

1 *Senate* BILL NO. *231*
 2 INTRODUCED BY *Richard Manning*
 3 *Southwest* GALVIN *J. Brown*
 4 *Signature* A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE
 5 LIMITATIONS AND RETIREMENT ALLOWANCE REDUCTIONS IMPOSED ON A
 6 RETIREE WHO RETURNS TO EMPLOYMENT COVERED BY THE PUBLIC
 7 EMPLOYEES' RETIREMENT SYSTEM; AMENDING SECTIONS 19-3-403 AND
 8 19-3-1106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 19-3-403, MCA, is amended to read:

12 "19-3-403. Exclusions. The following persons may not
13 become members of the retirement system:

14 (1) elective officers who have not filed with the board
15 written requests to become members, except that a person so
16 excluded from membership may later become a member by
17 otherwise becoming an employee or by written request after a
18 subsequent election to office, and if he affirmatively
19 exercises the option, the contributions of the employer
20 because of his membership shall be the same as they would
21 have been had he not been so excluded;

22 (2) inmates of state institutions who are allowed
23 compensation for such service as they are able to perform;

24 (3) persons in state institutions principally for the
25 purpose of training, but who receive compensation;

1 (4) independent contractors, unless there is a written
2 contract which specifies the creation of an
3 employer-employee relationship for purposes of retirement
4 coverage under The Public Employees' Retirement System Act;

5 (5) employees serving in employment which does not
6 exceed the equivalent of 120 working days in any fiscal year
7 who have not filed with the board a written request to
8 become members. A member so excluded from membership by this
9 subsection may later become a member by otherwise becoming
10 an employee or by written request after the initial date of
11 exclusion. If he affirmatively exercises the option and pays
12 the employee contribution plus interest, the contributions
13 of the employer, because of his membership, shall be the
14 same as they would have been had he not been so excluded
15 plus accrued interest on all employer contributions from the
16 date the contributions would have been made to the date of
17 payment.

18 (6) employees in service on July 1, 1945, or prior
19 thereto who filed with the board elections not to become
20 members, except that a person so excluded from membership
21 may become a member and be eligible thereafter to receive
22 the same benefits that he would have received if he had
23 never filed an election not to be a member by meeting the
24 requirements prescribed in 19-3-505 and 19-3-506;

25 (7) persons directly appointed by the governor who do

1 not file with the board an election in writing to become
2 members;

3 (8) persons who are members of any other retirement or
4 pension system supported wholly or in part by funds of the
5 United States government, any state government, or political
6 subdivision thereof and who are receiving credit in the
7 other system for service, it being the purpose of this
8 subsection to prevent a person from receiving credit for the
9 same service in two retirement systems supported wholly or
10 in part by public funds, except when the service qualifies,
11 is applied for, and purchased pursuant to 19-3-503. A member
12 of the retirement system who, because of his employment by
13 the state, is required to become a member of any other
14 system described in this subsection shall be considered,
15 solely for the purposes of making normal contributions, as
16 permanently separated from service. Exclusion under this
17 subsection is subject to the following exceptions:

18 (a) When an employer has entered into a collective
19 bargaining agreement which includes provisions for payments
20 or contributions by the employer in lieu of wages to a
21 retirement or pension plan qualified by the internal revenue
22 service for its employees, the employees remain eligible, if
23 otherwise qualified, for membership in the retirement
24 system, and the payments or contributions in lieu of wages
25 may not be considered a part of the employees' compensation

1 for purposes of computing the employer or employee
2 contributions to the retirement system.

3 (b) For the purpose of this subsection (8), persons
4 receiving pensions, retirement allowances, or other payments
5 from any source on account of employment other than as an
6 employee as defined in this chapter are not considered,
7 because of such receipt, members of any other retirement or
8 pension system.

9 (9) court commissioners or appointive members of any
10 board or commission who serve the state or any contracting
11 employer intermittently and who are paid on a per diem
12 basis;

13 (10) persons who become employees after they have
14 reached their 60th birthday and have no creditable service
15 in this system and who do not file with the board an
16 election to become members;

17 (11) employees of county hospitals or county rest homes
18 in the sixth- and seventh-class counties, unless they elect
19 to file with the board an election in writing to become
20 members;

21 (12) persons employed for 6 months or less by the
22 legislature or the legislative council to perform work
23 related to the legislative session who do not file with the
24 board an election in writing to become members;

25 (13) full-time students employed at and attending the

1 same public elementary school, high school,
2 vocational-technical center, or community college or any
3 unit of the state university system, except that a person so
4 excluded from membership as a student of a public community
5 college or a unit of the state university system who later
6 becomes a member by otherwise becoming an employee may
7 affirmatively exercise the option of qualifying the service
8 excluded by this subsection by applying to the board in
9 writing after becoming a member and become eligible to
10 receive credit for the excluded service under the provisions
11 of 19-3-505;

12 (14) the chief administrative officer of any city or
13 county where the chief administrative officer has filed an
14 election in writing with the board to be excluded from
15 membership, this election to be filed no later than July 1,
16 1979, or 30 days after initial employment by a county or
17 city, whichever is later.

18 ~~{15}-all---former---members---receiving---a---retirement~~
19 ~~allowance,---other---than---as---a---beneficiary,---serving---in~~
20 ~~employment---if---that---employment---does---not---exceed---60---working~~
21 ~~days---in---any---calendar---year,---These---former---members---must---be~~
22 ~~reinstated---into---membership---on---the---61st---working---day---in---any~~
23 ~~calendar---year---unless---they---elect---to---return---to---membership~~
24 ~~prior---to---that---day."~~

25 **Section 2.** Section 19-3-1106, MCA, is amended to read:

1 "19-3-1106. Limited reemployment -- Reduction reduction
2 of retirement allowance upon limited-reemployment exceeding
3 limits. (1) Any A person under 65 years of age receiving a
4 service retirement allowance, not as a beneficiary, who--is
5 not-eligible-for-membership may return to employment covered
6 employment by the retirement system for a period not to
7 exceed 60-working-days 600 hours in any calendar year. The
8 retirement allowance of--a--retiree--so--employed--will--be
9 reduced-by-\$1-for-each-\$3-earned-in--excess--of--\$5,000 for
10 each any retiree exceeding this 600-hour limitation in any
11 calendar year after retirement will be reduced \$1 for each
12 \$1 earned after working 600 hours in that calendar year.

13 (2) A retiree 65 years of age or older who returns to
14 employment covered by the retirement system is not subject
15 to the 600-hour limitation of subsection (1) but may earn an
16 amount equal to 50% of his current annual retirement
17 benefits in any calendar year before having his benefits
18 reduced \$1 for each \$1 above 50% of his annual benefits.

19 (3) A retiree returning to employment covered by the
20 retirement system shall report to the board the number of
21 hours he has worked and the gross compensation paid to him
22 in that employment during any month after retirement.

23 (4) A retiree returning to employment covered by the
24 retirement system may elect to return to active membership
25 at any time during this period of covered employment."

LC 1542/01

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

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

SENATE BILL NO. 231

INTRODUCED BY MANNING, COCCHIARELLA, SOUTHWORTH,
GALVIN, J. BROWN, WANZENRIED, DAILY, SQUIRES, GRADY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE
LIMITATIONS AND RETIREMENT ALLOWANCE REDUCTIONS IMPOSED ON A
RETIREE WHO RETURNS TO EMPLOYMENT COVERED BY THE PUBLIC
EMPLOYEES' RETIREMENT SYSTEM; AMENDING SECTIONS 19-3-403 AND
19-3-1106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 19-3-403, MCA, is amended to read:

"19-3-403. Exclusions. The following persons may not
become members of the retirement system:

(1) elective officers who have not filed with the board
written requests to become members, except that a person so
excluded from membership may later become a member by
otherwise becoming an employee or by written request after a
subsequent election to office, and if he affirmatively
exercises the option, the contributions of the employer
because of his membership shall be the same as they would
have been had he not been so excluded;

(2) inmates of state institutions who are allowed
compensation for such service as they are able to perform;

(3) persons in state institutions principally for the

purpose of training, but who receive compensation;

(4) independent contractors, unless there is a written
contract which specifies the creation of an
employer-employee relationship for purposes of retirement
coverage under The Public Employees' Retirement System Act;

(5) employees serving in employment which does not
exceed the equivalent of 120 working days in any fiscal year
who have not filed with the board a written request to
become members. A member so excluded from membership by this
subsection may later become a member by otherwise becoming
an employee or by written request after the initial date of
exclusion. If he affirmatively exercises the option and pays
the employee contribution plus interest, the contributions
of the employer, because of his membership, shall be the
same as they would have been had he not been so excluded
plus accrued interest on all employer contributions from the
date the contributions would have been made to the date of
payment.

(6) employees in service on July 1, 1945, or prior
thereto who filed with the board elections not to become
members, except that a person so excluded from membership
may become a member and be eligible thereafter to receive
the same benefits that he would have received if he had
never filed an election not to be a member by meeting the
requirements prescribed in 19-3-505 and 19-3-506;

1 (7) persons directly appointed by the governor who do
2 not file with the board an election in writing to become
3 members;

4 (8) persons who are members of any other retirement or
5 pension system supported wholly or in part by funds of the
6 United States government, any state government, or political
7 subdivision thereof and who are receiving credit in the
8 other system for service, it being the purpose of this
9 subsection to prevent a person from receiving credit for the
10 same service in two retirement systems supported wholly or
11 in part by public funds, except when the service qualifies,
12 is applied for, and purchased pursuant to 19-3-503. A member
13 of the retirement system who, because of his employment by
14 the state, is required to become a member of any other
15 system described in this subsection shall be considered,
16 solely for the purposes of making normal contributions, as
17 permanently separated from service. Exclusion under this
18 subsection is subject to the following exceptions:

19 (a) When an employer has entered into a collective
20 bargaining agreement which includes provisions for payments
21 or contributions by the employer in lieu of wages to a
22 retirement or pension plan qualified by the internal revenue
23 service for its employees, the employees remain eligible, if
24 otherwise qualified, for membership in the retirement
25 system, and the payments or contributions in lieu of wages

1 may not be considered a part of the employees' compensation
2 for purposes of computing the employer or employee
3 contributions to the retirement system.

4 (b) For the purpose of this subsection (8), persons
5 receiving pensions, retirement allowances, or other payments
6 from any source on account of employment other than as an
7 employee as defined in this chapter are not considered,
8 because of such receipt, members of any other retirement or
9 pension system.

10 (9) court commissioners or appointive members of any
11 board or commission who serve the state or any contracting
12 employer intermittently and who are paid on a per diem
13 basis;

14 (10) persons who become employees after they have
15 reached their 60th birthday and have no creditable service
16 in this system and who do not file with the board an
17 election to become members;

18 (11) employees of county hospitals or county rest homes
19 in the sixth- and seventh-class counties, unless they elect
20 to file with the board an election in writing to become
21 members;

22 (12) persons employed for 6 months or less by the
23 legislature or the legislative council to perform work
24 related to the legislative session who do not file with the
25 board an election in writing to become members;

1 (13) full-time students employed at and attending the
 2 same public elementary school, high school,
 3 vocational-technical center, or community college or any
 4 unit of the state university system, except that a person so
 5 excluded from membership as a student of a public community
 6 college or a unit of the state university system who later
 7 becomes a member by otherwise becoming an employee may
 8 affirmatively exercise the option of qualifying the service
 9 excluded by this subsection by applying to the board in
 10 writing after becoming a member and become eligible to
 11 receive credit for the excluded service under the provisions
 12 of 19-3-505;

13 (14) the chief administrative officer of any city or
 14 county where the chief administrative officer has filed an
 15 election in writing with the board to be excluded from
 16 membership, this election to be filed no later than July 1,
 17 1979, or 30 days after initial employment by a county or
 18 city, whichever is later;

19 ~~(15) all former members receiving a retirement~~
 20 ~~allowance, other than as a beneficiary, serving in~~
 21 ~~employment if that employment does not exceed 60 working~~
 22 ~~days in any calendar year. These former members must be~~
 23 ~~reinstated into membership on the 61st working day in any~~
 24 ~~calendar year unless they elect to return to membership~~
 25 ~~prior to that day."~~

1 **Section 2.** Section 19-3-1106, MCA, is amended to read:

2 "19-3-1106. Limited reemployment -- Reduction reduction
 3 of retirement allowance upon limited-reemployment exceeding
 4 limits. (1) Any A person under 65 years of age receiving a
 5 service retirement allowance, not as a beneficiary, who--is
 6 not-eligible-for-membership may return to employment covered
 7 employment by the retirement system for a period not to
 8 exceed 60-working-days 600 hours in any calendar year. The
 9 retirement allowance of--a--retiree--so--employed--will--be
 10 reduced-by-\$1-for-each-\$3-earned-in--excess--of--\$5,000 for
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 12 calendar year after retirement will be reduced \$1 for each
 13 \$1 earned after working 600 hours in that calendar year.

14 (2) A retiree 65 years of age or older who returns to
 15 employment covered by the retirement system is not EITHER
 16 subject to the 600-hour limitation of subsection (1) but OR
 17 may earn an amount equal to 50% of his current annual
 18 retirement benefits, WHICHEVER LIMITATION PROVIDES THE
 19 GREATER COMPENSATION TO THE RETIREE, in any calendar year
 20 before--having-his-benefits-reduced-\$1-for-each-\$1-above-50%
 21 of--his--annual--benefits. UPON REACHING THE APPLICABLE
 22 LIMITATION, THE RETIREE'S BENEFITS MUST BE REDUCED \$1 FOR
 23 EACH \$1 IN OTHER INCOME EARNED IN THAT CALENDAR YEAR.

24 (3) A retiree returning to employment covered by the
 25 retirement system shall report to the board the number of

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1 hours he has worked and the gross compensation paid to him
2 in that employment during any month after retirement.

3 (4) A retiree returning to employment covered by the
4 retirement system may elect to return to active membership
5 at any time during this period of covered employment."

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

-End-

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10 same service in two retirement systems supported wholly or
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19 (a) When an employer has entered into a collective
20 bargaining agreement which includes provisions for payments
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19 in the sixth- and seventh-class counties, unless they elect
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22 (12) persons employed for 6 months or less by the
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 10 writing after becoming a member and become eligible to
 11 receive credit for the excluded service under the provisions
 12 of 19-3-505;

13 (14) the chief administrative officer of any city or
 14 county where the chief administrative officer has filed an
 15 election in writing with the board to be excluded from
 16 membership, this election to be filed no later than July 1,
 17 1979, or 30 days after initial employment by a county or
 18 city, whichever is later;

19 ~~{15} all former members receiving a retirement~~
 20 ~~allowance other than as a beneficiary, serving in~~
 21 ~~employment if that employment does not exceed 60 working~~
 22 ~~days in any calendar year. These former members must be~~
 23 ~~reinstated into membership on the 61st working day in any~~
 24 ~~calendar year unless they elect to return to membership~~
 25 ~~prior to that day."~~

1 **Section 2.** Section 19-3-1106, MCA, is amended to read:

2 "19-3-1106. Limited reemployment -- Reduction reduction
 3 of retirement allowance upon limited-reemployment exceeding
 4 limits. (1) Any A person under 65 years of age receiving a
 5 service retirement allowance, not as a beneficiary, who--is
 6 not-eligible-for-membership may return to employment covered
 7 employment by the retirement system for a period not to
 8 exceed 60-working-days 600 hours in any calendar year. The
 9 retirement allowance of--a--retiree--so--employed--will--be
 10 reduced-by-\$1-for-each-\$3-earned-in--excess--of--\$5,000 for
 11 each any retiree exceeding this 600-hour limitation in any
 12 calendar year after retirement will be reduced \$1 for each
 13 \$1 earned after working 600 hours in that calendar year.

14 (2) A retiree 65 years of age or older who returns to
 15 employment covered by the retirement system is not EITHER
 16 subject to the 600-hour limitation of subsection (1) but OR
 17 may earn an amount equal to 50% of his current annual
 18 retirement benefits, WHICHEVER LIMITATION PROVIDES THE
 19 GREATER COMPENSATION TO THE RETIREE, in any calendar year
 20 before--having-his-benefits-reduced-\$1-for-each-\$1-above-50%
 21 of--his--annual--benefits. UPON REACHING THE APPLICABLE
 22 LIMITATION, THE RETIREE'S BENEFITS MUST BE REDUCED \$1 FOR
 23 EACH \$1 IN OTHER INCOME EARNED IN THAT CALENDAR YEAR.

24 (3) A retiree returning to employment covered by the
 25 retirement system shall report to the board the number of

1 hours he has worked and the gross compensation paid to him
2 in that employment during any month after retirement.

3 (4) A retiree returning to employment covered by the
4 retirement system may elect to return to active membership
5 at any time during this period of covered employment."

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

-End-