

CHAPTER NO. 149

SENATE BILL NO. 190

INTRODUCED BY STIMATZ

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

IN THE SENATE

January 22, 1979	Introduced and referred to Committee on Labor and Employment Relations.
February 2, 1979	Fiscal Note requested.
February 7, 1979	Committee recommend bill do pass as amended. Report adopted.
February 8, 1979	Fiscal Note returned. Printed and placed on members' desks.
February 9, 1979	Second reading, do pass.
February 10, 1979	Considered correctly engrossed.
February 12, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 13, 1979	Introduced and referred to Committee on Labor and Employment Relations.
March 1, 1979	Committee recommend bill be concurred in. Report adopted.
March 2, 1979	Second reading, concurred in as amended.
March 5, 1979	Third reading, concurred in as amended.

IN THE SENATE

March 6, 1979	Returned from second house. Concurred in as amended.
March 7, 1979	Second reading, amendments adopted.
March 8, 1979	Third reading, amendments adopted. Sent to enrolling. Reported correctly enrolled.

1 *Senate* BILL NO. *190*
 2 INTRODUCED BY *Stimatz*
 3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE
 6 EXCLUSIONS FROM MEMBERSHIP IN THE PUBLIC EMPLOYEES'
 7 RETIREMENT SYSTEM BY EXCLUDING STUDENTS IN PUBLIC
 8 EDUCATIONAL INSTITUTIONS AND THOSE CETA-FUNDED EMPLOYEES WHO
 9 ELECT TO BE EXCLUDED; AND TO ALLOW PERSONS SO EXCLUDED WHO
 10 LATER BECOME MEMBERS TO QUALIFY THE EXCLUDED SERVICE;
 11 AMENDING SECTION 19-3-403, MCA; PROVIDING AN IMMEDIATE
 12 EFFECTIVE DATE."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 19-3-403, MCA, is amended to read:
 16 "19-3-403. Exclusions. The following persons may not
 17 become members of the retirement system:

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

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

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

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

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

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

18 (7) persons directly appointed by the governor who do
 19 not file with the board an election in writing to become
 20 members;

21 (8) persons who are members of any other retirement or
 22 pension system supported wholly or in part by funds of the
 23 United States government, any state government, or political
 24 subdivision thereof and who are receiving credit in the
 25 other system for service, it being the purpose of this

1 subsection to prevent a person from receiving credit for the
 2 same service in two retirement systems supported wholly or
 3 in part by public funds, except when the service qualifies,
 4 is applied for, and purchased pursuant to 19-3-503. A member
 5 of the retirement system who, because of his employment by
 6 the state, is required to become a member of any other
 7 system described in this subsection shall be considered,
 8 solely for the purposes of making normal contributions, as
 9 permanently separated from service. Exclusion under this
 10 subsection is subject to the following exceptions:

11 (a) When an employer has entered into a collective
 12 bargaining agreement which includes provisions for payments
 13 or contributions by the employer in lieu of wages to a
 14 retirement or pension plan qualified by the internal revenue
 15 service for its employees, the employees remain eligible, if
 16 otherwise qualified, for membership in the retirement
 17 system, and the payments or contributions in lieu of wages
 18 may not be considered a part of the employees' compensation
 19 for purposes of computing the employer or employee
 20 contributions to the retirement system.

21 (b) For the purpose of this subsection (8), persons
 22 receiving pensions, retirement allowances, or other payments
 23 from any source on account of employment other than as an
 24 employee as defined in this chapter are not considered,
 25 because of such receipt, members of any other retirement or

1 pension system.

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

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

10 (11) employees of county hospitals or county rest homes
 11 in the sixth and seventh class counties, unless they elect
 12 to file with the board an election in writing to become
 13 members;

14 (12) persons employed by the legislature during the
 15 legislative session who do not file with the board an
 16 election in writing to become members;

17 ~~(13) students of any public elementary or high school,
 18 vocational-technical center, or community college or any
 19 unit of the state university system, except that a person so
 20 excluded from membership as a student of a public community
 21 college or a unit of the state university system who later
 22 becomes a member by otherwise becoming an employee may
 23 affirmatively exercise the option of qualifying the service
 24 excluded by this subsection by applying to the board in
 25 writing within 1 year after becoming a member and become~~

1 eligible to receive credit for the excluded service under
2 the provisions of 19-3-505:

3 (14) effective October 1, 1978, employees whose
4 positions are funded under the federal Comprehensive
5 Employment and Training Act (CETA) and who file with the
6 board elections not to become members. An employee who
7 exercises his election is considered terminated and is
8 eligible for a refund under 19-3-703, and any employer
9 contributions made on his behalf after October 1, 1978, must
10 be returned to the funding agency. If he is subsequently
11 transferred to non-CETA employment and consequently becomes
12 a member, he may revoke his election within 1 year after the
13 transfer date by filing a written revocation with the board
14 and he will then be eligible to qualify the service
15 previously excluded by this subsection under the provisions
16 of 19-3-505."

17 Section 2. Effective date. This act is effective on
18 its passage and approval.

-End-

SB 190

STATE OF MONTANA

Request No. 202-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 3, 1979, there is hereby submitted a Fiscal Note for Senate Bill 190 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

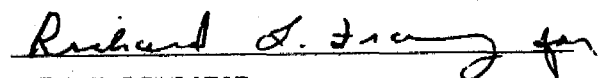
An act to revise the exclusions from membership in the Public Employees' Retirement System by excluding students in public educational institutions and those CETA-funded employees who elect to be excluded; and to allow persons so excluded who later become members to qualify the excluded service.

ASSUMPTION:

It is assumed that CETA employees will not elect coverage under PERS which, in turn, will provide the savings of the employer contributions to the PERS. Should an employee become permanent, the retirement credit can be qualified with the PERS.

FISCAL IMPACT:

Passage of this bill would produce potential savings to state government of \$214,000 in FY 80 and \$167,000 in FY 81. Savings of \$644,000 in FY 80 and \$504,000 in FY 81 would accrue to local governments. It is impossible to determine at this time which funds would be affected.


BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 2/8/79

Approved by Committee
on Labor & Employment
Relations

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10 BE EXCLUDED; AND TO ALLOW PERSONS SO EXCLUDED WHO LATER
11 BECOME MEMBERS TO QUALIFY THE EXCLUDED SERVICE; AMENDING
12 SECTION 19-3-403, MCA; PROVIDING AN IMMEDIATE EFFECTIVE
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23 after a subsequent election to office, and if he
24 affirmatively exercises the option, the contributions of the
25 employer because of his membership shall be the same as they

1 would have been had he not been so excluded;

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

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

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

10 (5) employees serving in employment which does not
11 exceed the equivalent of 60 working days in any fiscal year;

12 (6) employees in service on July 1, 1945, or prior
13 thereto who filed with the board elections not to become
14 members, except that a person so excluded from membership
15 may become a member and be eligible thereafter to receive
16 the same benefits that he would have received if he had
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18 requirements prescribed in 19-3-505 and 19-3-506;

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20 not file with the board an election in writing to become
21 members;

22 (8) persons who are members of any other retirement or
23 pension system supported wholly or in part by funds of the
24 United States government, any state government, or political
25 subdivision thereof and who are receiving credit in the

1 other system for service, it being the purpose of this
 2 subsection to prevent a person from receiving credit for the
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 4 in part by public funds, except when the service qualifies,
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 6 of the retirement system who, because of his employment by
 7 the state, is required to become a member of any other
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 13 bargaining agreement which includes provisions for payments
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 23 receiving pensions, retirement allowances, or other payments
 24 from any source on account of employment other than as an
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 2 pension system.

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 4 board or commission who serve the state or any contracting
 5 employer intermittently and who are paid on a per diem
 6 basis;

7 (10) persons who become employees after they have
 8 reached their 60th birthday and have no creditable service
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 12 in the sixth and seventh class counties, unless they elect
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1 writing within 1 year after becoming a member and become
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5 positions are funded under the federal Comprehensive
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7 board elections not to become members. An employee who
8 exercises his election is considered terminated and is
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10 contributions made on his behalf after October 1, 1978, must
11 be returned to the funding agency. If he is subsequently
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13 a member, he may revoke his election within 1 year after the
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21 MEMBERSHIP, THIS ELECTION TO BE FILED NO LATER THAN JULY 1,
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24 Section 2. Effective date. This act is effective on
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24 Section 2. Effective date. This act is effective on
25 its passage and approval.

HOUSE OF REPRESENTATIVES
March 2, 1979

Committee of the Whole Amendments to Senate Bill No. 190, third reading copy, as follows:

1. Page 4, line 18.
Following: "elementary"
Strike: "or"
Insert: "school,"
Following: "high school"
Insert: " , "

AND AS AMENDED,
BE CONCURRED IN