

House Bill 412

In The House

January 22, 1981	Introduced and referred to Committee on State Administration.
January 23, 1981	Fiscal note requested.
January 27, 1981	Fiscal note returned.
February 6, 1981	Committee recommend bill do not pass.

1 HOUSE BILL NO. 412  
2 INTRODUCED BY Menahan

3 BY REQUEST OF  
4 THE PUBLIC EMPLOYEES' RETIREMENT BOARD

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION  
7 19-3-403, MCA, TO PROVIDE FOR PAYMENT OF EMPLOYER  
8 CONTRIBUTIONS FOR MEMBERS APPOINTED BY THE GOVERNOR WHO  
9 ELECT TO BECOME MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT  
10 SYSTEM."

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

13 Section 1. Section 19-3-403, MCA, is amended to read:  
14 "19-3-403. Exclusions. The following persons may not  
15 become members of the retirement system:

16 (1) elective officers who have not filed with the  
17 board written requests to become members, except that a  
18 person so excluded from membership may later become a member  
19 by otherwise becoming an employee or by written request  
20 after a subsequent election to office, and if he  
21 affirmatively exercises the option, the contributions of the  
22 employer because of his membership shall be the same as they  
23 would have been 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 there is a written  
4 contract which specifies the creation of an  
5 employer-employee relationship for purposes of retirement  
6 coverage under The Public Employees' Retirement System Act;

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

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

16 (7) persons directly appointed by the governor who do  
17 not file with the board an election in writing to become  
18 members, ~~except that a person so excluded from membership~~  
19 ~~may affirmatively exercise the option to become a member,~~  
20 ~~and the employer contributions because of his membership~~  
21 ~~shall be the same as they would have been had he not been~~  
22 ~~excluded;~~

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

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

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

23 (b) For the purpose of this subsection (8), persons  
 24 receiving pensions, retirement allowances, or other payments  
 25 from any source on account of employment other than as an

1 employee as defined in this chapter are not considered,  
 2 because of such receipt, members of any other retirement or  
 3 pension system.

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

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

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

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

19 (13) students of any public elementary school, high  
 20 school, vocational-technical center, or community college or  
 21 any unit of the state university system, except that a  
 22 person so excluded from membership as a student of a public  
 23 community college or a unit of the state university system  
 24 who later becomes a member by otherwise becoming an employee  
 25 may affirmatively exercise the option of qualifying the

1 service excluded by this subsection by applying to the board  
2 in writing within 1 year after becoming a member and become  
3 eligible to receive credit for the excluded service under  
4 the provisions of 19-3-505;

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

19 (15) the chief administrative officer of any city or  
20 county where the chief administrative officer has filed an  
21 election in writing with the board to be excluded from  
22 membership, this election to be filed no later than July 1,  
23 1979, or 30 days after initial employment by a county or  
24 city whichever is later."

-End-

STATE OF MONTANA

REQUEST NO. 204-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 23, 19 81, there is hereby submitted a Fiscal Note for House Bill 412 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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 provide for payment of employer contributions for persons appointed by the Governor who elect to become members of the Public Employees' Retirement System.

Comments

The fiscal impact of the legislation is impossible to assess accurately because of two variables:

1. The number of employees who might at some future date wish to "buy back" service time.
2. The salary level and years of non-covered service of these employees.

If all employees not covered under the retirement system elected to repay contributions, the fiscal impact on the state would be significant (one year's contribution for one employee making \$20,000 per year would be \$1,240).

Under the current law, if a non-covered employee wishes to "buy back" service time, that employee must pay his own share plus the state's share. Under the proposed law, if a non-covered employee wished to "buy back" service time, that employee would only have to pay back his own share and the state must pay its share. Consequently, the potential impact could be large if a significant number of non-covered employees decided to "buy back" service time at one time. The amount of such impact is, as stated above, impossible to calculate.

*Sybil Manning for*  
BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: 1-27-81