

HOUSE BILL NO. 499

INTRODUCED BY T. BURNETT

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ACTUARIAL VALUATION PROVISIONS FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEMS; REQUIRING THE PUBLIC EMPLOYEES' RETIREMENT BOARD AND THE TEACHERS' RETIREMENT BOARD TO PROVIDE AN ACTUARIAL REPORT BASED ON ALTERNATIVE ACTUARIAL ASSUMPTION RELATED TO INVESTMENT RETURNS; REVISING HOW OFTEN A REGULAR ACTUARIAL VALUATION MUST BE CONDUCTED; AND AMENDING SECTIONS 19-2-403, 19-2-405, 19-2-408, AND 19-20-201, MCA."

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

Section 1. Section 19-2-403, MCA, is amended to read:

"19-2-403. Powers and duties of board. (1) The board shall administer the provisions of the chapters enumerated in 19-2-302.

(2) The board may establish rules that it considers proper for the administration and operation of the retirement systems and enforcement of the chapters under which each retirement system is established.

(3) The board shall establish uniform rules that are necessary to determine service credit for fractional years of service.

(4) The board shall determine who are employees within the meaning of each retirement system. The board is the sole authority for determining the conditions under which persons may become members of and receive benefits under the retirement systems. A person whose job duties require proportional membership in more than one retirement system is subject to the provisions of those systems.

(5) If fraud or error results in an employee or member being reported to the incorrect retirement system, the board shall correct the error and adjust contributions as necessary.

(6) The board shall determine and may modify retirement benefits under the retirement systems. Benefits may be paid only if the board decides, in its discretion, that the applicant is, under the provisions of the appropriate retirement system, entitled to the benefits.

(7) In matters of board discretion under the systems, the board shall treat all persons in similar circumstances in a uniform and nondiscriminatory manner.



1 (8) The board shall maintain records and accounts it determines necessary for the administration of the
2 retirement systems.

3 (9) The board shall enter into memoranda of understanding with the teachers' retirement system to
4 exchange retirement system-related confidential information regarding members, former members, or retirees.
5 A memorandum must state that:

6 (a) the information may be used only for reasons related to verifying appropriate pension plan
7 participation; and

8 (b) the requesting retirement system agrees to protect the confidentiality of the information and will
9 disclose the requested information only as necessary to conduct official business.

10 (10) Upon the basis of the findings of the actuary pursuant to 19-2-405(2)(a), the board shall adopt
11 actuarial rates and rates of regular interest it determines appropriate for the administration of the retirement
12 systems.

13 (11) The board shall review the sufficiency of benefits paid by the retirement system or plan and
14 recommend to the legislature those changes in benefits in a defined benefit plan or in contributions under the
15 defined contribution plan that may be necessary for members and their beneficiaries to maintain a stable standard
16 of living.

17 (12) The board may implement third-party mailings under the provisions of 2-6-1017. If third-party
18 mailings are implemented, the board shall adopt rules governing means of implementation, including the
19 specification of eligible third parties, appropriate materials, and applicable fees and procedures. Fees generated
20 by third-party mailings must be deposited in the appropriate retirement system fund for the benefit of participants
21 of retirement systems or plans administered by the board.

22 (13) In discharging duties, the board, a member of the board, or an authorized representative of the board
23 may conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records,
24 and issue subpoenas to compel the attendance of witnesses and the production of books, papers,
25 correspondence, memoranda, and other records. Subpoenas must be issued and enforced pursuant to 2-4-104
26 of the Montana Administrative Procedure Act.

27 (14) The board may by rule or otherwise delegate to the board's executive director or any other staff
28 member any of the powers or duties conferred by law upon the board except as otherwise provided by law and
29 except for the adoption of rules and the issuance of final orders after hearings held pursuant to subsection (13)
30 or the contested case procedure of the Montana Administrative Procedure Act.

1 (15) The board shall perform other duties and may exercise the powers concerning the defined
 2 contribution plan for plan members as provided in chapter 3, part 21, of this title."

3

4 **Section 2.** Section 19-2-405, MCA, is amended to read:

5 **"19-2-405. Employment of actuary -- annual biennial investigation and valuation.** (1) The board
 6 shall retain a competent actuary who is an enrolled member of the American academy of actuaries and who is
 7 familiar with public systems of pensions. The actuary is the technical adviser of the board on matters regarding
 8 the operation of the retirement systems.

9 (2) (a) The board shall require the actuary to make and report on ~~an annual~~ a biennial actuarial
 10 investigation into the suitability of the actuarial tables used by the retirement systems and an actuarial valuation
 11 of the assets and liabilities of each defined benefit plan that is a part of the retirement systems.

12 (b) For informational purposes, the board shall also require the actuary to conduct and report on a
 13 biennial actuarial valuation pursuant to [section 4] for the same fiscal year as the report required under subsection
 14 (2)(a).

15 (c) The actuarial valuations required pursuant to this subsection (2) must be conducted for the fiscal year
 16 immediately preceding the regular legislative session.

17 (3) The normal cost contribution rate, which is funded by required employee contributions and a portion
 18 of the required employer contributions to each defined benefit retirement plan, must be calculated as the level
 19 percentage of members' salaries that will actuarially fund benefits payable under a retirement plan as those
 20 benefits accrue in the future.

21 (4) (a) The unfunded liability contribution rate, which is entirely funded by a portion of the required
 22 employer contributions to the retirement plan, must be calculated as the level percentage of current and future
 23 defined benefit plan members' salaries that will amortize the unfunded actuarial liabilities of the retirement plan
 24 over a reasonable period of time, not to exceed 30 years, as determined by the board.

25 (b) In determining the amortization period under subsection (4)(a) for the public employees' retirement
 26 system's defined benefit plan, the actuary shall take into account the plan choice rate contributions to be made
 27 to the defined benefit plan pursuant to 19-3-2117 and 19-21-214.

28 (5) The board shall require the actuary to conduct and report on a periodic actuarial investigation into
 29 the actuarial experience of the retirement systems and plans.

30 (6) The board may require the actuary to conduct any valuation necessary to administer the retirement

1 systems and the plans subject to this chapter.

2 (7) The board shall provide copies of the reports required pursuant to subsections (2) and (5) to the state
3 administration and veterans' affairs interim committee and to the legislature pursuant to 5-11-210.

4 (8) The board shall require the actuary to prepare for each employer participating in a retirement system
5 the disclosures or the information required to be included in the disclosures as required by law and by the
6 governmental accounting standards board or its generally recognized successor."
7

8 **Section 3.** Section 19-2-408, MCA, is amended to read:

9 **"19-2-408. Administrative expenses.** (1) The legislature finds that proper administration of the pension
10 trust funds benefits both employers and members and continues to benefit members after retirement.

11 (2) (a) The administrative expenses of the retirement systems administered by the board must be paid
12 from the investment earnings on the pension trust fund of the public employees' retirement system's defined
13 benefit plan, except as otherwise provided in this section. The board shall compute the administrative expenses
14 attributable to each retirement system or plan administered by the board and transfer that amount from each
15 retirement system's or plan's pension trust fund to the pension trust fund of the public employees' retirement
16 system's defined benefit plan in a manner that ensures that the public employees' retirement system's defined
17 benefit plan trust fund is fully compensated for expenditures made on behalf of other systems or plans so that
18 there is no actuarial impact on the fund.

19 (b) The total administrative expenses of the board, including the administration of the Volunteer
20 Firefighters' Compensation Act, may not exceed 1.5% of the total defined benefit plan retirement benefits paid.

21 (3) For purposes of calculating the percentage specified in subsection (2)(b), administrative expenses
22 do not include:

23 (a) expenditures to purchase intangible assets for plan administration;

24 (b) expenses of the defined contribution plan;

25 (c) expenditures of funds allocated under 19-3-112(1)(b) to the education fund established in
26 19-3-112(1)(a); or

27 (d) expenses for an actuarial valuation under 19-2-405(2)(b) ~~performed during the first year of a~~
28 ~~biennium.~~

29 (4) The administrative expenses of the defined contribution plan must be paid, as provided in 19-3-2105,
30 from assets of the defined contribution plan."

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2 **NEW SECTION.** **Section 4. System soundness information based on alternative actuarial**
3 **assumptions.** (1) Pursuant to 19-2-405(2)(b), for each of the defined benefit retirement systems administered
4 by the board, the board shall biennially publish for informational purposes what the system's actuarial status,
5 including funding requirements, would be if the 5-year average rate of return for the Standard and Poor U.S.
6 issued investment grade corporate bond index was used as the actuarial assumed rate of return on investments.

7 (2) The publishing requirement under subsection (1) may be fulfilled by posting the actuarial report to
8 the board's website.

9
10 **Section 5.** Section 19-20-201, MCA, is amended to read:

11 **"19-20-201. Administration by retirement board -- jurisdiction and venue for judicial review.** (1)
12 The retirement board shall administer and operate the retirement system within the limitations prescribed by this
13 chapter, and it is the duty of the retirement board to:

14 (a) establish rules necessary for the proper administration and operation of the retirement system;
15 (b) approve or disapprove all expenditures necessary for the proper operation of the retirement system;
16 (c) keep a record of all its proceedings, which must be open to public inspection;
17 (d) submit a report to the office of budget and program planning detailing the fiscal transactions for the
18 2 fiscal years immediately preceding the report due date, the amount of the accumulated cash and securities of
19 the retirement system, and the last fiscal year balance sheet showing the assets and liabilities of the retirement
20 system;

21 (e) keep in convenient form the data that is necessary for actuarial valuation of the various funds of the
22 retirement system and for checking the experience of the retirement system;

23 (f) (i) prepare an annual a biennial valuation of the assets and liabilities of the retirement system that
24 includes an analysis of how market performance is affecting the actuarial funding of the retirement system; and

25 (ii) prepare a biennial actuarial valuation for informational purposes pursuant to [section 6];

26 (g) require the board's actuary to conduct and report on a periodic actuarial investigation into the
27 actuarial experience of the retirement system;

28 (h) prescribe a form for membership application that will provide adequate and necessary information
29 for the proper operation of the retirement system;

30 (i) annually determine the rate of regular interest as prescribed in 19-20-501;

1 (j) establish and maintain the funds of the retirement system in accordance with the provisions of part
2 6 of this chapter; and

3 (k) perform other duties and functions as are required to properly administer and operate the retirement
4 system.

5 (2) In discharging its duties, the board, or an authorized representative of the board, may conduct
6 hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue
7 subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence,
8 memoranda, and other records. Subpoenas must be issued and enforced pursuant to 2-4-104.

9 (3) The board may send retirement-related material to employers and the campuses of the Montana
10 university system for delivery to employees. To facilitate distribution, employers and those campuses shall each
11 provide the board with a point of contact who is responsible for distribution of the material provided by the board.

12 (4) The board shall make available to the state administration and veterans' affairs interim committee
13 and to the legislature pursuant to 5-11-210 copies of the annual actuarial valuation and reports required pursuant
14 to subsections (1)(d), (1)(f), and (1)(g).

15 (5) Jurisdiction and venue for judicial review of the board's final administrative decisions is the first
16 judicial district, Lewis and Clark County, unless otherwise stipulated by the parties."

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18 **NEW SECTION. Section 6. System soundness information based on alternative actuarial**
19 **assumptions.** (1) Pursuant to 19-20-201(1)(f)(ii), the board shall biennially publish for informational purposes
20 what the system's actuarial status, including funding requirements, would be if the 5-year average rate of return
21 for the Standard and Poor U.S. issued investment grade corporate bond index was used as the actuarial
22 assumed rate of return on investments.

23 (2) The publishing requirement under subsection (1) may be fulfilled by posting the actuarial report to
24 the board's website.

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26 **NEW SECTION. Section 7. Codification instruction.** (1) [Section 4] is intended to be codified as an
27 integral part of Title 19, chapter 2, part 4, and the provisions of Title 19, chapter 2, part 4, apply to [section 4].

28 (2) [Section 6] is intended to be codified as an integral part of Title 19, chapter 20, part 2, and the
29 provisions of Title 19, chapter 20, part 2, apply to [section 6].

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