

HOUSE BILL NO. 91

INTRODUCED BY R. LYNCH

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT MODIFYING AND EXPANDING 457 DEFERRED COMPENSATION PROGRAMS FOR THE STATE AND POLITICAL SUBDIVISIONS TO INCLUDE ROTH ACCOUNTS; AMENDING SECTIONS 19-50-101 AND 19-50-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 19-50-101, MCA, is amended to read:

"19-50-101. Definitions. For the purposes of this chapter, unless a different meaning is plainly implied by the context, the following definitions apply:

(1) "Administrator" or "board" means the public employees' retirement board created in 2-15-1009 or an appropriate officer of a political subdivision.

(2) "Deferred compensation" means ~~that~~ the income ~~which~~ that an employee may legally defer in a deferred compensation plan established under this chapter pursuant to the rulings of the internal revenue service and ~~which~~ that, while invested, is exempt from state and federal income tax on the employee's contribution and on the interest, dividends, and capital gains until ultimately distributed to the employee.

(3) "Eligible deferred compensation plan" means a plan meeting the requirements of section 457 of the Internal Revenue Code.

(4) "Employee" means any person, including independent contractors and elected officials, receiving compensation from the state or a political subdivision for performing services.

(5) "Fund" means the state deferred compensation investment account.

(6) "Participant" means an employee enrolled in ~~the~~ an eligible deferred compensation plan established under this chapter.

(7) "Political subdivision" means any city, town, county, or other political subdivision of the state of Montana, including the Montana university system.

(8) "Roth account" means a separate account within a deferred compensation plan established under this chapter that is composed of after-tax contributions made pursuant to section 402A of the Internal Revenue

1 Code, 26 U.S.C. 402A.

2 (9) "Roth deferral" means an after-tax contribution by a participant to the participant's deferred
3 compensation account."

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5 **Section 2.** Section 19-50-103, MCA, is amended to read:

6 **"19-50-103. No effect on other retirement programs -- taxes deferred -- Roth deferral exception.**

7 (1) The deferred compensation program established by this chapter is in addition to retirement, pension, or benefit
8 systems, including plans qualifying under section 403(b) of the Internal Revenue Code, 26 U.S.C. 403(b), as
9 amended, established by the state or a political subdivision, and no a deferral of income under the deferred
10 compensation program may not affect a reduction of any retirement, pension, or other benefit provided by law.

11 (2) ~~However~~ Except as provided in subsection (3), any sum deferred under the deferred compensation
12 program is not subject to taxation until distribution is actually made to the participant or the participant's
13 beneficiary because of severance from employment, retirement, or unforeseeable emergency.

14 (3) Effective July 1, 2013, any deferred compensation program established under this chapter may
15 include Roth accounts and accept Roth deferrals pursuant to section 402A of the Internal Revenue Code, 26
16 U.S.C. 402A. A participant's Roth deferral into a deferred compensation account and any associated earnings,
17 known as the participant's Roth assets, may be withdrawn tax-free if the requirements for a qualified distribution
18 under 402A(d)(2) of the Internal Revenue Code, 26 U.S.C. 402A(d)(2), are met.

19 (4) For purposes of this chapter, any qualified private pension plans now in existence in 1974 qualify."

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21 NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2013.

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