Fiscal Note 2017 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	HB0408	**Title:**	Revise contract rights for new members of public employee retirement plans
Primary Sponsor:	Hertz, Greg	**Status:**	As Introduced

- ☐ Significant Local Gov Impact
- ☐ Needs to be included in HB 2
- ☑ Technical Concerns
- ☐ Included in the Executive Budget
- ☑ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2016 Difference	FY 2017 Difference	FY 2018 Difference	FY 2019 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
Other	$0	$0	$0	$0
Revenue:				
General Fund	$0	$0	$0	$0
Other	$0	$0	$0	$0
Net Impact-General Fund Balance:	$0	$0	$0	$0

Description of fiscal impact: HB 408 revises contract rights for Teachers' Retirement System (TRS) and Montana Public Employees' Retirement Administration (MPERA) members initially hired on or after January 1, 2016. Members would be subject to contracts governed by the relevant statues in effect at the time the member withdraws or retires from the system.

FISCAL ANALYSIS

Assumptions:

TRS

1. HB 408 only affects TRS members hired on or after January 1, 2016.
2. HB 408 does not change the definition of a vested member; therefore, a member with at least five years of creditable service has a right to a future retirement benefit.
3. A member hired on or after January 1, 2016 would not be vested in a retirement benefit until January 1, 2021 or later.

4. Future Legislatures could reduce or enhance benefits for members hired after January 1, 2016; however, there is no way to project when or to what degree benefits will be enhanced or reduced.

MPERA

5. For members hired on or after January 1, 2016, the contract is governed by the relevant statutes in effect at the time the member withdraws or retires from the system.
6. Vesting schedules will not change.
7. HB 408 bill would have an impact on new employees in each of the retirement systems. Based upon the FY 2014 valuation, each retirement system had the following new hires, and the following numbers would be a representative estimate of the number of new members in each future year, subject to this legislation:

PERS	3,621
JRS	5
HPORS	26
SRS	206
GWPORS	140
MPORS	59
FURS	37

	FY 2016 Difference	FY 2017 Difference	FY 2018 Difference	FY 2019 Difference
Fiscal Impact:				
Expenditures:				
TOTAL Expenditures	$0	$0	$0	$0
Funding of Expenditures:				
TOTAL Funding of Exp.	$0	$0	$0	$0
Revenues:				
TOTAL Revenues	$0	$0	$0	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$0	$0	$0	$0
Other	$0	$0	$0	$0

Technical Notes:

TRS

1. It is not clear what is meant by "Nothing in this section may be interpreted to change vesting schedules." HB 408 seems to allow divestment until the member withdraws or retires, which is not the current vesting schedule. This seems to create a contradiction.
2. It is not clear if passage and approval of HB 408 will violate qualification standards established by the Internal Revenue Service for defined benefit pension plans.

MPERA

3. Defined benefit plans must provide a benefit that is definitely determinable in order to meet federal IRS tax qualification requirements. The benefit must be known.

4. Defined benefit plans must include employer contributions determined actuarially on the basis of the definitely determinable benefit in order to meet federal IRS tax qualification requirements. This means the benefit must be quantifiable.
5. A benefit that is unknown until the day the member retires is neither known nor quantifiable.
6. Governmental defined benefit plans must provide that a member is 100% vested in their benefit at normal retirement age, as well as at partial or complete termination of the plan.
7. This bill provides for 100% vesting at retirement, even if the member retires after normal retirement age and even if the plan is ultimately terminated. It is possible the benefit at actual retirement would be less than the benefit in which the member would have been vested at normal retirement age or plan termination.
8. Passage of this bill would likely result in an IRS determination that the plans are not qualified.
9. If the plans are not qualified, the employer and employee plan contributions would be taxable at the time they are contributed rather than when the benefit is paid; earnings and income on the contributions could be taxed to either the trusts or the members; members could not roll their accounts into other qualified plan; and grandfathered treatment of the plans by the IRS would lapse.

Long-Term Impacts:

1. The fiscal impact of this legislation from FY 2016 to FY 2019 will be zero; however, the long term impact of this proposal could be significant and costly to respective members, employers, and/or the state.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*