title 19.

19 (3) THE AMOUNT OF A DISTRIBUTION, ROLLOVER, TRANSFER, OR OTHER PAYMENT OF A DROP BENEFIT
20 PURSUANT TO THIS SECTION MUST INCLUDE INTEREST REFLECTING THE RETIREMENT SYSTEM'S ANNUAL INVESTMENT
21 EARNINGS FROM THE DATE THE MEMBER'S DROP PERIOD COMMENCED.

22

23 NEW SECTION. SECTION 9. BOARD TO SEEK COMMISSIONER'S RULING ~~OR OPINION~~. THE PUBLIC EMPLOYEES'
24 RETIREMENT BOARD SHALL, AS SOON AS POSSIBLE, REQUEST IN WRITING A RULING ~~OR OPINION~~ FROM THE COMMISSIONER
25 OF INTERNAL REVENUE AS TO WHETHER THE DEFERRED RETIREMENT OPTION PLAN ESTABLISHED PURSUANT TO [SECTIONS
26 1 THROUGH 8] CONSTITUTES A QUALIFIED PLAN PURSUANT TO SECTION 401(A) OF THE INTERNAL REVENUE CODE. THE
27 BOARD SHALL NOTIFY THE SECRETARY OF STATE AND CODE COMMISSIONER WHEN THE COMMISSIONER OF INTERNAL
28 REVENUE HAS ISSUED A FAVORABLE DETERMINATION.

29

30 NEW SECTION. Section 10. Codification instruction. [Sections 1 through 7 8] are intended to be

1 codified as an integral part of Title 19, chapter 9, and the provisions of Title 19, chapter 9, apply to
2 [sections 1 through 7 8].

3

4 NEW SECTION. Section 11. Effective dates. (1) Except as provided in subsection (2), [this act]
5 is effective ~~January 1, 2002~~ CONTINGENT ON THE NOTIFICATION TO THE SECRETARY OF STATE THAT THE
6 COMMISSIONER OF INTERNAL REVENUE HAS MADE A FAVORABLE DETERMINATION PURSUANT TO [SECTION 9].

7 (2) [Sections 1 through 3, 9, and 8 10 and this section] are effective on passage and approval.

8

- END -