

## SENATE BILL NO. 227

INTRODUCED BY E. WALKER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING NEW LEGISLATORS FROM RECEIVING  
5 MEMBERSHIP SERVICE OR SERVICE CREDIT IN ANY PUBLIC EMPLOYEE RETIREMENT SYSTEM  
6 GOVERNED BY STATE LAW; AMENDING SECTIONS 5-2-304, 19-2-706, 19-3-505, 19-3-521, AND 19-20-416,  
7 MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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11 **Section 1.** Section 5-2-304, MCA, is amended to read:  
12 **"5-2-304. Participation in public retirement systems -- prohibition.** (1) (a) The purpose of this ~~section~~  
13 subsection (1) is to allow a person who is certified by the secretary of state as elected or appointed to the  
14 Montana legislature for a term beginning before January 5, 2015, and who is also a member of a retirement  
15 system provided for in Title 19, chapter 3, 5, 6, 7, 8, 9, 13, 20, or 21, by virtue of the person's nonlegislative  
16 employment to continue the person's participation in the public retirement system of which the person is a  
17 member.

18 ~~(2)(b)~~ This ~~section~~ subsection (1) is not intended to provide duplicate credit for the same service in two  
19 retirement systems supported wholly or in part by public funds. This ~~section~~ subsection (1) does not affect  
20 contribution rates or benefit payments specifically provided for in the laws governing the operation of individual  
21 retirement systems.

22 ~~(3)(a)(c)~~ A person who is an inactive or retired member of a retirement system provided for in Title 19,  
23 chapter 5, 6, 7, 8, 9, 13, 20, or 21, and who is certified by the secretary of state as elected or appointed to be a  
24 legislator for a term beginning before January 5, 2015, may:

25 (i) return to active membership in the system of which the person is an inactive or retired member under  
26 the requirements of that system; or

27 (ii) remain an inactive or retired member of the retirement system and become an active member of the  
28 public employees' retirement system pursuant to 19-3-412.

29 ~~(b)(d)~~ A person who is an inactive or retired member of the public employees' retirement system provided  
30 for in Title 19, chapter 3, and who is certified by the secretary of state as elected or appointed to the legislature

1 for a term beginning before January 5, 2015, may return to active membership in the public employees' retirement  
 2 system but cannot simultaneously be an inactive or retired member of the system as a result of prior covered  
 3 terminated employment and an active member of the retirement system under 19-3-412 or this section.

4 ~~(4)(a)(e)~~ (i) A person who is an active member of a public retirement system governed by state law and  
 5 who is certified by the secretary of state as elected or appointed to be a legislator for a term beginning before  
 6 January 5, 2015, may, but is not required to, continue the person's participation in that public retirement system  
 7 while engaged in official legislative duties ~~as a legislator~~.

8 ~~(b)(ii)~~ (ii) To continue participation as an active member in the public retirement system, ~~a legislator~~ the  
 9 person shall, within 90 days of taking office and in a manner prescribed by the appropriate board, file an  
 10 irrevocable written election with the teachers' retirement board or the public employees' retirement board.

11 ~~(5)(f)~~ (f) A ~~legislator~~ person who elects to continue participation as an active member as provided in  
 12 subsection ~~(4)~~ (1)(e) shall continue the payments into the fund of the retirement system at the rate currently in  
 13 effect in the system based on the ~~legislator's~~ person's monthly salary as a member of that system.

14 ~~(6)(g)~~ (g) The state contribution must be made by legislative appropriation. It must equal the appropriate  
 15 employer contribution at the rate currently in effect in the system.

16 (2) A person who is certified by the secretary of state as elected or appointed for a legislative term  
 17 beginning on or after January 5, 2015, may not be credited with membership service or purchase service credit  
 18 for legislative service in that legislative term in a retirement system or retirement plan provided for in Title 19."

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20 **Section 2.** Section 19-2-706, MCA, is amended to read:

21 **"19-2-706. Additional service credit for active member involuntarily terminated from employment.**

22 (1) The provisions of subsection (3) apply to an employee of the state or university system if:

23 (a) the employee is an active member of the public employees' defined benefit plan or the game  
 24 wardens' and peace officers', sheriffs', firefighters' unified, or highway patrol officers' retirement system;

25 (b) the employee has involuntarily terminated from employment because of elimination of the employee's  
 26 position as a result of privatization, reorganization of an agency, closure of or a reduction in force at an agency,  
 27 or other actions by the legislature or, in the case of a member who is a legislator serving a term beginning before  
 28 January 5, 2015, the legislator is terminated from office in either one of the houses of the legislature because of  
 29 term limits;

30 (c) the employee is eligible for service retirement or early retirement under the applicable provisions of

1 the retirement system to which the member belongs; and

2 (d) the employee waives the rights and benefits for which the employee would otherwise be eligible  
3 under the State Employee Protection Act.

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

6 (3) The employer of an eligible member under subsection (1) shall pay a portion of the total cost of  
7 purchasing up to 3 years of additional service credit that the member was qualified to purchase under 19-3-513,  
8 19-6-804, 19-7-804, 19-8-904, or 19-13-405. The employer-paid portion must be calculated using the formula  $A$   
9  $\times B \times C$  when:

10 (a)  $A$  is equal to a maximum of 3 additional years of service credit that the member is eligible to  
11 purchase;

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

14 (c)  $C$  is equal to the member's gross compensation paid during the immediate preceding 12 months of  
15 membership service. The employer may not be charged more than the total actuarial cost of the service credit  
16 purchased.

17 (4) The member shall pay the difference, if any, between the full actuarial cost of the service credit to  
18 be purchased and the contribution required from the employer under subsection (3). The member may elect to  
19 purchase less than the full amount of service for which the member is eligible under this section, but the election  
20 may not reduce the amount of the employer's contribution as calculated under subsection (3).

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

23 (6) (a) A member who has received additional service credit under this section and who returns to  
24 employment for the same jurisdiction for 960 or more hours in a calendar year in any retirement system forfeits  
25 the additional service credit. The employer's contribution to purchase that member's additional service credit,  
26 minus any retirement benefits already paid, must be credited to the employer.

27 (b) As used in subsection (6)(a), the term "same jurisdiction" means all agencies of the state, including  
28 the university system."

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30 **Section 3.** Section 19-3-505, MCA, is amended to read:

1           **"19-3-505. Purchase of previous employment with employer.** (1) Subject to the provisions of this  
 2 section and 5-2-304, a member who has employment for which optional membership was declined or  
 3 employment with an employer prior to the employer's contract coverage may file a written application with the  
 4 board to purchase all or a portion of the employment for service credit and membership service. The application  
 5 must include salary information certified by the member's employer or former employer.

6           (2) (a) A purchase under this section is subject to the board's approval.

7           (b) If the board approves the request, the member shall pay all contributions that the member would have  
 8 contributed during the period of employment as if the employment had been covered by the retirement system  
 9 and shall pay the regular interest that would have accumulated on the amount to the time of payment.

10          (c) The employer shall establish a policy as to the payment of retroactive employer contributions or  
 11 retroactive employer contributions and regular interest and apply this policy indiscriminately for all employees and  
 12 former employees. All employee appeals of discrimination are subject to the determination of the board. All  
 13 successful appeals obligate the employer to pay the employer and employee contributions with accrued interest  
 14 for that employee filing the appeal with the board. Each appeal must be heard on its individual merits and may  
 15 not bind the employer to pay all retroactive payments for all former and present employees.

16          (d) If the employer establishes a policy under subsection (2)(c) of nonpayment, the member shall pay  
 17 the amount not paid by the employer in order to receive service credit and membership service for the period of  
 18 employment."

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20          **Section 4.** Section 19-3-521, MCA, is amended to read:

21          **"19-3-521. Service credit for legislative members.** A person who has been certified by the secretary  
 22 of state as elected or appointed as a member of the legislature of Montana for a term beginning before January  
 23 5, 2015, must receive membership service and service credit for that portion of each year for which the ~~member~~  
 24 person pays regular contributions."

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26          **Section 5.** Section 19-20-416, MCA, is amended to read:

27          **"19-20-416. Credit for legislative service required.** (1) A ~~legislator~~ person eligible under 5-2-304 to  
 28 elect to continue to participate in the system who did not elect to continue to participate in the system, ~~as provided~~  
 29 ~~under 5-2-304~~, and who subsequently participates as a member must be awarded creditable service for  
 30 legislative service if the ~~legislator~~ person contributes an amount equal to the member contributions that would

- 1 have been made if the ~~legislator~~ person had elected membership plus interest paid as follows:
- 2 (a) if a written application to purchase service was signed prior to July 1, 2012, at the rate that the
- 3 contributions would have earned if they had been on deposit with the retirement system; or
- 4 (b) if a written application to purchase service is signed on or after July 1, 2012, at the actuarially
- 5 assumed interest rate in effect on the date the written application is signed.
- 6 (2) The employer contribution must be made by the legislative branch in the amount that would have
- 7 been contributed if the ~~legislator~~ person had elected membership plus interest at the rate that the contributions
- 8 would have earned if they had been on deposit with the retirement system."

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10 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2013.

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