SENATE STATE ADMIN.
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BILL NO. HB104

TEACHERS' RETIREMENT SYSTEM

House Bill 104

TRS Housekeeping Proposal

Representative Ralph Lenhart

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Hearing – (S) State Administration

Presented by: David L. Senn,
Executive Director
Testimony in Support of HB 104

TRS Housekeeping Proposal – House Bill 104 is a housekeeping proposal intended to make general revisions and to clarify existing administrative and benefit provisions and to bring the statutes into compliance with the IRS plan qualification requirements, as necessary. Nothing in this bill will lessen or detract from benefits currently available to the teachers and administrators participating in the TRS. This proposal will make the following changes.

- Clarify the provision for establishing a governmental excess benefit arrangement and eliminating the provision's contingent effective date.
- Providing for the option to purchase Montana University System Optional Retirement Program (ORP) service.
- Clarify provision on the redeposit of contributions for previous membership service by striking relevant language in current code sections and recodifying the language as a new section.
- Clarifying the provision on employee's termination pay contributions.
- Clarify the provision on retirees returning to employment by striking relevant language in current code sections and recodifying the language as a new section.
- Revising and making retroactive the provisions governing the recalculation of benefits when a retired member returns to employment and retires a second time.
- Providing for the reduction of retirement benefits in lieu of canceling the benefits when a retiree earns more than one-third of the average final compensation.

The following identifies the various statutes being affected by the Board's proposed amendments and a brief description of the changes.

Governmental Excess Benefit Arrangements

Section 2. 19-20-212. General Internal Revenue Service qualification rules
Section 11. 19-20-718. Maximum contribution limitation
Section 17. Amend Section 29, Chapter 111, laws of 1999 establishing contingent effective date

Amendments are necessary to remove the contingent effective date and clarify that the Board may still establish a Governmental Excess Benefit Arrangement whenever they find that benefits may otherwise be limited under Section 415 of the Internal Revenue Code. Current law states that the excess benefit arrangement is effective upon approval by the Internal Revenue Service. Because the Section 415 limits are periodically adjusted for inflation, members of the Montana TRS are not likely to exceed these limits; therefore, we do not need to establish an excess benefit arrangement at this time. For Example, the 2005 annual contribution limits are the lesser of either 100% of salary or $42,000, and the annual benefit limit is $170,000. The amendments will remove the existing contingency clause.

Purchase Montana University System ORP Service

Section 4. 19-20-401. Creditable Service
Section 7. New Section. Creditable service for employment under optional retirement program

This new section will afford University faculty and administrators with service under the University System's Optional Retirement Plan, who subsequently find themselves participating in the Teachers' Retirement System, the opportunity to purchase up to 5 years of Montana University Service. This is a fairness issue as current TRS members with out-of-state university experience can purchase up to 5 years of service, but TRS members employed by Montana University System who participated in the University's ORP prior to their participation in TRS cannot. The cost to purchase this service will be based on the actuarial cost as of the most recent valuation.

Redeposit of Previous Membership Service

Section 6. 19-20-415. Procedure for purchase of service credit and pick up
Section 8. 19-20-602. Annuity savings fund -- member's contribution
Section 9. New Section Redeposit of previous membership service

Amendments would move the provisions to redeposit previous membership service from §19-20-602, MCA, and create a new section covering just the purchase of previous membership service. This new section would also be referenced under the provision to purchase service with tax-deferred contributions (i.e., §19-20-415).

Termination Pay

Section 10. 19-20-716. Termination pay

Clarify that employee contributions required under termination pay option 1 in excess of the total termination pay amount available must be paid by the TRS member with after taxed dollars. This amendment will not change the amount due, or the members' option to defer state and federal income taxes on termination pay contributions, which cannot exceed the total amount available.

Working Retirees

Section 1. 19-20-208. Duties of employer
Section 5. 19-20-407. No duplication of credit for same period of service
Section 3. 19-20-302. Active membership
Section 12. 19-20-802. Early retirement
Section 13. 19-20-804. Allowance for service allowance
Section 14. New Section. Post retirement employment limitation - cancellation of benefits
Section 15. 19-20-806. (Temporary) Reemployment of certain retired teachers, specialists, or administrators – limitations – employer defined
Section 16. 19-20-101. Allowance for death of member
Section 20. New Section. Retroactive Applicability

Amendments move the provision governing the limits on the maximum a retired teacher may earn if they return to part time employment covered under the TRS, from §19-20-804 to a new section governing only post retirement employment. Section 5 of the bill clarifies that retirees returning to active service may not purchase service for the same period of time in which they were receiving retirement benefits. No changes are proposed to the earnings or part-time employment limitations under current law, which allow a retiree to work in a part-time TRS covered position and earn up to one-third of their average final compensation without loss of retirement benefits.

However, changes are proposed for working retirees who earn more than allowed. No longer would benefits be cancelled immediately when a working retiree exceeds the maximum they can earn; instead, future benefits would be reduced by $1.00 for each $1.00 they earn in excess of the maximum allowed. Benefits would be cancelled only if the monthly retirement benefit is reduced to zero or the retired member returns to full-time employment. Benefits would be reinstated when the member terminates employment eligible to participate in TRS.

Also, when a retired member returns to active status if their benefit is recalculated, the recalculated benefit would include the value of any previous GABA. Adding GABA to the recalculated benefit will be made retroactive to July 1, 2002.