

SENATE BILL NO. 37

INTRODUCED BY D. MAHLUM

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

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A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE NUMBER OF HOURS THAT A RETIREE MAY RETURN TO WORK IN A POSITION COVERED BY THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AMENDING ~~SECTION~~ SECTIONS 19-2-706, 19-3-908, AND 19-3-1106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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SECTION 1. SECTION 19-2-706, MCA, IS AMENDED TO READ:

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"19-2-706. Additional service for member involuntarily terminated from membership service. (1)

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An employee of the state or university system is entitled to the involuntary termination provision provided in subsection (3) if:

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(a) the employee is a member of the public employees', game wardens' and peace officers', sheriffs', or highway patrol officers' retirement system;

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(b) the employee's active service is involuntarily terminated because of elimination of the employee's position as a result of privatization, reorganization of an agency, closure of or a reduction in force at an agency, or other actions by the legislature or, in the case of a legislator, because of term limits terminating the service of the legislator in either one of the houses of the legislature;

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(c) the employee is eligible for a normal service retirement or early retirement under the applicable provisions of the retirement system to which the member belongs; and

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(d) the employee waives termination benefits for which the employee would otherwise be eligible under the State Employee Protection Act.

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(2) The cost of each year of service purchased under this section is the total actuarial cost of purchasing the service based on the most recent actuarial valuation of the retirement system.

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(3) The employer of an eligible member under subsection (1) shall pay a portion of the total cost of purchasing up to 3 years of additional service that the member was qualified to purchase under 19-3-513, 19-6-804, 19-7-804, or 19-8-904. The employer-paid portion applied toward the service

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1 purchase must be calculated using the formula $A \times B \times C$ when:

2 (a) A is equal to a maximum of 3 additional years of service that the member is eligible to
3 purchase;

4 (b) B is equal to the sum of the employer and employee contribution rates in the member's
5 retirement system; and

6 (c) C is equal to the member's gross compensation paid during the immediate preceding 12
7 months of membership service. The employer may not be charged more than the total actuarial cost of
8 the service purchased by the terminated employee.

9 (4) The member shall pay the difference, if any, between the full actuarial cost of the service to
10 be purchased and the amount contributed by the employer under subsection (3). A member may elect to
11 purchase less than the full amount of service for which the member is eligible under this section, but the
12 election may not reduce the amount of the employer's contribution as calculated under subsection (3).

13 (5) The board may allow an employer to pay the contributions required under subsection (3) in
14 installments for up to 10 years and may charge interest at a rate set by the board pursuant to 19-2-403.

15 (6) A member who has received additional service under this section and who returns to
16 employment for the same jurisdiction for 960 or more hours in a calendar year in a position covered by
17 the public employees' retirement system or for 600 or more hours in a calendar year in a position covered
18 under any other retirement system forfeits the additional service. The employer's contribution to purchase
19 that member's additional service, minus any retirement benefits already paid, must be credited to the
20 employer. As used in this subsection, the same jurisdiction means all agencies of the state, including the
21 university system."

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23 **SECTION 2. SECTION 19-3-908, MCA, IS AMENDED TO READ:**

24 **"19-3-908. Retirement incentive program -- window of eligibility.** (1) Except as provided in
25 subsection (4), a person who is an active member on February 1, 1993, and who voluntarily terminates
26 service or whose service is involuntarily terminated because of a reduction in force on or after June 25,
27 1993, but before January 1, 1994, and who is eligible for a normal service retirement under 19-3-901 or
28 early retirement under 19-3-902 is entitled to the retirement incentive provided in subsection (2).

29 (2) (a) The employer of an eligible member under subsection (1) shall pay the total cost of
30 purchasing up to 3 years of additional service that the member is qualified to purchase under 19-3-513.

1 (b) The department of revenue shall pay the cost of purchasing up to 3 years of additional service
2 for qualifying county assessors and deputy assessors eligible under subsection (1) whose employing
3 county has not elected for participation in the incentive program as provided in subsection (4).

4 (c) A member is entitled to a refund for that portion of previously purchased additional service that
5 would otherwise cause the member to be unqualified to receive all or part of the additional service provided
6 in this section.

7 (3) An active member who is involuntarily terminated because of a reduction in force on or after
8 March 1, 1993, but before June 25, 1993, and who, if the member had not been terminated, would have
9 been eligible under subsection (1) for the retirement incentive is entitled to the retirement incentive under
10 subsection (2) if the member was, at the time of termination, eligible for normal service retirement under
11 19-3-901 or early retirement under 19-3-902 and retires on or after June 25, 1993.

12 (4) Subject to subsection (2)(b), a contracting employer's participation in the incentive program
13 described in this section is optional. A contracting employer may elect to provide the incentive by filing
14 with the board a written notice of election on or before June 1, 1993, and complying with rules adopted
15 pursuant to subsection (6).

16 (5) County assessors and deputy assessors are eligible for the incentive program even if the
17 employing county has not elected to participate in the incentive program.

18 (6) The board may allow an employer to pay the contributions required under subsection (2)(a)
19 in installments for up to 10 years and may charge interest at a rate set by the board pursuant to 19-2-403.
20 The board shall adopt rules to implement the provisions of this section.

21 (7) A member who has received additional service under this section and who returns to
22 employment for the same jurisdiction for 960 or more hours in a calendar year in a position covered by
23 the public employees' retirement system or for 600 or more hours in a calendar year in a position covered
24 under any other retirement system shall forfeit the additional service. The employer's contributions to
25 purchase that member's additional service, minus any retirement benefits already paid, must be refunded
26 to the employer. For purposes of this subsection, all agencies of the state, including the university system,
27 are considered the same jurisdiction and other public employers contracting with the retirement system
28 are each considered separate jurisdictions."

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30 **Section 3.** Section 19-3-1106, MCA, is amended to read:

1 **"19-3-1106. Limited reemployment -- reduction of service retirement benefit upon exceeding limits**
2 **-- exception.** (1) A retired member under 65 years of age who is receiving a service retirement benefit may
3 return to employment covered by the retirement system for a period not to exceed ~~640~~ 960 hours in any
4 calendar year without returning to active service and without any effect to the retiree's retirement benefit.
5 The retirement benefit for any retiree exceeding this ~~640-hour~~ 960-hour limitation in any calendar year
6 after retirement must be temporarily reduced \$1 for each \$1 earned after working ~~640~~ 960 hours in that
7 calendar year.

8 (2) A retiree 65 years of age or older who returns to employment covered by the retirement
9 system is either subject to the ~~640-hour~~ limitation of subsection (1) or may earn in any calendar year an
10 amount that, when added to the retiree's current annual retirement benefits, will not exceed the member's
11 annualized final average salary, adjusted for inflation as of January 1 of the current calendar year,
12 whichever limitation provides the higher limit on earned compensation to the retiree. Upon reaching the
13 applicable limitation, the retiree's benefits must be temporarily reduced \$1 for each \$1 of compensation
14 earned in covered service beyond the applicable limitation during that calendar year.

15 (3) A retiree returning to employment covered by the retirement system and the returning
16 employee's employer shall certify to the board the number of hours worked by the retiree and the gross
17 compensation paid to the retiree in that employment during any month after retirement.

18 (4) A retiree returning to employment covered by the retirement system may elect to return to
19 active membership at any time during this period of covered employment.

20 (5) A retired member 70 1/2 years of age or older who returns to employment covered by the
21 retirement system is not subject to the hour or earnings limitations in subsections (1) and (2) or the
22 reporting requirements in subsection (3)."

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24 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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