

HOUSE BILL NO. 393

INTRODUCED BY J. WELBORN

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A CITY MAINTAINING A LOCAL POLICE RETIREMENT FUND TO CONTRACT FOR PARTICIPATION IN A STATEWIDE RETIREMENT SYSTEM UNDER SPECIAL PROVISIONS; PROVIDING THAT ANY SPECIAL MILL LEVY TO MEET EMPLOYER FUNDING OBLIGATIONS UNDER THE STATEWIDE RETIREMENT SYSTEM IS NOT SUBJECT TO THE TOTAL MILL LEVY CAP; AMENDING SECTION 15-10-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 4], the following definitions apply:

- (1) "City" means an employer maintaining a local fund covered under the provisions of chapter 19 on [the effective date of this act].
- (2) "Local fund" means a local police retirement fund covered under the provisions of chapter 19.
- (3) "Statewide retirement system" means the public employees' retirement system established in 19-3-103 or the municipal police officers' retirement system established in 19-9-103.

NEW SECTION. **Section 2. Special contract authorized -- process for approval, amendment, and termination.** (1) A city may contract with the board in accordance with [sections 1 through 4] to transfer local fund members to a statewide retirement system.

- (2) The contract must be approved in the following manner:
 - (a) The legislative body of the contracting employer shall adopt a resolution of intention to contract containing a summary of the major provisions of the proposed contract and of the statewide retirement system.
 - (b) In an election conducted by secret ballot as prescribed by the city's legislative body, the proposed transfer must be approved by two-thirds vote of the active members of the local fund.
 - (c) Certification of the resolution and of the election results must be provided to the board.
 - (d) The contract must be approved by the board by majority vote. The board may disapprove the contract if the board's actuary determines that approval of the contract would adversely affect the actuarial soundness of

1 the statewide retirement system.

2 (3) The contract may be amended in the manner prescribed in this section for the original approval of
3 the contract.

4 (4) The termination of a contract made pursuant to this section is subject to the following:

5 (a) The legislative body of the contracting employer shall adopt a resolution giving notice to its active
6 members that it intends to terminate statewide retirement system coverage.

7 (b) All active members covered under the statewide retirement system must be given notice of the
8 termination resolution and be permitted to vote for or against the resolution by secret ballot.

9 (c) If two-thirds of the covered active members approve termination, the city's legislative body, within 20
10 days after the approval, may adopt a resolution terminating coverage under the statewide retirement system
11 effective the last day of that month and forward the resolution and a certified copy of the election results to the
12 board.

13 (d) Upon receipt of the termination resolution, the board may request an actuarial valuation of the
14 liabilities of the city to the retirement system. The board may withhold approval of the contract termination until
15 satisfactory arrangements are made to provide funding for any excess accrued liabilities not previously funded
16 by the city.

17
18 **NEW SECTION. Section 3. Conversion of local funds -- transfer of members and benefit**
19 **obligations.** (1) On the effective date of the contract, all members of the local fund become members of the
20 statewide retirement system, subject to the provisions of this section, and all cash and securities held by the local
21 system must be transferred to the statewide retirement system and credited to the employer. The value of the
22 securities must be determined by the board.

23 (2) A retired member or benefit recipient under the local fund must continue to receive the same benefit
24 paid under the local fund.

25 (3) An active member of the local fund becomes an active member of the statewide retirement system
26 on the effective date of the contract and begins to accrue benefits under the provisions of the statewide retirement
27 system on the effective date of the contract.

28 (4) On the effective date of the contract, an active member's service under the local fund must be
29 credited in the statewide retirement system as follows:

30 (a) the transferred member must be credited with service credit, as defined in 19-2-303, in the statewide

1 retirement system only to the extent that the actuarial value of the member's benefits as they accrued under the
 2 provisions of the local fund equals service credit under the provisions of the statewide retirement system; and

3 (b) the transferred member must be credited with membership service, as defined in 19-2-303, in the
 4 statewide retirement system for each year of the member's covered employment under the local fund.

5 (5) If the contract is for coverage under the public employees' retirement system established in 19-3-103,
 6 an employee's membership in either the defined benefit plan or the defined contribution plan must be determined
 7 on an individual basis as provided in chapter 3.

8
 9 **NEW SECTION. Section 4. Payment of liabilities -- tax levy to meet employer's obligations.** (1)

10 The liability for all pension obligations arising from a contract pursuant to [sections 1 through 4] must be computed
 11 by the board's actuary and charged to the city. Payment of the liability must be made in the amount and over the
 12 time period specified in the contract.

13 (2) If the city's payment obligation exceeds the general revenue available to the city, the city may budget,
 14 levy, and collect annually a special mill levy that is sufficient to raise the amount estimated by the legislative body
 15 to be required to meet the city's obligations.

16
 17 **NEW SECTION. Section 5. Nonapplication of part.** None of the provisions of this part apply to a city
 18 contracting for participation in the retirement system under the provisions of [sections 1 through 4].

19
 20 **Section 6.** Section 15-10-420, MCA, is amended to read:

21 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
 22 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
 23 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
 24 years. The maximum number of mills that a governmental entity may impose is established by calculating the
 25 number of mills required to generate the amount of property tax actually assessed in the governmental unit in the
 26 prior year based on the current year taxable value, less the current year's value of newly taxable property, plus
 27 one-half of the average rate of inflation for the prior 3 years.

28 (b) A governmental entity that does not impose the maximum number of mills authorized under
 29 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between
 30 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority

1 carried forward may be imposed in a subsequent tax year.

2 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of
3 inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using
4 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

5 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional
6 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly
7 taxable property.

8 (3) (a) For purposes of this section, newly taxable property includes:

9 (i) annexation of real property and improvements into a taxing unit;

10 (ii) construction, expansion, or remodeling of improvements;

11 (iii) transfer of property into a taxing unit;

12 (iv) subdivision of real property; and

13 (v) transfer of property from tax-exempt to taxable status.

14 (b) Newly taxable property does not include an increase in value that arises because of an increase in
15 the incremental value within a tax increment financing district.

16 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
17 release of taxable value from the incremental taxable value of a tax increment financing district because of:

18 (i) a change in the boundary of a tax increment financing district;

19 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

20 (iii) the termination of a tax increment financing district.

21 (b) If a tax increment financing district terminates prior to the certification of taxable values as required
22 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment
23 financing district terminates. If a tax increment financing district terminates after the certification of taxable values
24 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

25 (c) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real
26 property that results in the property being taxable as class four property or as nonqualified agricultural land as
27 described in 15-6-133(1)(c).

28 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

29 (a) school district levies established in Title 20; or

30 (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits

1 excluded under 2-9-212 or 2-18-703.

2 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received
3 under 15-6-131 and 15-6-132.

4 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may
5 increase the number of mills to account for a decrease in reimbursements.

6 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes
7 of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills calculated
8 by the department may not exceed the mill levy limits established in those sections. The mill calculation must be
9 established in whole mills. If the mill levy calculation does not result in a whole number of mills, then the
10 calculation must be rounded up to the nearest whole mill.

11 (9) (a) The provisions of subsection (1) do not prevent or restrict:

12 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

13 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

14 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326; ~~or~~

15 (iv) a levy for the support of a study commission under 7-3-184; or

16 (v) a levy authorized under [section 4] to pay pension obligations.

17 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
18 actually assessed in a subsequent year.

19 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,
20 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
21 authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating
22 funds by a county or municipality during that time.

23 (11) The department may adopt rules to implement this section. The rules may include a method for
24 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
25 improvements, or newly taxable property in a governmental unit."

26
27 **NEW SECTION. Section 7. Codification instruction.** (1) [Sections 1 through 4] are intended to be
28 codified as an integral part of Title 19, chapter 19, and the provisions of Title 19, chapter 19, apply to [sections
29 1 through 4].

30 (2) [Section 5] is intended to be codified as an integral part of Title 19, chapter 3, part 2, and the

1 provisions of Title 19, chapter 3, part 2, apply to [section 5]; and

2 (3) [Section 5] is intended to be codified as an integral part of Title 19, chapter 9, part 2, and the
3 provisions of Title 19, chapter 9, part 2, apply to [section 5].

4
5 **NEW SECTION. Section 8. Saving clause.** [This act] does not affect rights and duties that matured,
6 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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8 **NEW SECTION. Section 9. Severability.** If a part of [this act] is invalid, all valid parts that are severable
9 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
10 remains in effect in all valid applications that are severable from the invalid applications.

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12 **NEW SECTION. Section 10. Effective date.** [This act] is effective on passage and approval.

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