

HOUSE BILL 854

IN THE HOUSE

February 17, 1979

Introduced and referred to
Committee on State Adminis-
tration.

February 20, 1979

Committee recommend bill, do
not pass.

February 21, 1979

Report adopted.

1 *House* BILL NO. *854*
2 INTRODUCED BY *Landwehr*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE AN
5 OPTIONAL RETIREMENT PROGRAM FOR ADMINISTRATIVE OFFICERS AND
6 CERTAIN STAFF MEMBERS OF THE MONTANA UNIVERSITY SYSTEM;
7 AMENDING SECTIONS 19-4-208 AND 19-4-302, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. Section 1. Authority to establish
11 optional retirement program. The board of regents may
12 establish an optional retirement program, as provided in
13 [sections 1 through 8], for the administrative officers and
14 members of the instructional and scientific staff of the
15 Montana university system. The program may be an
16 independent plan or a part of a larger plan with respect to
17 some or all of the benefits provided. The benefits under the
18 program shall be provided through insurance policies or
19 annuity contracts, either fixed or variable, or through a
20 combination of such policies and contracts.

21 NEW SECTION. Section 2. Definition of teachers'
22 retirement system. In [sections 1 through 8], "teachers'
23 retirement system" means the teachers' retirement system of
24 the state of Montana provided for in 19-4-102.

25 NEW SECTION. Section 3. Participation in program. (1)

1 Administrative officers and members of the instructional and
2 scientific staff of the Montana university system may elect
3 to participate in the optional retirement program instead of
4 the teachers' retirement system. This election must be
5 exercised:

6 (a) by a person employed prior to July 1, 1979, in
7 such capacity, before January 1, 1980;

8 (b) by a person initially employed after July 1, 1979,
9 by the Montana university system, within 90 days after entry
10 into service or before January 1, 1980, whichever is later;
11 and

12 (c) by a person described in subsection (2), within 30
13 days after he receives written notice from the employing
14 institution that he is eligible or before January 1, 1980,
15 whichever is later.

16 (2) An employee becomes eligible to participate in the
17 optional retirement program upon the occurrence of the
18 following:

19 (a) the certification of the position held by him as a
20 position of an administrative officer or member of the
21 instructional or scientific staff; or

22 (b) his appointment, promotion, transfer, or
23 reclassification to a position previously so certified.

24 (3) The election must be exercised by filing a written
25 notice thereof with the teachers' retirement system and the

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1 disbursing officer of the employing institution. The
 2 election is effective as of the date notice thereof is filed
 3 with the teachers' retirement system or January 1, 1980,
 4 whichever is later.

5 (4) If an eligible officer or staff member fails to
 6 exercise his election as provided in this section, he must
 7 be a member of the teachers' retirement system.

8 (5) An election under this section is not effective
 9 unless the notice thereof filed with the disbursing officer
 10 of the employing institution is accompanied by an
 11 appropriate application, if one is required, for the
 12 issuance of a contract or contracts under the program.

13 NEW SECTION. Section 4. Effect on rights under
 14 teachers' retirement system. (1) An election under [section
 15 3] to participate in the optional retirement program is a
 16 waiver of all rights and benefits under the teachers'
 17 retirement system except as provided in this section.

18 (2) A person who is a member of the teachers'
 19 retirement system when he makes the election is considered,
 20 for the purpose of determining his eligibility for rights
 21 and benefits under that system, to be no longer employed in
 22 a capacity that allows his membership in that system as of
 23 the effective date of his election. However, if he does not
 24 withdraw his accumulated contributions, his continued
 25 service with a unit of the Montana university system is

1 considered creditable service in the teachers' retirement
 2 system for the purpose of determining his eligibility for a
 3 retirement allowance under that system or a death benefit
 4 under subsection (1) or (2) of 19-4-1001 that is dependent
 5 on a specified number of years of creditable service,
 6 attainment of a specified age while in service, or death
 7 while in service. The amount of such an allowance or
 8 benefit shall be computed solely on the basis of service
 9 otherwise creditable to him and his compensation during
 10 service that is otherwise creditable.

11 (3) A person who elects to participate in the optional
 12 retirement program is ineligible to be an active member of
 13 the teachers' retirement system as long as he remains
 14 continuously employed in any position by a unit of the
 15 Montana university system.

16 NEW SECTION. Section 5. Duties of board of regents.
 17 The board of regents shall:

18 (1) provide for the administration of the program;
 19 (2) designate the plan from which policies and
 20 contracts are to be purchased and approve the form and
 21 content of the policies and contracts, taking into
 22 consideration:

23 (a) the nature and extent of the rights and benefits
 24 to be provided by the policies and contracts for
 25 participants and their beneficiaries;

1 (b) the relation of such rights and benefits to the
2 amount of contributions to be made;

3 (c) the suitability of such rights and benefits to the
4 needs of the participants and the interests of the Montana
5 university system in the recruitment and retention of
6 administrative officers and members of the instructional and
7 scientific staff; and

8 (d) the ability of the designated plan to provide such
9 rights and benefits.

10 NEW SECTION. Section 6. Contributions. The board of
11 regents shall contribute on behalf of each participant in
12 the optional retirement program an amount equal to the
13 employer contribution required under the teachers'
14 retirement system. Each participant shall contribute an
15 amount equal to the employee contribution required under the
16 teachers' retirement system, and the disbursing officer of
17 the employing institution shall deduct that amount from the
18 compensation of the participant. The disbursing officer
19 shall pay both the regents' and the participant's
20 contributions to the designated plan for the benefit of the
21 participant.

22 NEW SECTION. Section 7. Payment of benefits. No
23 retirement, death, or other benefit may be paid by the state
24 or the board of regents under the optional retirement
25 program. Benefits are payable to participating employees and

1 their beneficiaries only by the designated plan in
2 accordance with the terms of the policies and contracts.

3 NEW SECTION. Section 8. Exemption from taxation and
4 legal process. All benefits and contributions under the
5 optional retirement program and the earnings thereon are
6 exempt from any state, county, or municipal tax; are not
7 subject to execution, garnishment, attachment, or any other
8 process; and are unassignable except as specifically
9 provided in the policies and contracts.

10 Section 9. Section 19-4-208, MCA, is amended to read:
11 "19-4-208. Duties of employer. Each employer shall:

12 (1) deduct the contribution of each member employed by
13 him at the rate prescribed by 19-4-602 from each salary
14 payment for each payroll period and transmit the
15 contribution each month to the secretary of the retirement
16 board;

17 (2) pay to the secretary of the retirement board the
18 employer's contribution prescribed by 19-4-605, at the time
19 that the employee contributions are transmitted to the
20 secretary;

21 (3) keep records and, as required by the retirement
22 board, furnish information to the board that is required in
23 the discharge of the board's duties;

24 (4) upon the employment of a person who is required to
25 become a member of the retirement system, inform him of his

1 rights and obligations relating to the retirement system;

2 ~~(5) whenever applicable, inform an employee of his~~

3 ~~right to elect to participate in the optional retirement~~

4 ~~program under [sections 1 through 8];~~

5 ~~(5)(6) at the request of the retirement board, certify~~

6 ~~the names of all persons who are eligible for membership or~~

7 ~~who are members of the retirement system; and~~

8 ~~(6)(7) notify the retirement board of the employment~~

9 ~~of a person eligible for membership and forward his~~

10 ~~membership application to the board."~~

11 Section 10. Section 19-4-302, MCA, is amended to read:

12 "19-4-302. Active membership. (1) Unless otherwise

13 provided by this chapter, the following persons must be

14 active members of the retirement system, with the exception

15 that those persons who became eligible for membership on

16 September 1, 1937, or on September 1, 1939, and who elected

17 not to become members under the provisions of the law at

18 that time are not required to be members:

19 (a) any person who is a teacher, principal, or

20 district superintendent as defined in 20-1-101;

21 (b) any person who is an administrative officer or a

22 member of the instructional or scientific staff of a unit of

23 the Montana university system ~~and who has not elected to~~

24 ~~participate in the optional retirement program under~~

25 ~~[sections 1 through 8], except as provided in 19-4-305;~~

1 (c) any person employed in an instructional services

2 capacity by the office of the superintendent of public

3 instruction, the office of a county superintendent, a public

4 institution of the state of Montana, the Montana state

5 school for the deaf and blind, or a school district;

6 (d) any person who has elected not to become a member

7 of the retirement system and is reentering service in a

8 capacity prescribed by (a), (b), or (c) of subsection (1);

9 (e) any person who has elected not to become a member

10 of the retirement system, who has been continuously employed

11 in a capacity prescribed by (a), (b), or (c) of subsection

12 (1) since the time of such election, and who may thereafter

13 elect to become a member of the retirement system.

14 (2) In order to be eligible for active membership, any

15 person described in subsection (1) must:

16 (a) be employed in the capacity prescribed for his

17 eligibility for at least 30 days in any fiscal year; and

18 (b) have the compensation for his creditable service

19 totally paid by an employer as defined herein.

20 (3) At any time a person's eligibility to become a

21 member of the retirement system is in doubt, the retirement

22 board shall determine his eligibility for membership. All

23 persons in similar circumstances shall be treated alike."

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