

1 *Change* BILL NO. *142*  
 2 INTRODUCED BY *Lynch Baulman*

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION  
 5 68-1602, R.C.M. 1947, TO PROVIDE THAT THOSE PERSONS EMPLOYED  
 6 BY THE LEGISLATURE DURING THE LEGISLATIVE SESSION ONLY MAY  
 7 ELECT WHETHER OR NOT TO BECOME MEMBERS OF THE PUBLIC  
 8 EMPLOYEES RETIREMENT SYSTEM."

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

11 Section 1. Section 68-1602, R.C.M. 1947, is amended to  
 12 read as follows:

13 "68-1602. Exclusions. The following persons shall not  
 14 become members of the retirement system:

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

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

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

3 (4) independent contractors unless written contract  
 4 specifies the creation of an employer-employee relationship  
 5 for purposes of retirement coverage under the Public  
 6 Employees' Retirement System Act;

7 (5) employees serving in employment which does not  
 8 exceed the equivalent of sixty (60) working days in any  
 9 fiscal year;

10 (6) employees in service on July 1, 1945, or prior  
 11 thereto who filed with the board of administration an  
 12 election not to become members; provided, any person so  
 13 excluded from membership by his own election may become a  
 14 member by meeting the requirements of the balance of this  
 15 subsection. Such a person must file an election to become a  
 16 member with the board of administration no later than July  
 17 1, 1975; provided, that any such person who is not an  
 18 employee on July 1, 1974, may make such filing no later than  
 19 one (1) year after subsequently becoming an employee. In  
 20 either event, such person must thereupon pay to the  
 21 retirement system the amount which he and his employer would  
 22 have contributed had he not been so excluded plus interest  
 23 which would have accumulated thereon. All benefits payable  
 24 thereafter to such person shall be the same as if such  
 25 person had never filed an election not to be a member;

INTRODUCED BILL

1 (7) persons directly appointed by the governor, who do  
2 not file with the board of administration an election in  
3 writing to become 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 such  
8 other system for service, it being the purpose of this  
9 section to prevent a person from receiving credit for the  
10 same service in two (2) retirement systems supported wholly  
11 or in part by public funds, and no person shall receive such  
12 credit under any circumstances; any member of the retirement  
13 system who, because of his employment by the state, shall be  
14 required to become a member of any such other systems, shall  
15 be considered solely for the purposes of making normal  
16 contributions as permanently separated from service; the  
17 accumulated contributions of any member who shall have died  
18 after becoming a member of such other system and before  
19 receiving said accumulated contributions, shall be paid to  
20 the beneficiary nominated by him to receive any death  
21 benefit payable under section 68-2301; employer  
22 contributions on the basis of compensation earned by members  
23 after the effective date of termination of membership herein  
24 because of the membership in such other system, shall be  
25 repaid to the employer; for the purpose of this section,

1 persons receiving pensions, retirement allowances or other  
2 payments, from any source, on account of employment other  
3 than as an employee as defined in this act, shall not be  
4 considered, because of such receipt, members of any other  
5 retirement or pension system; provided, however, that where  
6 an employer has entered into a collective bargaining  
7 agreement which includes provisions for payments or  
8 contributions by the employer in lieu of wages to a  
9 retirement or pension plan qualified by the Internal Revenue  
10 Service for its employees, such employees shall remain  
11 eligible, if otherwise qualified, for membership in the  
12 retirement system, and the payments or contributions in lieu  
13 of wages shall not be deemed a part of the employee's  
14 compensation for purposes of computing the employer or  
15 employee contributions to the retirement system;

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

20 (10) persons who become employees after they have  
21 reached their sixtieth birthday and have no creditable  
22 service in this system, and who do not file with the board  
23 of administration an election to become members;

24 (11) employees of county hospitals or county rest homes  
25 in the sixth and seventh class counties unless they elect to

1 file with the board of administration an election in writing  
2 to become members;

3 (12) Persons employed by the legislature during the  
4 legislative session only, who do not file with the board of  
5 administration an election in writing to become members."

6 Section 2. This act is effective on passage and  
7 approval and applies to employees of the forty-fourth and  
8 subsequent legislatures.

-End-

H B. 142

Approved by Committee  
on Legislative Admin.

HOUSE BILL NO. 142

INTRODUCED BY LYNCH, BARDANOUVE

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 68-1602, R.C.M. 1947, TO PROVIDE THAT THOSE PERSONS EMPLOYED BY THE LEGISLATURE DURING THE LEGISLATIVE SESSION ~~ONLY~~ MAY ELECT WHETHER OR NOT TO BECOME MEMBERS OF THE PUBLIC EMPLOYEES RETIREMENT SYSTEM."

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

Section 1. Section 68-1602, R.C.M. 1947, is amended to read as follows:

"68-1602. Exclusions. The following persons shall not become members of the retirement system:

(1) elective officers who have not filed with the board of administration written requests to become members; provided that any 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 provided further that if he shall affirmatively exercise 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 written contract 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 sixty (60) working days in any fiscal year;

(6) employees in service on July 1, 1945, or prior thereto who filed with the board of administration an election not to become members; provided, any person so excluded from membership by his own election may become a member by meeting the requirements of the balance of this subsection. Such a person must file an election to become a member with the board of administration no later than July 1, 1975; provided, that any such person who is not an employee on July 1, 1974, may make such filing no later than one (1) year after subsequently becoming an employee. In either event, such person must thereupon pay to the retirement system the amount which he and his employer would have contributed had he not been so excluded plus interest which would have accumulated thereon. All benefits payable thereafter to such person shall be the same as if such person had never filed an election not to be a member;

1 (7) persons directly appointed by the governor, who do  
2 not file with the board of administration an election in  
3 writing to become 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 such  
8 other system for service, it being the purpose of this  
9 section to prevent a person from receiving credit for the  
10 same service in two (2) retirement systems supported wholly  
11 or in part by public funds, and no person shall receive such  
12 credit under any circumstances; any member of the retirement  
13 system who, because of his employment by the state, shall be  
14 required to become a member of any such other systems, shall  
15 be considered solely for the purposes of making normal  
16 contributions as permanently separated from service; the  
17 accumulated contributions of any member who shall have died  
18 after becoming a member of such other system and before  
19 receiving said accumulated contributions, shall be paid to  
20 the beneficiary nominated by him to receive any death  
21 benefit payable under section 68-2301; employer  
22 contributions on the basis of compensation earned by members  
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25 repaid to the employer; for the purpose of this section,

1 persons receiving pensions, retirement allowances or other  
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6 an employer has entered into a collective bargaining  
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9 retirement or pension plan qualified by the Internal Revenue  
10 Service for its employees, such employees shall remain  
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14 compensation for purposes of computing the employer or  
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16 (9) court commissioners or appointive members of any  
17 board or commission who serve the state or any contracting  
18 employer intermittently and who are paid on a per diem  
19 basis;

20 (10) persons who become employees after they have  
21 reached their sixtieth birthday and have no creditable  
22 service in this system, and who do not file with the board  
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25 in the sixth and seventh class counties unless they elect to

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3 (12) Persons employed by the legislature during the  
4 legislative session only, who do not file with the board of  
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6 Section 2. This act is effective on passage and  
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