



HB 105

Testimony before the House State Administration Committee
Supporting House Bill 105
February 4, 2013

House Bill 105 is the Public Employees' Retirement Board's biennial general revisions or "clean-up" bill. The proposed legislation was reviewed by the State Administration and Veterans' Affairs Interim Committee

Between each legislative session, the Public Employees' Retirement Board and its staff compile legislative changes needed to properly administer its eight retirement systems. We have been asked why there is a bill every year - aren't we ever going to "get it right?" But the retirement field is an ever changing area. We must continually update our statutes to remain consistent with federal law requirements, to address changes required by new technology, and to amend statutes that no longer fit with our changing society.

The table distributed to the Committee provides a section-by-section summary of the Board's proposed changes. Title 19 of the MCA groups legislation applicable to all Board-administered systems in Chapter 2. Chapters 3, 5, 6, 7, 9, 13, and 17 contain statutes applicable to a single system. For example, Title 19, chapter 3 pertains to the Public Employees' Retirement System (PERS) only, while chapter 5 addresses Judges (JRS) and chapter 8 pertains solely to Game Wardens' and Peace Officers (GWPOS). If the same change is required in multiple retirement systems, those sections are grouped together and addressed as one.

I will highlight some of the proposed changes the Board believes significant. If you have questions regarding these or any of the other proposed changes, I will be available for questions.

- **Bill Section 1 (19-2-303, MCA)** Rollovers are movement of money both in and out of the retirement
- **Bill Section 2 (19-2-403, MCA)** Allows Board to correct employer reporting errors, including capturing contributions that should have been paid into a different system. Currently, 19-2-903 allows this, but it is in a section related to errors in benefits, not contributions
- **Bill Section 3 (19-2-406) (pp. 9-10)** Our statutes were recodified in 1993. At that time, Title 19 chapter 2 was rewritten to apply to all systems administered by MPERA. Unfortunately, the disability process, which applies to all systems, was

not moved to chapter 2. We only recently discovered this oversight when a non-PERS member applied for disability more than 4 months after leaving employment.

Bill Section 35 repeals the existing statute since it applies only to PERS.

- **Bill Section 5 (19-2-706, MCA at pp.11-12) and Bill Section 10 (19-3-908, MCA at p. 18)** Any retirement system member subject to reduction in force and PERS members subject to previous retirement incentive programs, can opt to have their employer purchase up to 3 years of service credit as a retirement incentive. If the member so chooses, but subsequently returns to active service, the member must forfeit the years of service purchased by their employer. Currently, the employer is credited with the contributions paid for that service, less the total amount of benefit received by the member prior to returning to service. The Board would like to only reduce the employer's credited contributions by the amount of the benefit received which is proportionate to the amount of the service purchased. This seems to be fairer to the employer.
- **Bill Section 6 (19-2-801(2), MCA at pp. 12-13)** A recent Montana Supreme Court decision, Briese v. Montana Public Employees' Retirement Board determined that retirement system members who have named their spouse as a beneficiary cannot change that designation while in the midst of divorce proceedings. This proposed amendment codifies that decision into law.
- **Bill Section 8 (19-3-412), MCA)** Optional membership requirements are based on a fiscal year as opposed to a calendar year.
- **Bill Section 12 (19-3-1106)** Prevents retirees from returning to PERS-covered employment as an independent contractor unless terminated for at least 90 days and working less than 960 hours in a calendar year. TRS has this limitation already.
- **Bill Section 13 (19-2-801(7), MCA at p.21), Bill Section 20 (19-5-802 at p. 29), Bill Section 22 (19-7-503 at p. 30) and Bill Section 29 (19-8-1002 at p. 36)** PERS, Judges, Sheriffs and the Game Wardens' Retirement Systems allow a retiring member to elect 1 of 4 retirement benefit options. Option 1 is a single life payment. The retiree names a designated beneficiary to receive any accumulated contributions remaining on the member's death. Options 2, 3 and 4 allow the retiree to name a person to continue receiving a retirement benefit following the retiree's death. These sections are being amended to clarify how the remaining retirement benefit, after the member's death, is paid if there is no surviving designated beneficiary or no surviving contingent annuitant.
- **Bill Sections 14, 18, 25 and 28 (Sections 19-3-1501, 19-5-701, 19-7-1001 and 19-8-801, MCA)** Defines the often used term - Option 1 – in PERS, JRS, SRS and GWPORS as the unreduced retirement benefit paid to the member pursuant to the applicable formula, with no benefit to a contingent annuitant after death.

The Public Employees' Retirement Board urges your favorable consideration of HB105. I will be available for question. Thank you for your time.

**Montana Public Employee Retirement Administration
Table of General Revisions Legislation to be considered for 2013
March 11, 2013**

Current Code Section	Proposed Change	Reason	Notes
19-2-303(19) p.3	Expand definition of direct rollover to include rollovers in and out of plan.	Currently the definition addresses direct rollovers from our plans but not into our plans.	Attempted to address by rule but determined to be out of scope.
19-2-403(4) p.8	Address situation where a member's job includes work covered by 2 different systems	Becoming more common – employers are changing positions and including duties perhaps for budgetary reasons	Sheriffs/coroner SRS/PERS Police/Administration MPORS/PERS
19-2-403(5) p.8	Address contribution payments that are made to the incorrect system	Currently in 19-2-903(1) but that statute is in a Benefits part, not a contributions part.	
19-2-406(1) pp.9-10	Move disability application process and 4 month limit from 19-3-1005	Applies to all systems	This change was missed in 1993 when re-codification occurred. We did not realize it until the 4 month came up with respect to a non-PERS member claiming disability
19-2-505(5) p. 11	Include accumulated contributions for deceased member's, whether vested or not	Not addressed here or in 19-2-1003. 19-2-1003 is for nonvested, living or deceased	5 years is OK here because deceased.
19-2-706(6) p. 12	Reduce returned contributions proportionately rather than by the entire benefit	Fairness	This is for RIF'd employees who opt to have their employer purchase service credit to increase their retirement benefit, but then returns to work for more than 960 hours. The member forfeits the purchased service credit and the employers' contribution is credited back to the employer.

Current Code Section	Proposed Change	Reason	Notes
19-2-801(2) p. 13	Reference section 40-4-121 as TROs issued under that statute now apply to retirement system beneficiary designations	Supreme Court decision in Briese	Prevents a member from removing their spouse as a beneficiary in the midst of divorce proceedings
19-3-412(2) p.16	Change "calendar year" to "fiscal year".	We base optional membership requirements on fiscal year	Programming
19-3-512(3) p.18	Military time exclusion is no longer necessary.	Military time can now be purchased after 5 years of membership service and service credit from other public retirement systems is membership service	At one time, military time required 10 years of service before it could be purchased.
19-3-908(7) p. 19	Reduce returned contributions by benefits related to the contributions rather than by the entire benefit	Fairness	This is members who chose to have 3 years of service purchased by their employer as part of the retirement incentive, but then returns to work for more than 960 hours. The member forfeits the purchased service credit and the employers' contribution is credited back to the employer. Retirement Incentive Program
19-3-1005 p. 40	Move to chapter 2, 19-2-406	Disability application process applies to all disabilities. Procedure and four month limit should also.	Repealed. Moved to chapter 2 so the process, including the 4 month limit, would apply to all systems, not just PERS.
19-3-1103 p. 19	Expands "gainful occupation" to include self-employed	Addresses issues raised by disabled members; requires annual reports of monthly income	
19-3-1106 p.21	Insert a new (7)(b) including returning to work as an IC	More retirees are asking to return as an IC; no reason to treat differently than temp workers	TRS has this requirement

Current Code Section	Proposed Change	Reason	Notes
19-3-1210 pp.21-22	Clarify – application to options 1, 2 and 3	Options 2 and 3 must designate a contingent annuitant in order to apply for retirement benefit.	Option 4 addressed in 19-3-1501 Amended 19-3-1501 to define “option 1”
19-3-1501 pp.22-23 19-5-701 pp.26-28 19-7-1001 pp.31-33 19-8-801 pp.34-36	Specifically state that once a retirement benefit has been deposited or cashed, the option cannot be changed expect upon death or divorce as provided in the statutes (pp.23,27,32,35)	People have asked to change their option. This is not feasible since based on actuarial determinations. We reference option 1 in communication/education material; ease of reference	Same change is made in all systems with optional retirement benefits – PERS (19-3-1501), Judges’ (19-5-701), Sheriffs’ (19-7-1001) and Game Wardens’ and Peace Officers’ (19-8-801) The other systems have statutory beneficiaries who received the same benefit as if the member in the event of the member’s death.
19-3-2133 p.24	Clarify that (1) is known as Option 1 (pp.22,26,31,34) Travel costs for out-of-town members of EIAC	Since not subject to 2-15-122, nothing currently allows for travel costs to be reimbursed	We have a difficult time recruiting out-of-town members for the Employee Investment Advisory Council. Travel expenses may help.
19-5-802(3) p.29	Reference 19-5-502 rather than go through 19-5-503 then to -502 for determining beneficiary’s benefit.	Ease of understanding.	Judges’ Retirement System
19-5-801 and 19-5-802 pp.28-29	Address “benefit” available if member dies unvested – non duty related and duty related	Non-duty related, pre-vesting is not currently addressed.	Judges’ Retirement System
19-5-802 p.29	Clarify – application to options 1, 2 and 3	Options 2 and 3 must designate a contingent annuitant in order to apply for retirement benefit.	Judges’ Retirement System Option 4 addressed in 19-5-701 Amended 19-5-701 to define “option 1”

Current Code Section	Proposed Change	Reason	Notes
19-6-601 pp.29-30	Add "Vested" member to (1)	We already require members to be vested in order to be eligible for non-duty disability.	Highway Patrol Officers' Retirement System
19-7-503 p.30	Clarify – application to options 1, 2 and 3	Options 2 and 3 must designate a contingent annuitant in order to apply for retirement benefit.	Sheriffs' Retirement System Option 4 addressed in 19-7-1001 Amended 19-7-1001 to define "option 1"
19-7-601 p.30	Clarify whether and when vesting is required		Sheriffs' Retirement System
19-7-901 p.31	We base actuarially equivalent on age 60, not age 65	Consistency between sections (19-7-502 and 19-7-901) Overlooked in 1987.	Sheriffs' Retirement System
19-8-302(2) and (3) p.33	Change 30 to 90 days for election period. Applies to PERS members hired into a GWPORS' covered position.	Consistency	Game Wardens' and Peace Officers' Retirement System
19-8-701 p. 34	Clarifies that only vested members may receive a disability benefit and the difference between duty related and non-duty related	Must be vested in order to receive disability; disability differs when duty related.	Game Wardens' and Peace Officers' Retirement System
19-8-1002 p. 36	Clarify – application to options 1, 2 and 3	Options 2 and 3 must designate a contingent annuitant in order to apply for retirement benefit.	Game Wardens' and Peace Officers' Retirement System Option 4 addressed in 19-8-801 Amended 19-8-801 to define "option 1"
19-9-710 p.37	Delete (1)(a) and renumber	There are no more active members who were hired before July 1, 1975. contribute 5.8%	Municipal Police Officers' Retirement System Rate applied to municipal police officers hired on or before June 30, 1975.

Current Code Section	Proposed Change	Reason	Notes
19-9-710(2) p.37	Add 19-9-1013	Overlooked when 19-9-1013 adopted; requires a 9% contribution rate	Municipal Police Officers' Retirement System 19-9-1013 provided for an extended GABA election period. 9% is the member contribution for all members who choose GABA.
19-9-1007 pp.37-38	Reference 7-32-443 which defines "newly confirmed" police officer	Consistency/accuracy	Municipal Police Officers' Retirement System
19-13-104 p.39	Define "newly confirmed firefighter" based on 7-33-4106 and AG opinion	Consistency/accuracy	Firefighters' Unified Retirement System
19-13-104(9) (new (10)) p.39	Remove reference to 7-33-4109 and clarify	7-33-4109 doesn't address partpays.	Firefighters' Unified Retirement System Per Title 7, chapter 33, only 2 nd class cities can hire part-pays.
19-13-803(2) p.40	Replace incorrect reference	19-13-104 is the definitions section. 19-13-704 is the section that establishes benefits.	Firefighters' Unified Retirement System
19-17-605 p.40	Delete earnings limitation	Not an earnings based retirement benefit	Volunteer Firefighters' Compensation Act