



Montana Teachers' Retirement System

Teachers' Retirement System 2023 Legislative Proposals

I. Housekeeping Bill

Part #1 Direct Transfers from PERS to TRS Delayed Effective Date to 7/1/2024:

Direct Transfer 19-20-409

1. General language cleanup.
2. 19-20-409(1)(d)(i) - Eliminate the need to convert PERS service to TRS service and clarify that a direct transfer will result in the same service credit at the receiving agency as what they had in the sending agency. PERS will include reciprocating language in their Housekeeping bill.
3. 19-20-409(2) – Clarify that the beneficiary of a member who dies while an active member is responsible for requesting a transfer of service credit on account with PERS if the additional service credit would result in vesting of a death benefit.

Redeposit of Previously Withdrawn Contributions from PERS to TRS 19-20-427:

1. Clarify that the interest charged on direct transfer of previously withdrawn contributions from PERS to TRS is the actuarially assumed rate of interest. PERS will have reciprocating language in their Housekeeping bill.

Part #2 Purchase of First 30 Days Clarification 19-20-417:

1. Clarify that the service purchase option for the first 30 days or 210 hours of service is only available for service provided in the same fiscal year that the individual first became an active member. The member must pay the employer and employee contributions for the first 210 hours of service plus interest at the actuarially assumed rate.
2. Clarify that only one service purchase may be made under this section.

Part #3 Earned Compensation and the 110% Cap on Earnings 19-20-715 & 19-20-805:

1. Remove the 110% cap on earnings language from 19-20-715 “Earned Compensation – Limitations” and relocate the same language under 19-20-805 “Calculation of Average Final Compensation”. The 110% cap on earnings language is better suited under the calculation of AFC statute. Members sometimes claim they were unaware of the cap on

earnings which might be in part because the language is not included in our calculation of AFC statute.

Part #4 Guaranteed Annual Benefit Adjustment (GABA) Cleanup 19-20-719:

1. Remove the language that was found to be unconstitutional for Tier 1 GABA and clarify that it is 1.5% for Tier 1.
2. Clarify that the GABA floor for Tier 2 members is 0.5%.
3. Include retroactive effective date of July 1, 2013 as Tier 1 members were never paid less than 1.5% due to injunction and eligible Tier 2 members have never been paid less than 0.5% since passage of House Bill 377 during the 2013 session.

Part #5 Statutory Renunciation of Multiple \$500 Death Benefit Beneficiaries 19-20-1002:

1. Provides for a statutory time limit for payment of the \$500 death benefit when there are multiple beneficiaries and one or more of them is either unresponsive or cannot be located. Once the deadline is reached, TRS will pay the \$500 death benefit in equal shares to the responsive beneficiaries.
2. This provision is only applicable if the only benefit payable at the time of death is the \$500 death benefit not including any \$200/month minor child benefit.

Part #6 Independent Contractors (Likely new section 19-20-307):

1. Provide for a more stringent process for Employers to establish an individual is an independent contractor. Under current law we take a certificate from the Department of Labor and Industry as prima facia evidence that an individual is an Independent Contractor.
2. If this provision moves forward and passes the legislature as drafted, TRS will presume that any position reportable to TRS is a common law employee of the TRS Employer. This presumption can be rebutted by following the process laid out in the provision which includes a written determination by an attorney, HR professional or another qualified individual, a court order or a Form SS-8 from the IRS.

Part #7 Use of "Physician" in TRS Disability Statutes 19-20-901 & 19-20-903:

1. Legislation needed to address HB 495 Task Force objectives that "physician" in statute includes PAs and NPs but leaving the decision regarding which health care providers and professionals are qualified in a given case to the TRS Board.

II. **MUS-RP Supplemental Contribution Rate Bill** – When the Optional Retirement Plan was created in 1987 for university system TRS-eligible members, section 19-20-621, MCA, required each employer within the university system with employees participating in the optional retirement program to contribute to TRS a supplemental employer contribution sufficient to amortize, by July 1, 2033, the past service liability of the teachers' retirement system for the university system members who do not participate in TRS. The law also requires that the supplemental rate be periodically reviewed and updated. Based on the 2020 valuation of the university supplemental rate, the current rate needs to be increase from 4.72% to 13.90%; however, the actual rate required will not be known until after the July 1, 2022 valuation has been completed.

III. **Working Retiree Bill** – Provide some additional flexibility to TRS Employers that utilize working retirees to fill vacancies in their district.

Part #1 Increase the Allowable Earnings Limitation 19-20-731:

1. Increase the allowable earnings from 1/3 to 49% of the members AFC or the median compensation for all retiring members during the preceding fiscal year.

Part #2 Include Superintendents in Emergency Hire Provision 19-20-732:

1. Reinstate the position of Superintendent as a position eligible to work under 19-20-732 and make the other changes that were passed in 2021 permanent.

Part #3 Reduce the Break in Service from 150 days to 120 days 19-20-734:

1. Reduce the break in service for regular working retirees under 19-20-731 from 150 calendar days to 120 calendar days.