

SENATE BILL NO. 11  
INTRODUCED BY V. COCCHIARELLA  
BY REQUEST OF THE LEGISLATIVE COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE OPTIONAL RETIREMENT SYSTEM MEMBERSHIP REQUIREMENT FOR EMPLOYEES OF THE LEGISLATIVE BRANCH PERFORMING DUTIES RELATED TO A LEGISLATIVE SESSION; AMENDING SECTION 19-3-412, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 19-3-412, MCA, is amended to read:

**"19-3-412. Optional membership.** (1) Except as provided in subsection (2), the following employees and elected officials in covered positions shall elect either to become active members of the retirement system or to decline this optional membership by filing an irrevocable, written application with the board in the manner prescribed in subsection (3):

(a) elected officials of the state or local governments who:

(i) are paid on a salary or wage basis rather than on a per diem or other reimbursement basis; or

(ii) were members receiving retirement benefits under the defined benefit plan or a distribution under the defined contribution plan at the time of their election;

(b) employees serving in employment that does not cumulatively exceed a total of 960 hours of covered employment with all employers under this chapter in any fiscal year;

(c) employees directly appointed by the governor;

(d) employees working 6 10 months or less for the legislative branch to perform work related to the legislative session;

(e) the chief administrative officer of any city or county;

(f) employees of county hospitals or rest homes.

(2) ~~(a) Except as provided in subsection (2)(b), employees and officials described in subsections (1)(a) through (1)(f) who are employees or officials but not members on July 1, 1999, have until December 1, 1999, to file an irrevocable, written application with the board.~~

~~—— (b) A legislator may also become a member as of the date prior to December 30, 2000, that the legislator~~

~~filed an irrevocable written application with the board to become a member and paid the employee share of contributions determined by the board to be required to purchase the legislator's prior service credit. However, the legislator shall purchase at least 5 years of service credit or, if the legislator has less than 5 years of membership service, service credit equal to all of the legislator's membership service. The legislative branch is responsible for paying the amount determined by the board to be the employer's share of contributions required to purchase a legislator's service credit under this subsection (2)(b).~~

~~———(c) A member who after April 17, 2003, is elected to a local government position in which the member works less than 960 hours in a calendar year may, within 180 days of being elected, decline optional membership with respect to the member's elected position.~~

(3) (a) The board shall prescribe the form of the written application required pursuant to subsection (1) and provide written application forms to each employer.

(b) Each employee or elected official in a position covered under subsection (1) shall obtain the written application form from the employer and complete and return it to the board.

(c) The written application must be filed with the board:

(i) FOR AN EMPLOYEE DESCRIBED IN SUBSECTION (1)(D), WITHIN 300 DAYS OF THE COMMENCEMENT OF THE EMPLOYEE'S EMPLOYMENT; AND

(ii) FOR AN EMPLOYEE OR ELECTED OFFICIAL DESCRIBED IN SUBSECTION (1)(A), (1)(B), (1)(C), (1)(E), OR (1)(F), within 180 days of the commencement of the employee's or elected official's employment.

(d) The employer shall retain a copy of the employee's or elected official's written application.

(4) If the employee or elected official fails to file the written application required under subsection (1) with the board within the time allowed in subsection (3), the employee or elected official waives membership.

(5) An employee or elected official who declines optional membership may not receive membership service or service credit for the employment for which membership was declined.

(6) An employee or elected official who declined optional membership but later becomes a member may purchase service credit for the period of time beginning with the date of employment in which membership was declined to the commencement of membership. Purchase of service credit pursuant to this subsection must comply with 19-3-505.

(7) Except as provided in subsection (2)(c), membership in the retirement system is not optional for an employee or elected official who is already a member. Upon employment in a position for which membership is optional:

(a) a member who was an active member before the employment remains an active member;

- (b) a member who was an inactive member before the employment becomes an active member; and
- (c) a member who was a retired member before the employment is subject to part 11 of this chapter.

(8) (a) An employee or elected official who declines membership for a position for which membership is optional may not later become a member while still employed in that position.

(b) If, after a break in service of 30 days or more, an employee who was employed in an optional membership position is reemployed in the same position or is employed in a different position for which membership is optional, the employee shall again choose or decline membership.

(c) If the break in service is less than 30 days, an employee who declined membership is bound by the employee's original decision to decline membership.

(9) An employee accepting a position that requires membership shall become a member even if the employee previously declined membership and did not have a 30-day break in service."

**NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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