

**Amendment - 1st Reading/2nd House-blue - Requested by: Janet Ellis - (S) Finance and Claims**

- 2023  
68th Legislature 2023

Drafter: Rebecca Power,

HB0226.002.007

1 HOUSE BILL NO. 226  
2 INTRODUCED BY T. MOORE, J. HAMILTON, D. FERN, S. VINTON, B. MERCER, T. MCGILLVRAY, D. LENZ,  
3 T. FALK, J. TREBAS  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE PUBLIC  
6 EMPLOYEES' RETIREMENT SYSTEM; REVISING CONTRIBUTIONS IN THE PUBLIC EMPLOYEES'  
7 RETIREMENT SYSTEM TO PROVIDE FOR AN ACTUARIALLY DETERMINED CONTRIBUTION; **CHANGING**  
8 **~~THE DEFAULT RETIREMENT PLAN TO THE PUBLIC EMPLOYEES' DEFINED CONTRIBUTION PLAN;~~**  
9 REVISING THE EMPLOYER CONTRIBUTION TO THE DEFINED CONTRIBUTION PLAN OF THE PUBLIC  
10 EMPLOYEES' RETIREMENT SYSTEM; PROVIDING DEFINITIONS; CREATING A PENSION SPECIAL  
11 TRUST FUND; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 19-2-303,  
12 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;  
13 AND PROVIDING AN EFFECTIVE DATE."  
14

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

18 WHEREAS, contribution rates are currently fixed rates set in statute, which means legislation is  
19 required to increase contributions if the contribution rates are insufficient to keep the amortization period under  
20 30 years and continue to lower the amortization period each year; and

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

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

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1 minimum annual benefit adjustment provided for in this section if the benefit's commencement date is at least  
2 12 months prior to January 1 of the year in which the adjustment is to be made.

3 (4) (a) The applicable percentage increase under subsection (1) is 3% if the member was hired or  
4 assumed office:

5 (i) before July 1, 2007; or

6 (ii) on or after July 1, 2007, and before July 1, 2013, and the benefit recipient is a member of a  
7 retirement system provided for in this title, and the guaranteed annual benefit adjustment provision for that  
8 member under that system is a 3% benefit increase.

9 (b) The applicable percentage increase under subsection (1) is 1.5% if the member was hired or  
10 assumed office on or after July 1, 2007, and before June 30, 2013, and the benefit recipient is not otherwise  
11 covered under subsection (4)(a)(ii).

12 (c) The applicable percentage increase under subsection (1) is 1.5% if the member was hired or  
13 assumed office on or after July 1, 2013, subject to reduction as provided in subsection (5).

14 (5) (a) ~~Except as provided in subsection (5)(b), if~~ If the most recent actuarial valuation of the  
15 retirement system shows that retirement system liabilities are less than 90% funded, the applicable percentage  
16 increase in subsection (4)(c) must be reduced by 0.1% for each 2% below that 90% funding level.

17 ~~(b) If the amortization period is 40 years or greater, the applicable percentage increase in subsection~~  
18 ~~(4)(c) must be reduced to 0% and the retirement allowance may not be increased.~~

19 (6) The board shall adopt rules to administer the provisions of this section."  
20

21 **Section 10. Section 19-3-2111, MCA, is amended to read:**

22 **~~"19-3-2111. Plan membership -- written election required -- failure to elect -- effect of election.~~**

23 ~~(1) Except as otherwise provided in this part:~~

24 ~~(a) a member who was an inactive member of the defined benefit plan on the effective date of the~~  
25 ~~defined contribution plan and who is rehired into covered employment after the plan effective date may, within~~  
26 ~~the 12-month period provided for in subsection (2)(a), elect to transfer to and become a member of the plan~~  
27 ~~regardless of whether the member remains active, becomes inactive, or terminates employment and plan~~

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1 ~~membership within the 12-month period;~~

2 ~~(b) — a member who is initially hired into covered employment on or after the effective date of the~~  
3 ~~defined contribution plan may, within the 12-month period provided for in subsection (2)(a), elect to become a~~  
4 ~~member of the plan regardless of whether the member remains active, becomes inactive, or terminates~~  
5 ~~employment and plan membership within the 12-month period.~~

6 ~~(2) — (a) Elections made pursuant to this section must be made on a form prescribed by the board~~  
7 ~~and must be made within 12 months from the month that the employer properly reports the new or rehired~~  
8 ~~member to the board.~~

9 ~~(b) — A member failing to make an election prescribed by this section remains a member of the~~  
10 ~~defined benefit plan.~~

11 ~~(c) — An election under this section, including the default election pursuant to subsection (2)(b), is a~~  
12 ~~one-time irrevocable election. Subject to 19-3-2113, this subsection (2)(c) does not prohibit a new election after~~  
13 ~~a member has terminated membership in either plan and returned to covered employment.~~

14 ~~(3) — A member in either the defined benefit plan or the defined contribution plan who becomes~~  
15 ~~inactive after an election under this section and who returns to active membership remains in the plan~~  
16 ~~previously elected.~~

17 ~~(4) — A system member may not simultaneously be a member of the defined benefit plan and the~~  
18 ~~defined contribution plan and must be a member of either the defined benefit plan or the defined contribution~~  
19 ~~plan. A period of service may not be credited in more than one retirement plan within the system.~~

20 ~~(5) — The provisions of this part do not prohibit the board from adopting rules to allow an employee~~  
21 ~~to elect the defined contribution plan from the first day of covered employment.~~

22 ~~(6) — A member of the defined benefit plan who is subject to a family law order pursuant to 19-2-907~~  
23 ~~or an execution or income withholding order pursuant to 19-2-909 may not transfer to the defined contribution~~  
24 ~~plan unless the order is modified to apply under the defined contribution plan.~~

25 ~~(7) — (a) A member of the defined benefit plan who is purchasing service credit through installment~~  
26 ~~payments, either made directly to the board or pursuant to a payroll deduction agreement, may not transfer~~  
27 ~~membership to the defined contribution plan unless the member first completes or terminates the contract for~~

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1 ~~purchase of service credit.~~

2 ~~(b) — A member who files an election to transfer membership may make a lump-sum payment for up~~  
3 ~~to the balance of the service credit remaining to be purchased prior to transferring, subject to the limitations of~~  
4 ~~section 415 of the Internal Revenue Code. The lump-sum payment, unless made by a rollover pursuant to 19-2-~~  
5 ~~708, must be made with after-tax dollars.~~

6 ~~(c) — If a member who files an election to transfer membership fails to complete or terminate the~~  
7 ~~contract for purchase of service credit by the end of the member's 12-month election window, the board shall~~  
8 ~~terminate the service purchase contract and credit the member with the prorated amount of service credit~~  
9 ~~purchased under the contract."~~

10

11 **Section 10.** Section 19-3-2117, MCA, is amended to read:

12 **"19-3-2117. Allocation of contributions and forfeitures.** (1) The member contributions made under  
13 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the  
14 plan member's retirement account.

15 (2) Subject to subsections (3) and (4), of the employer contributions under 19-3-316 received: The  
16 employer's contribution received under 19-3-316(2) must be allocated as follows:

17 (a) ~~an amount equal to:~~

18 (i)(a) ~~4.19% the percentage of compensation specified under 19-3-316(3)(a) minus the amounts~~  
19 ~~specified in subsections (2)(b) and (2)(c) of this section must be allocated to the member's retirement account;~~

20 (ii) ~~2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate;~~

21 (iii)(b) ~~0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(b);~~

22 and

23 (iv)(c) ~~0.3% of compensation must be allocated to the long-term disability plan trust fund established~~  
24 ~~pursuant to 19-3-2141;~~

25 (b) ~~on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-~~  
26 ~~316(4)(b), the percentage specified in subsection (3) of this section of compensation must be allocated to the~~  
27 ~~defined benefit plan to eliminate the plan choice rate unfunded actuarial liability;~~