

1 HOUSE BILL NO. 323
 2 INTRODUCED BY [Signature]
 3 BY REQUEST OF THE PUBLIC EMPLOYEES'
 4 RETIREMENT BOARD

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE
 7 ELIGIBILITY AND BENEFIT PROVISIONS FOR DISABILITY RETIREMENT
 8 FOR NEW MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM;
 9 PROVIDING A ONE-TIME ELECTION FOR ALL CURRENT MEMBERS TO
 10 PARTICIPATE IN THE NEW PROVISIONS, AS REQUIRED BY FEDERAL
 11 AMENDMENTS TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF
 12 1967; AMENDING SECTIONS 19-3-1002 AND 19-3-1008, MCA; AND
 13 PROVIDING AN IMMEDIATE EFFECTIVE DATE."
 14

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

16 **Section 1.** Section 19-3-1002, MCA, is amended to read:

17 "19-3-1002. Eligibility for disability retirement. (1)
 18 Except as provided in subsection subsections (2) and (3) and
 19 19-3-1004, a member who is not eligible for service or early
 20 retirement but has completed 5 years of creditable service
 21 and has become disabled while in active service, as defined
 22 in 19-3-1001, is eligible for disability retirement, as
 23 provided in 19-3-1008(1).

24 (2) A member age 60 or older who has completed 5 years
 25 of creditable service and has had a duty-related accident

1 forcing him to terminate his employment but who has not
 2 received or is ineligible to receive workers' compensation
 3 benefits under Title 39, chapter 71, for the duty-related
 4 accident may conditionally waive his eligibility for a
 5 service retirement to be eligible for disability retirement.
 6 The waiver is effective only upon approval by the board of
 7 his application for disability retirement. The board shall
 8 determine whether a member has become disabled under the
 9 provisions of 19-3-1003. The board may request any
 10 information on file with the state compensation mutual
 11 insurance fund concerning the any duty-related accident. If
 12 no information is available, the board may request and the
 13 state fund shall provide an investigative report on the
 14 disabling accident.

15 (3) (a) A member employed on [the effective date of
 16 this act] has a one-time election to be covered for
 17 disability purposes under the provisions of 19-3-1008(2).
 18 This election is irrevocable and must be made in writing by
 19 the member no later than December 31, 1991. Coverage under
 20 the provisions of 19-3-1008(2) commences on the date the
 21 completed election form is received by the board or its
 22 designated representative. To be eligible for disability
 23 benefits under the provisions of this part, a member must
 24 have completed 5 years of creditable service and must have
 25 become disabled while in active service, as defined in

1 19-3-1001.

2 (b) An individual becoming a member after [the
3 effective date of this act] who has completed 5 years of
4 creditable service and has become disabled while in active
5 service, as defined in 19-3-1001, is covered for disability
6 purposes under the provisions of 19-3-1008(2)."

7 **Section 2.** Section 19-3-1008, MCA, is amended to read:

8 **"19-3-1008. Allowance for nonduty-related disability.**

9 (1) The annual amount of retirement allowance payable to a
10 member eligible for disability retirement ~~for--other--than~~
11 ~~duty-related-reasons~~ under the provisions of 19-3-1002(1) is
12 the sum of (1)(a), (1)(b), and (1)(c) of this section as
13 follows:

14 (a) an annuity which is the actuarial equivalent of his
15 accumulated additional contributions on the day his
16 retirement allowance commences;

17 (b) an annuity which is the actuarial equivalent of his
18 accumulated normal contributions with normal interest to the
19 day his retirement allowance commences;

20 (c) if, in the opinion of the board, the disability is
21 not due to intemperance, willful misconduct, or violation of
22 law on the part of the member, a pension which is the
23 greater of (1)(c)(i) or (1)(c)(ii) as follows:

24 (i) a pension which, together with the annuity provided
25 under subsection (1)(b), shall make the retirement allowance

1 equal to 90% of one fifty-sixth of his final compensation
2 multiplied by his years of creditable service and additional
3 service purchased under 19-3-513;

4 (ii) a retirement allowance equal to 25% of his final
5 compensation.

6 (2) The annual amount of retirement allowance payable
7 to a member eligible for disability retirement under the
8 provisions of 19-3-1002(3) is a retirement allowance equal
9 to one fifty-sixth of his final compensation multiplied by
10 his years of creditable service and additional service
11 purchased under 19-3-513.

12 ~~(3)~~ Except as provided in 19-3-1201, if a member
13 dies after retirement and has not elected an optional
14 retirement allowance provided for in 19-3-1101, his
15 beneficiary will be paid the excess, if any, of the member's
16 accumulated contributions on the day his retirement
17 allowance commenced over the total of the retirement
18 allowance payments made to the retired member.

19 (4) Subject to the provisions of part 11 of this
20 chapter, a retired member receiving a retirement allowance
21 on [the effective date of this act] who has previously been
22 granted a disability retirement allowance under the
23 provisions of this section will continue to receive the
24 monthly disability retirement allowance as calculated prior
25 to [the effective date of this act], subject to any

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1 postretirement or cost-of-living increases granted by the
2 legislature."

3 NEW SECTION. Section 3. Effective date. [This act] is
4 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0323, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act changing the eligibility and benefit provisions for disability retirement for new members of the Public Employees' Retirement System; providing a one-time election for all current members to participate in the new provisions, as required by federal amendments to the Age Discrimination in Employment Act of 1967; amending sections 19-3-1002 and 19-3-1008, MCA; and providing an immediate effective date.

ASSUMPTIONS:


1. Amendments to the Age Discrimination in Employment Act of 1967 (ADA) prohibits age discrimination in disability retirement benefits, thereby creating the payment of disability pensions to eligible retirees over 60 years of age regardless of the approval of the retirement board.
2. Disability retirees, with less than 14 years of service, have an average pension of \$398 per month. Retirees over 60 years of age with less than 14 years of creditable service have an average pension of \$200 per month.
3. Therefore, the federal amendments to ADA will increase pensions approximately \$198 per month for an average of 105 persons over 60 years of age with less than 14 years of creditable service who become disabled and retire each year.
4. The proposed legislation enables current members, with at least five years of creditable service, the option to select service retirement. New members after the effective date of the proposed legislation who become disabled will only be eligible for service retirement benefits.
5. The effect of the proposed legislation is the removal of a requirement to pay eligible retirees over 60 years of age with less than 14 years of creditable service a disability allowance unless approved by the retirement board.
6. Additional appropriation authority will be necessary in FY92 to print and mail forms to all current members of PERS to explain their one-time option of electing coverage under the new plan.
7. Current law is represented by the executive budget recommendation for the Public Employees' Retirement Division of the Department of Administration.

FISCAL IMPACT:

see next page



ROD SUNDESTED, BUDGET DIRECTOR 1-29-91 DATE
Office of Budget and Program Planning



JERRY L. DRISCOLL, PRIMARY SPONSOR 1/29/91 DATE
Fiscal Note for HB0323, as introduced. HB 323

FISCAL IMPACT:

<u>P.E.R.D.</u>	<u>FY 92</u>			<u>FY 93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Personal Services	518,860	518,860	0	517,936	517,936	0
Operating Costs	723,733	728,733	5,000	437,648	437,648	0
Equipment	1,566	1,566	0	1,704	1,704	0
Benefits and Claims	67,136,219	67,000,000	(136,219)	70,814,787	70,400,000	(414,787)
Transfers	<u>210,000</u>	<u>210,000</u>	<u>0</u>	<u>215,000</u>	<u>215,000</u>	<u>0</u>
Total	68,590,378	68,459,159	(131,219)	71,987,075	71,572,288	(414,787)
<u>Funding:</u>						
Expendable Trust	68,198,409	68,067,190	(131,219)	71,859,899	71,445,112	(414,787)

TECHNICAL NOTE:

The statutory language providing for disability allowance remains in effect. Consequently members less than 60 years of age are still eligible for disability allowance; whereas members age 60 years or more are eligible for disability allowance only if approved by the retirement board. Any circumstance whereby a disabled member aged 60 years or more receives a service retirement pension which is less than a disability retirement pension would continue to be a violation of the federal amendments prohibiting age discrimination.

HB 323

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

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21 and has become disabled while in active service, as defined
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24 (2) A member age 60 or older who has completed 5 years
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3 benefits under Title 39, chapter 71, for the duty-related
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5 service retirement to be eligible for disability retirement.
6 The waiver is effective only upon approval by the board of
7 his application for disability retirement. The board shall
8 determine whether a member has become disabled under the
9 provisions of 19-3-1003. The board may request any
10 information on file with the state compensation mutual
11 insurance fund concerning the any duty-related accident. If
12 no information is available, the board may request and the
13 state fund shall provide an investigative report on the
14 disabling accident.

15 (3) (a) A member employed on [the effective date of
16 this act] has a one-time election to be covered for
17 disability purposes under the provisions of 19-3-1008(2).
18 This election is irrevocable and must be made in writing by
19 the member no later than December 31, 1991. Coverage under
20 the provisions of 19-3-1008(2) commences on the date the
21 completed election form is received by the board or its
22 designated representative. To be eligible for disability
23 benefits under the provisions of this part, a member must
24 have completed 5 years of creditable service and must have
25 become disabled while in active service, as defined in



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2 (b) An individual becoming a member after [the
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7 **Section 2.** Section 19-3-1008, MCA, is amended to read:

8 **"19-3-1008. Allowance for nonduty-related disability.**

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16 retirement allowance commences;

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18 accumulated normal contributions with normal interest to the
19 day his retirement allowance commences;

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22 law on the part of the member, a pension which is the
23 greater of (1)(c)(i) or (1)(c)(ii) as follows:

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19 (4) Subject to the provisions of part 11 of this
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23 provisions of this section will continue to receive the
24 monthly disability retirement allowance as calculated prior
25 to [the effective date of this act], subject to any

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1 postretirement or cost-of-living increases granted by the
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19-3-1001.

(b) An individual becoming a member after [the effective date of this act] who has completed 5 years of creditable service and has become disabled while in active service, as defined in 19-3-1001, is covered for disability purposes under the provisions of 19-3-1008(2)."

Section 2. Section 19-3-1008, MCA, is amended to read:

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(4) Subject to the provisions of part 11 of this chapter, a retired member receiving a retirement allowance on [the effective date of this act] who has previously been granted a disability retirement allowance under the provisions of this section will continue to receive the monthly disability retirement allowance as calculated prior to [the effective date of this act], subject to any

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REFERENCE BILL

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