

HOUSE BILL 936

Introduced by J. Rice, et al.

2/19	Introduced
2/19	Referred to State Administration
2/19	First Reading
2/19	Fiscal Note Requested
2/21	Hearing
2/22	Committee Report--Bill Passed as Amended
2/23	Fiscal Note Printed
2/23	2nd Reading Passed
2/23	Fiscal Note Received
2/23	Taken From Engrossing and Referred to Appropriations
3/07	Revised Fiscal Note Requested
3/12	Hearing
3/23	Tabled in Committee

1 *HOUSE* BILL NO. *936*
 2 INTRODUCED BY *J. Brown* *John D. Brown*
 3 *John D. Brown* *John D. Brown*

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PUBLIC
 5 EMPLOYEE IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM MAY
 6 ELECT TO HAVE HIS EMPLOYER TRANSFER UNUSED SICK LEAVE
 7 CREDITS TO THE EMPLOYEE'S RETIREMENT ACCOUNT TO PURCHASE
 8 ELIGIBLE SERVICE; AMENDING SECTION 2-18-618, MCA; AND
 9 PROVIDING AN EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 2-18-618, MCA, is amended to read:

13 "2-18-618. Sick leave. (1) Each permanent full-time
 14 employee shall earn sick leave credits from the first day of
 15 employment. For calculating sick leave credits, 2,080 hours
 16 (52 weeks x 40 hours) shall equal 1 year. Sick leave credits
 17 shall be credited at the end of each pay period. Sick leave
 18 credits shall be earned at the rate of 12 working days for
 19 each year of service without restriction as to the number of
 20 working days that may be accumulated. Employees are not
 21 entitled to be paid sick leave until they have been
 22 continuously employed 90 days.

23 (2) An employee may not accrue sick leave credits while
 24 in a leave-without-pay status.

25 (3) Permanent part-time employees are entitled to

1 prorated leave benefits if they have worked the qualifying
 2 period.

3 (4) Full-time temporary and seasonal employees are
 4 entitled to sick leave benefits provided they work the
 5 qualifying period.

6 (5) Am Except as provided in subsection (9), an
 7 employee who terminates employment with the agency is
 8 entitled to a lump-sum payment equal to one-fourth of the
 9 pay attributed to the accumulated sick leave.

10 (6) The pay attributed to the accumulated sick leave
 11 shall be computed on the basis of the employee's salary or
 12 wage at the time he terminates his employment with the
 13 state, county, or city.

14 (7) Accrual of sick leave credits for calculating the
 15 lump-sum payment provided for in this subsection section
 16 begins July 1, 1971. The payment therefor shall be the
 17 responsibility of the agency wherein the sick leave accrues.
 18 However, no employee forfeits any sick leave rights or
 19 benefits he had accrued prior to July 1, 1971.

20 (8) However--where When an employee transfers between
 21 agencies within the same jurisdiction, he is not entitled to
 22 a lump-sum payment. In a transfer between agencies, the
 23 receiving agency shall assume the liability for the accrued
 24 sick leave credits earned after July 1, 1971, and
 25 transferred with the employee.



-2- INTRODUCED BILL
 HB 936

1 (9) Except as provided in subsection (8), in lieu of
 2 the lump-sum payment provided in subsection (5), an employee
 3 eligible for retirement benefits under the provisions of
 4 19-3-901 or 19-3-902 and who terminates employment with an
 5 agency may elect to have his employer transfer up to 100% of
 6 the funds representing the employee's unused sick leave
 7 credits to his public employees' retirement account to
 8 purchase eligible service for the purpose of calculating his
 9 retirement allowance.

10 †6†(10) An employee who receives a lump-sum payment
 11 pursuant to this section and who is again employed by any
 12 agency may not be credited with any sick leave for which the
 13 employee has previously been compensated.

14 †7†(11) Abuse of sick leave is cause for dismissal and
 15 forfeiture of the lump-sum payments provided for in this
 16 section.

17 †8†(12) An employee may contribute any portion of his
 18 accumulated sick leave to a nonrefundable sick leave fund
 19 for state employees and thereby become eligible to draw upon
 20 the fund if an extensive illness or accident exhausts his
 21 accumulated sick leave. The department of administration
 22 shall, in consultation with the sick leave advisory council
 23 provided for in 2-15-216, administer the sick leave fund and
 24 adopt rules to implement this subsection.

25 †9†(13) A local government may establish and administer

1 through local rule a sick leave fund into which its
 2 employees may contribute a portion of their accumulated sick
 3 leave."

4 NEW SECTION. Section 2. Election by member to have
 5 employer pay sick leave credits into retirement account. (1)
 6 As provided in 2-18-618(9), an employee may elect to have
 7 his employer pay all or a portion of the employee's cost of
 8 purchasing eligible service under 19-3-513 in lieu of a
 9 lump-sum payout to the employee for the employee's unused
 10 sick leave.

11 (2) The sick leave funds used to purchase service under
 12 subsection (1) must be considered employer contributions and
 13 may not be refunded to the member.

14 NEW SECTION. Section 3. Codification instruction.
 15 [Section 2] is intended to be codified as an integral part
 16 of Title 19, chapter 3, part 5, and the provisions of Title
 17 19, chapter 3, part 5, apply to [section 2].

18 NEW SECTION. Section 4. Effective date. [This act] is
 19 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0936, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

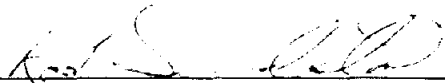
An act providing that a public employee in the Public Employees' Retirement System may elect to have his employer transfer unused sick leave credits to the employee's retirement account to purchase eligible service.

ASSUMPTIONS:

1. The average years of service for retirees is 18 years. The accrued sick leave for state employees with 16-21 years of services is 760 hours.
2. The projected, average salary for state employees retiring will be \$13.86 per hour in FY92 and \$14.48 in FY93.
3. During calendar year 1990 the number of employees retired through the Public Employees' Retirement System is as follows: 225 employees from state agencies, 52 employees from the university system, 380 employees from local government. These rates are expected to continue in FY92 and FY93.
4. Current law represents the value of 25% of the accrued sick leave balance of the projected number of employees from state agencies, local government, university system and non-teaching school district employees expected to retire during the 1993 biennium.
5. The legislation would allow 100% of the value of accrued sick leave credits to be used towards retirement credit. All retiring PERS members will take advantage of the 100% sick leave transfer option.
6. The increased value of accumulated sick cash out upon retirement will reduce sick leave use, but these savings can not be estimated.
7. The distribution of funding is based on OBPP costing of the pay plan represented by HB0509.
8. The Public Employees' Retirement Division of the Department of Administration will require additional budget authority in FY92 for computer program enhancements to account for these payments outside PERS members' personal contribution accounts.

FISCAL IMPACT:

see next page



ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE

JIM RICE, PRIMARY SPONSOR

DATE

Fiscal Note for HB0936, as introduced.

HB 936

Fiscal Note Request, HB0936, as introduced.

Form BD-15

Page 2

FISCAL IMPACT:

All PERS Members:

	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
Personal Services	729,452	2,917,807	2,188,355	762,082	3,048,330	2,286,248
<u>Funding:</u>						
General Fund	313,664	1,254,657	940,993	327,695	1,310,782	983,087
State Special	189,658	758,630	568,972	198,141	792,566	594,425
Federal Special	158,291	633,164	474,873	165,372	661,488	496,116
Proprietary Fund	65,651	262,603	196,952	68,588	274,350	205,762
Other	<u>2,188</u>	<u>8,753</u>	<u>6,565</u>	<u>2,286</u>	<u>9,144</u>	<u>6,858</u>
Total	729,452	2,917,807	2,188,355	762,082	3,048,330	2,286,248

P.E.R.D.:

Operating Costs	0	8,000	8,000	0	0	0
<u>Funding:</u>						
Expendable Trust	0	8,000	8,000	0	0	0

General Fund Impact (940,993) (983,087)

EFFCT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The proposed legislation applies to all local governments and non-teaching, school district employees. Cost per retired employee would likely be similar to those projected for state government. The average salary of retirees from local governments are 83% of the average salary for state government retirees. The estimated cost for retirement of 380 local government employees would be \$2.5 million in FY92 and \$2.6 million in FY93.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

1. Increased value of accrued sick leave upon retirement should reduce the use of sick leave.
2. The legislation will result in increased liabilities against state, university and local governments for payout of sick leave upon termination of employees. These liabilities must be carried on annual financial statements as a footnote on compensated absences and could effect bond ratings. For proprietary funds it would show as a liability and for governmental funds it would show as a liability under the general long term account group. (This amount was \$30.1 million as of FY90 year end, not including universities. These liabilities will increase each year in the future as more persons become eligible for the 100% payout, regardless of whether they actually retire during a particular year.)

HB 936

TECHNICAL NOTES:

1. Section 2 provides that the entire amount of the sick leave funds be considered an employer contribution. This contribution may be viewed as taxable income by the I.R.S. Any portion considered taxable would be subject to Social Security, Medicare, PERS, Unemployment Insurance and Worker's Compensation.
2. Any amounts which the I.R.S. determines to be taxable income can not be considered employer contributions and would have to be refunded to the member if so requested, which is contrary to Section 2, subsection 2, of the proposed legislation.
3. The proposed benefits are available only to those PERS members who are eligible to retire; consequently, the proposed benefits apply only to PERS members over the age of 42 years with the average beneficiary of this enhancement being 60 years of age. Is this legal discrimination under the Montana Constitution and the federal Age Discrimination Act? Consideration might be given to allowing all vested members of PERS be eligible for the proposed benefits in order to avoid potential claims of age discrimination.
4. The proposed legislation contains language that references only the male gender. The language could be modified to address both genders or to be non-specific as to gender.

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

HOUSE BILL NO. 936

INTRODUCED BY J. RICE, J. BROWN, WATERMAN,
GRADY, O'KEEFE, HARPER, MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A
CERTAIN PUBLIC EMPLOYER EMPLOYEES IN THE PUBLIC EMPLOYEES'
RETIREMENT SYSTEM MAY ELECT TO HAVE HIS--EMPLOYER THEIR
EMPLOYERS TRANSFER UNUSED SICK LEAVE CREDITS TO THE
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credits shall be earned at the rate of 12 working days for
each year of service without restriction as to the number of
working days that may be accumulated. Employees are not
entitled to be paid sick leave until they have been
continuously employed 90 days.

(2) An employee may not accrue sick leave credits while

in a leave-without-pay status.

(3) Permanent part-time employees are entitled to
prorated leave benefits if they have worked the qualifying
period.

(4) Full-time temporary and seasonal employees are
entitled to sick leave benefits provided they work the
qualifying period.

(5) An Except as provided in subsection (9), an
employee who terminates employment with the agency is
entitled to a lump-sum payment equal to one-fourth of the
pay attributed to the accumulated sick leave.

(6) The pay attributed to the accumulated sick leave
shall be computed on the basis of the employee's salary or
wage at the time he terminates his employment with the
state, county, or city.

(7) Accrual of sick leave credits for calculating the
lump-sum payment provided for in this subsection section
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responsibility of the agency wherein the sick leave accrues.
However, no employee forfeits any sick leave rights or
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agencies within the same jurisdiction, he is not entitled to
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receiving agency shall assume the liability for the accrued



1 sick leave credits earned after July 1, 1971, and
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6 19-3-901--or--19-3-902 WHO HAS AT LEAST 25 YEARS OF ELIGIBLE
7 SERVICE IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM BUT NOT
8 MORE THAN 30 YEARS OF ELIGIBLE SERVICE and who terminates
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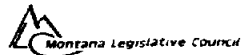
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