

Amendment - 1st Reading/2nd House-blue - Requested by: Julie Dooling - (H) State Administration

- 2023

68th Legislature 2023

Drafter: Rebecca Power, 444-3596

SB0074001.001

1 SENATE BILL NO. 74
2 INTRODUCED BY W. MCKAMEY
3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE PUBLIC
6 EMPLOYEES' RETIREMENT SYSTEMS ADMINISTERED BY THE PUBLIC EMPLOYEES' RETIREMENT
7 BOARD; CORRECTING INTEREST PAID UPON REDEPOSITS OF REFUNDED CONTRIBUTIONS TO
8 ACTUARIAL ASSUMED RATE OF RETURN; ALLOWING FOR LIMITED INFORMATION SHARING WITH
9 EMPLOYERS; REQUIRING PAYMENT TO THE TRUST OF A MINOR BENEFICIARY; CLARIFYING THE
10 APPLICATION OF EXCESS EARNINGS FOR CALCULATION OF HIGHEST AND FINAL AVERAGE
11 COMPENSATION; REVISING THE DEFINITION OF "COMPENSATION"; REVISING MEMBERSHIP IN THE
12 PUBLIC EMPLOYEES' RETIREMENT SYSTEM; CLARIFYING PROVISIONS REGARDING THE TRANSFER
13 AND PURCHASE OF SERVICE CREDITS FROM THE TEACHERS' RETIREMENT SYSTEM; ALLOWING
14 MEMBERS TO VOLUNTARILY CANCEL A DISABILITY RETIREMENT BENEFIT; ~~CLARIFYING WORKING~~
15 ~~RETIREE LIMITS~~; CLARIFYING THE DEFINITION OF "SHERIFF" RELATED TO THE SHERIFFS'
16 RETIREMENT SYSTEM; PROVIDING A TIME LIMIT FOR BOARD APPROVAL OF LATE FIRE COMPANY
17 ANNUAL CERTIFICATES AND TRAINING RECORDS; AMENDING SECTIONS 19-2-403, 19-2-603, 19-2-803,
18 19-2-1005, 19-3-108, 19-3-318, 19-3-403, 19-3-511, 19-3-1015, ~~19-3-1106~~, 19-3-1211, 19-5-612, 19-6-612, 19-
19 7-101, 19-7-612, 19-8-712, 19-9-904, 19-13-805, AND 19-17-112, MCA; AND PROVIDING EFFECTIVE
20 DATES."

21

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

23

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

25 **"19-2-403. Powers and duties of board.** (1) The board shall administer the provisions of the
26 chapters enumerated in 19-2-302.

27 (2) The board may establish rules that it considers proper for the administration and operation of

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1 of the state or of the university. If the member was an employee of a contracting employer, the board shall
2 notify the proper official of the contracting employer that the disability retirement benefit has been canceled and
3 that the former employee is eligible for reinstatement to duty. The fact that the former employee was retired for
4 disability may not prejudice any right to reinstatement to duty that the former employee may have or claim to
5 have.

6 (b) A member who is employed by an employer forfeits any right to reinstatement provided by this
7 section.

8 (c) This section does not affect any requirement that the former employee meet or be able to meet
9 professional certification and licensing standards unrelated to the disability and necessary for reinstatement to
10 duty.

11 (4) If a member whose disability retirement benefit is canceled is not reemployed in a position
12 subject to the retirement system, the member is considered, for the purposes of 19-2-602, to have terminated
13 service coincident with the commencement of the member's retirement benefit.

14 (5) If a disabled member who is receiving a disability retirement benefit independently determines
15 that the member is no longer disabled as that term is defined in 19-2-303 and returns to covered employment,
16 the member shall immediately notify retirement system administrative staff so that the member's disability
17 retirement benefit is canceled."

18
19 **Section 10.** ~~Section 19-3-1106, MCA, is amended to read:~~

20 ~~"19-3-1106. — Limited reemployment — reduction of service retirement benefit upon exceeding~~
21 ~~limits — reporting obligations — liability — exceptions. (1) A retired member under 65 years of age who was~~
22 ~~hired prior to July 1, 2011, who has been terminated from employment for at least 90 days, and who is~~
23 ~~receiving a service retirement benefit or early retirement benefit may return to employment covered by the~~
24 ~~retirement system for a period not to exceed 960 compensated hours in any calendar year without returning to~~
25 ~~active service and without any effect to the retiree's retirement benefit. The retirement benefit for any retiree~~
26 ~~exceeding this 960-hour limitation in any calendar year after retirement must be temporarily reduced \$1 for~~
27 ~~each \$1 of compensation earned after working 960 hours in that calendar year.~~

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1 ~~(2) — A retired member who is 65 years of age or older but less than 70 1/2 years of age, who has~~
2 ~~been terminated from employment for at least 90 days, and who returns to employment covered by the~~
3 ~~retirement system is either subject to the 960-hour limitation of subsection (1) or may earn in any calendar year~~
4 ~~an amount that, when added to the retiree's current annual retirement benefit, will not exceed the member's~~
5 ~~annualized highest average compensation, adjusted for inflation as of January 1 of the current calendar year,~~
6 ~~whichever limitation provides the higher limit on earned compensation to the retiree. Upon reaching the~~
7 ~~applicable limitation, the retiree's benefits must be temporarily reduced \$1 for each \$1 of compensation earned~~
8 ~~in service beyond the applicable limitation during that calendar year.~~

9 ~~(3) — (a) The employer of a retiree returning to employment covered by the retirement system shall~~
10 ~~certify to the board the number of hours worked by the retiree and the gross compensation paid to the retiree in~~
11 ~~that employment during any pay period after retirement. The certification of hours and compensation may be~~
12 ~~submitted electronically pursuant to rules adopted by the board.~~

13 ~~(b) — An employer that fails to timely or accurately report the employment of, time worked by, or~~
14 ~~compensation paid to a retired member as required under subsection (3)(a) is jointly and severally liable with~~
15 ~~the retired member for repayment to the retirement system of retirement benefits paid to which the member was~~
16 ~~not entitled, plus interest.~~

17 ~~(4) — Except as provided in 19-3-412 and 19-3-413, a retiree returning to employment covered by~~
18 ~~the retirement system may elect to return to active service at any time during this period of employment~~
19 ~~covered by the retirement system.~~

20 ~~(5) — The following members who return to employment covered by the retirement system are not~~
21 ~~subject to the hour or earnings limitations in subsections (1) and (2) but are subject to the reporting~~
22 ~~requirements in subsection (3):~~

23 ~~(a) — a retired member who is 70 1/2 years of age or older; or~~

24 ~~(b) — an elected official in a covered position who, as a retired member, declines optional~~
25 ~~membership as provided in 19-3-413.~~

26 ~~(6) — If a retired member is employed by an employer in a position that is reportable to the retirement~~
27 ~~system and the retired member is concurrently working for the employer in another position that is not~~

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1 ~~reportable to the system, the position that is not reportable is considered to be part of the position that is~~
2 ~~reportable to the retirement system. All earnings of the retired member that are generated by these positions~~
3 ~~are reportable to the retirement system.~~

4 ~~(7) — (a) For the purposes of this section, "employment covered by the retirement system" includes:~~

5 ~~(i) — work performed by a retiree through a professional employer arrangement, an employee~~
6 ~~leasing arrangement, or a temporary service contractor as those terms are defined in 39-8-102; and~~

7 ~~(ii) — services performed by a retiree as an independent contractor for an employer participating in~~
8 ~~the system.~~

9 ~~(b) — For purposes of this section, compensation for a retiree covered by subsection (7)(a) is limited~~
10 ~~to compensation for the work performed by the retiree as that term is defined in 19-3-108 and does not include~~
11 ~~any additional payment for overhead costs or costs not directly related to the work performed."~~

12

13 **Section 10.** Section 19-3-1211, MCA, is amended to read:

14 **"19-3-1211. Refund when former member dies after transferring to another system.** The
15 accumulated contributions of a member who dies after becoming a member of any other system described in
16 19-3-403(4)(6) and before receiving the member's accumulated contributions must be paid to the designated
17 beneficiary."

18

19 **Section 11.** Section 19-5-612, MCA, is amended to read:

20 **"19-5-612. Medical examination of disability retiree -- cancellation of benefit.** (1) The board, in its
21 discretion, may require the recipient of a disability retirement benefit to undergo a medical examination. The
22 examination must be made by a board-approved physician or surgeon at a place mutually agreed on by the
23 board, the disabled member, and the physician or surgeon and at the board's expense. Upon the basis of the
24 examination, the board shall determine, by reason of physical or mental capacity, whether the recipient can
25 perform the essential elements of the position held by the recipient when the recipient was retired. If the board
26 determines that the recipient is not incapacitated or if the recipient refuses to submit to a medical examination,
27 the recipient's disability retirement benefit must be canceled.