HOUSE BILL NO. 226

INTRODUCED BY T. MOORE, J. HAMILTON, D. FERN, S. VINTON, B. MERCER, T. MCGILLVRAY, D. LENZ, T. FALK, J. TREBAS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; REVISING CONTRIBUTIONS IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE FOR AN ACTUARIALLY DETERMINED CONTRIBUTION; CHANGING THE DEFAULT RETIREMENT PLAN TO THE PUBLIC EMPLOYEES' DEFINED CONTRIBUTION PLAN; REVISING THE EMPLOYER CONTRIBUTION TO THE DEFINED CONTRIBUTION PLAN OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; PROVIDING DEFINITIONS; CREATING A PENSION SPECIAL ~~TRUST~~ FUND; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 19-2-303, 19-2-405, 19-2-409, 19-3-315, 19-3-316, 19-3-319, 19-3-1605, 19-3-2111, 19-3-2117, AND 19-21-214, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, Montana's current statutory funding approach to Montana's Public Employees' Retirement System (PERS) and the current funding policies adopted by the Public Employees' Retirement Board is based on a 30-year maximum single-layer amortization period for unfunded liabilities; and

WHEREAS, contribution rates are currently fixed rates set in statute, which means legislation is required to increase contributions if the contribution rates are insufficient to keep the amortization period under 30 years and continue to lower the amortization period each year; and

WHEREAS, a layered amortization funding policy and automatic adjustments in contribution rates to ensure contributions are sufficient to continue to pay down unfunded liabilities in a more expeditious and fiscally disciplined manner would significantly reduce the long-term costs of the Public Employees' Retirement System; and

WHEREAS, the Public Employees' Retirement System is the largest statewide public employee retirement system and accounts for the majority of the public retirement system liability, with an unfunded liability of $2.25 billion and an amortization period of 32 years.

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

NEW SECTION. **SECTION 1. PENSION SPECIAL ~~TRUST~~ FUND -- TRANSFER OF FUNDS -- STATUTORY APPROPRIATION.** (1) THERE IS ~~AN ACCOUNT IN THE STATE FIDUCIARY FUND ESTABLISHED IN 17-2-102(3)~~ established in the state special revenue fund an account TO BE KNOWN AS THE PENSION SPECIAL ~~TRUST~~ FUND to pay the difference between the actuarially determined contribution rate and the base rate pursuant to 19-3-316.

(2) BY JULY 1, 2023, THE STATE TREASURER SHALL TRANSFER $300 MILLION FROM THE GENERAL FUND TO THIS ACCOUNT.

(3) THE ACCOUNT IS STATUTORILY APPROPRIATED PURSUANT TO 17-7-502 AND MAY BE USED ONLY TO COVER ANY DIFFERENCE BETWEEN THE ACTUARIALLY DETERMINED EMPLOYER CONTRIBUTION RATE AND THE BASE RATE ~~DEFINED IN~~ pursuant to 19-3-316.

(4) The account established in subsection (1) retains interest earned from the investment of money in the account.

(5) The pension special fund must be closed on June 30, 2033, and any remaining funds must revert to the general fund.

SECTION 2. SECTION 17-7-502, MCA, IS AMENDED TO READ:

"**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-

acquittance of all claims and demands for the service rendered by members during the period covered by the payment, except their claims to the benefits to which they may be entitled under the provisions of this chapter.

(4) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code, 26 U.S.C. 414(h)(2), shall pick up and pay the contributions that would be payable by the member under subsection (1) or (2) for service rendered after June 30, 1985.

(5) (a) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system.

(b) In the case of a member of the defined benefit plan, these contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(c) In the case of a member of the defined contribution plan, these contributions must be allocated as provided in 19-3-2117.

(6) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages, as defined in 19-1-102, and compensation. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

Section 7. Section 19-3-316, MCA, is amended to read:

"**19-3-316. Employer contribution rates <u>-- definitions</u>.** ~~(1) Each employer shall contribute to the system. Except as provided in subsection (2), the employer shall pay as employer contributions 6.9% of the compensation paid to all of the employer's employees plus any additional contribution under subsection (3), except for those employees properly excluded from membership. Of employer contributions made under this subsection for both defined benefit plan and defined contribution plan members, a portion must be allocated for educational programs as provided in 19-3-112. Employer contributions for members under the defined contribution plan must be allocated as provided in 19-3-2117.~~

~~(2) Local government and school district employer contributions must be the total employer contribution rate provided in subsection (1) minus the state contribution rates under 19-3-319.~~

~~(3) (a) Subject to subsection (4), each employer shall contribute to the system an additional employer contribution equal to the percentage specified in subsection (3)(b) of the compensation paid to all of the employer's employees, except for those employees properly excluded from membership.~~

~~(b) The percentage of compensation to be contributed under subsection (3)(a) is 1.27% for fiscal year 2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation to be contributed under subsection (3)(a) is 2.27%.~~

~~(4) (a) The board shall annually review the additional employer contribution provided for under subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.~~

~~(b) The employer contribution required under subsection (3) terminates on January 1 following the board's receipt of the system's actuarial valuation if the actuarial valuation determines that terminating the additional employer contribution pursuant to this subsection (4)(b) and reducing the employee contribution pursuant to 19-3-315 (2) would not cause the amortization period to exceed 25 years~~ (1) Beginning July 1, 2023, through June 30, 2024, each employer shall contribute an amount equal to 9.29% of the compensation of all the employer's employees in the defined benefit plan and the defined contribution plan, except for those properly excluded from membership. Of employer contributions made under this subsection for both defined benefit plan and defined contribution plan members, a portion must be allocated for educational programs as provided in 19-3-112. Of employer contributions made for members of the defined contribution plan, 7.9% must go to the defined contribution plan, and the remaining amount must go to the defined benefit plan's legacy unfunded liability.

(2) (a) Beginning July 1, 2024, each employer shall contribute to the defined benefit plan EITHER the actuarially determined employer contribution that is determined annually by the public employees' retirement system's actuary in accordance with the provisions of this section and part of the plan's annual actuarial valuation OR THE BASE RATE OF 9.79%, WHICHEVER IS LESS. This ~~actuarially determined~~ employer contribution RATE is effective July 1 following the annual actuarial valuation completed in the prior calendar

year. BEGINNING JULY 1, 2025, THE BASE RATE WILL INCREASE BY 0.50% EACH YEAR. The maximum employer contribution rate is 13%.

(b) Beginning July 1, 2024, each employer shall contribute EITHER the actuarially determined employer contribution OR THE BASE RATE OF 9.79% for employees in the defined contribution plan, WHICHEVER IS LESS. Of the total amount, 7.9% must go to the defined contribution plan, and the remaining amount must go to the defined benefit plan's legacy unfunded liability. BEGINNING JULY 1, 2025, THE BASE RATE WILL INCREASE BY 0.50% EACH YEAR. The maximum employer contribution rate is 13%.

(C) IF THE ACTUARIALLY DETERMINED EMPLOYER CONTRIBUTION IS HIGHER THAN THE BASE RATE, THE PENSION SPECIAL ~~TRUST~~ FUND ESTABLISHED IN [SECTION 1] MUST BE USED TO FUND THE DIFFERENCE SO LONG AS THERE IS AN AVAILABLE BALANCE IN THE FUND.

~~(c)~~(D) The actuarially determined employer contribution must be the sum of the following contribution rates, minus the employee contribution provided in 19-3-315 and the state contributions provided in 19-3-319 and 19-3-320:

(i) the contribution rate determined under subsection ~~(2)(d)~~ (2)(E) to pay off the legacy unfunded liability;

(ii) the contribution rate determined under subsection ~~(2)(e)~~ (2)(F) to pay for the contemporary unfunded liability;

(iii) the contribution rate determined under subsection ~~(2)(f)~~ (2)(G) to pay for the normal cost of benefits as they accrue; and

(iv) a contribution of 0.04% of compensation for the employer's employees who are members of either the defined contribution plan or the defined benefit plan for educational programs as provided in 19-3-112.

~~(d)~~(E) (i) The contribution rate under subsection ~~(2)(c)(i)~~ (2)(D)(I) for the legacy unfunded liability must be the amount required on a level dollar basis to amortize the legacy unfunded liability attributable to the employer's employees who are members of either the defined contribution plan or the defined benefit plan over a closed 30-year amortization period beginning July 1, 2023, except as provided in subsection ~~(2)(c)(ii)~~ (2)(D)(II).

(ii) If the June 30, 2023, actuarial valuation determines the system's amortization period is less than 30 years, then the closed amortization period used for the purposes of subsection ~~(2)(c)(i)~~ (2)(D)(I) must be that amortization period.

~~(e)~~(F) The contribution rate under subsection ~~(2)(c)(ii)~~ (2)(D)(II) for the contemporary unfunded liability must be the amount required on a level dollar basis to pay the annual contemporary unfunded liabilities attributable to the employer's employees who are members of either the defined contribution plan or the defined benefit plan over a layered amortization schedule so that each fiscal year's contemporary unfunded liability is amortized over a closed 10-year period, starting with the contemporary unfunded liability for the fiscal year ending June 30, 2024.

~~(f)~~(G) The contribution rate under subsection ~~(2)(c)(iii)~~ (2)(D)(III) for the normal cost of benefits as they accrue must be the amount required on a level dollar basis to pay the normal cost of benefits as determined in the annual actuarial valuation as the benefits accrue for each of the employer's employees who are members of either the defined contribution plan or the defined benefit plan.

(3) (a) Beginning July 1, 2023, each employer shall contribute to the defined contribution plan an amount equal to 7.9%. Of employer contributions made under this subsection (3)(a) for defined contribution plan members, a portion must be allocated for educational programs as provided in 19-3-112.

(b) The employer contribution under subsection (3)(a) must be allocated as provided in 19-3-2117.

(c) The employer contribution rate for the defined contribution plan may not be lower than 7.9%, even if the actuarially determined contribution rate for the defined benefit plan is less than 7.9%.

(4) For the purposes of this section, the following definitions apply:

(a) "Contemporary unfunded liability" means the defined benefit plan's annual fiscal year actuarial gains and losses smoothed over 5 years starting with the fiscal year ending June 30, 2019.

(b) "Legacy unfunded liability" means the unfunded liability of the defined benefit plan as of June 30, 2023."

Section 8. Section 19-3-319, MCA, is amended to read:

"**19-3-319. State contributions for local government and school district employers.** ~~(1) The~~ (1) Subject to subsection (3), the state shall contribute monthly from the general fund to the pension trust fund a