



AN ACT AUTHORIZING AN EMPLOYER TO EMPLOY A CERTIFIED TEACHER, SPECIALIST, OR ADMINISTRATOR WHO HAS BEEN RECEIVING A RETIREMENT ALLOWANCE FOR AT LEAST 12 MONTHS TO BE REEMPLOYED WITHOUT THE LOSS OR INTERRUPTION OF TEACHER RETIREMENT BENEFITS; DEFINING "EMPLOYER"; REQUIRING AN EMPLOYER TO REPORT MONTHLY EMPLOYMENT DATA TO THE OFFICE OF PUBLIC INSTRUCTION AND THE TEACHERS' RETIREMENT SYSTEM; REQUIRING A REPORT BY THE OFFICE OF PUBLIC INSTRUCTION AND THE TEACHERS' RETIREMENT SYSTEM TO THE 2005 LEGISLATURE; AMENDING SECTION 19-20-804, MCA; AND PROVIDING AN EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE.

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

Section 1. Reemployment of certain retired teachers, specialists, or administrators -- limitations -- employer defined. (1) Subject to the provisions of this section:

(a) a teacher, specialist, or administrator who has been receiving a retirement allowance, except a disability retirement allowance pursuant to part 9 of this chapter, for at least 12 months may be employed on a part-time or full-time basis by an employer without the loss or interruption of any payments of retirement benefits if:

(i) the member holds a valid certificate under the provisions of 20-4-106; and

(ii) the employer provides evidence to the office of public instruction each year that the employer has been unable to fill the position because the employer has received no applications for the open position or has not received an acceptance to an offer to fill the position from a nonretired teacher, specialist, or administrator;

(b) an employer shall by the 15th day of each month report to the office of public instruction and to the teachers' retirement system the name, social security number, and gross earnings of each teacher, specialist, or administrator employed in the preceding month under the provisions of this section;

(c) a retired member reemployed under this section is ineligible for active membership under 19-20-302; and

(d) the office of public instruction and the teachers' retirement system shall report to the appropriate committee in the 2007 legislative session regarding the implementation and results of this section.

(2) A retiree reemployed pursuant to this section must be considered an active member for the purposes of calculating retirement system contributions required under 19-20-604 and 19-20-605.

(3) A retiree reemployed pursuant to this section is exempt from the earnings and employment limits provided in 19-20-804(2) through (5).

(4) If reemployed in a position covered by a collective bargaining agreement pursuant to Title 39, chapter 31, the retiree is subject to all terms and conditions of the agreement and is entitled to all benefits and protections provided by the agreement.

(5) The board may adopt rules to implement this section.

(6) As used in this section, "employer" means a public school district, as defined in 20-6-101 and 20-6-701, youth correctional facilities, special education cooperatives, and the Montana school for the deaf and blind.

Section 2. Section 19-20-804, MCA, is amended to read:

"19-20-804. Allowance for service retirement. (1) ~~Upon~~ Except as provided in [section 1], upon termination, a member who has attained normal retirement age must receive a retirement allowance equal to one-sixtieth of the member's average final compensation, as limited by 19-20-715, multiplied by the sum of the number of years of creditable service and service transferred under 19-20-409-~~2~~.

(2) Except as provided in subsection (4), a retired member may be employed part-time in a position specified in 19-20-302 and may earn, without loss of retirement benefits, an amount not to exceed the greater of:

(a) one-third of the sum of the member's average final compensation; or

(b) one-third of the median of the average final compensation for members retired during the preceding fiscal year as determined by the retirement board-~~2~~.

(3) ~~On~~ Each year on July 1 of each year following the member's retirement effective date, the maximum earning amount allowed under subsection (2)(a) is increased by an amount equal to the consumer price index increase for urban wage earners compiled by the bureau of labor statistics of the United States department of labor or its successor agency in the preceding year-~~2~~.

(4) (a) Except as provided in [section 1] and subsection (5)-(5) of this section, the retirement benefit of a retired member employed in a full-time position or earning more than allowed by subsection (2) must be canceled beginning in the month in which the retired member returns to full-time employment or earns more than

allowed.

(b) The retirement benefits of a retired member who was employed in a full-time position or who exceeded the amount that the retired member was eligible to earn under subsection (2) and who was reemployed for less than 1 year must, upon termination of employment, be reinstated beginning in the later of either the month following termination or July 1 of the school year following the date on which the retired member was reemployed. The reinstated retirement benefit is the amount that the retired member would have been entitled to receive had the retired member not returned to employment.

(c) Upon retirement after cancellation of a retired member's benefit pursuant to subsection (4)(a), a retired member who is reemployed as an active member for a minimum of 1 year of full-time service must receive a recalculated benefit. The recalculated benefit is based on the service credit accumulated at the time of the member's previous retirement plus any service credit accumulated subsequent to reemployment.

(5) If an early-retired member under 19-20-802 is reemployed with the same employer within 30 days from the member's effective date of retirement or if the early-retired member is guaranteed reemployment with the same employer, the member must be considered to have continued in the status of an active member and not to have separated from service. Any retirement allowance payments received by the member must be repaid to the system, together with interest, at the actuarially assumed rate, and the retirement allowance must be terminated."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 19, chapter 20, part 8, and the provisions of Title 19, chapter 20, part 8, apply to [section 1].

Section 4. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 5. Effective date -- applicability. [This act] is effective July 1, 2003, and applies to teachers, specialists, and administrators who are employed for the school fiscal year beginning on or after [the effective date of this act] and who are earning more than one-third of the average final compensation provided for under 19-20-804.

Section 6. Termination. [This act] terminates July 1, 2006.

- END -

I hereby certify that the within bill,
HB 0178, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2019.

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 178
INTRODUCED BY FRITZ

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