

SENATE BILL NO. 39
INTRODUCED BY GOODOVER
BY REQUEST OF THE LEGISLATIVE COUNCIL

IN THE SENATE

January 5, 1981	Introduced and referred to Committee on State Administration.
January 9, 1981	Committee recommend bill do pass and be placed on consent calendar. Report adopted.
January 10, 1981	Bill printed and placed on members' desks.
January 13, 1981	Consent calendar discussion.
January 14, 1981	Consent calendar, do pass. Transmitted to House.

IN THE HOUSE

January 15, 1981	Introduced and referred to Committee on State Administration.
March 5, 1981	Committee recommend bill be concurred in. Report adopted.
March 7, 1981	Second reading, concurred in.
March 10, 1981	Third reading, concurred in. Ayes, 95; Noes, 1.

IN THE SENATE

March 11, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 contract which specifies the creation of an
2 employer-employee relationship for purposes of retirement
3 coverage under The Public Employees' Retirement System Act;
4 (5) employees serving in employment which does not
5 exceed the equivalent of 60 working days in any fiscal year;
6 (6) employees in service on July 1, 1945, or prior
7 thereto who filed with the board elections not to become
8 members, except that a person so excluded from membership
9 may become a member and be eligible thereafter to receive
10 the same benefits that he would have received if he had
11 never filed an election not to be a member by meeting the
12 requirements prescribed in 19-3-505 and 19-3-506;
13 (7) persons directly appointed by the governor who do
14 not file with the board an election in writing to become
15 members;
16 (8) persons who are members of any other retirement or
17 pension system supported wholly or in part by funds of the
18 United States government, any state government, or political
19 subdivision thereof and who are receiving credit in the
20 other system for service, it being the purpose of this
21 subsection to prevent a person from receiving credit for the
22 same service in two retirement systems supported wholly or
23 in part by public funds, except when the service qualifies,
24 is applied for, and purchased pursuant to 19-3-503. A member
25 of the retirement system who, because of his employment by

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1 the state, is required to become a member of any other
 2 system described in this subsection shall be considered,
 3 solely for the purposes of making normal contributions, as
 4 permanently separated from service. Exclusion under this
 5 subsection is subject to the following exceptions:

6 (a) When an employer has entered into a collective
 7 bargaining agreement which includes provisions for payments
 8 or 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, the employees remain eligible, if
 11 otherwise qualified, for membership in the retirement
 12 system, and the payments or contributions in lieu of wages
 13 may not be considered a part of the employees' compensation
 14 for purposes of computing the employer or employee
 15 contributions to the retirement system.

16 (b) For the purpose of this subsection (8), persons
 17 receiving pensions, retirement allowances, or other payments
 18 from any source on account of employment other than as an
 19 employee as defined in this chapter are not considered,
 20 because of such receipt, members of any other retirement or
 21 pension system.

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

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

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

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

13 (13) students of any public elementary school, high
 14 school, vocational-technical center, or community college or
 15 any unit of the state university system, except that a
 16 person so excluded from membership as a student of a public
 17 community college or a unit of the state university system
 18 who later becomes a member by otherwise becoming an employee
 19 may affirmatively exercise the option of qualifying the
 20 service excluded by this subsection by applying to the board
 21 in writing within 1 year after becoming a member and become
 22 eligible to receive credit for the excluded service under
 23 the provisions of 19-3-505;

24 (14) effective October 1, 1978, employees whose
 25 positions are funded under the federal Comprehensive

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE EXCLUSION
6 PROVISION IN THE PUBLIC EMPLOYEES' RETIREMENT ACT FOR
7 LEGISLATIVE EMPLOYEES; AMENDING SECTION 19-3-403, MCA."

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

10 Section 1. Section 19-3-403, MCA, is amended to read:
11 "19-3-403. Exclusions. The following persons may not
12 become members of the retirement system:

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

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

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

25 (4) independent contractors, unless there is a written

1 contract which specifies the creation of an
2 employer-employee relationship for purposes of retirement
3 coverage under The Public Employees' Retirement System Act;
4 (5) employees serving in employment which does not
5 exceed the equivalent of 60 working days in any fiscal year;
6 (6) employees in service on July 1, 1945, or prior
7 thereto who filed with the board elections not to become
8 members, except that a person so excluded from membership
9 may become a member and be eligible thereafter to receive
10 the same benefits that he would have received if he had
11 never filed an election not to be a member by meeting the
12 requirements prescribed in 19-3-505 and 19-3-506;

13 (7) persons directly appointed by the governor who do
14 not file with the board an election in writing to become
15 members;

16 (8) persons who are members of any other retirement or
17 pension system supported wholly or in part by funds of the
18 United States government, any state government, or political
19 subdivision thereof and who are receiving credit in the
20 other system for service, it being the purpose of this
21 subsection to prevent a person from receiving credit for the
22 same service in two retirement systems supported wholly or
23 in part by public funds, except when the service qualifies,
24 is applied for, and purchased pursuant to 19-3-503. A member
25 of the retirement system who, because of his employment by

1 the state, is required to become a member of any other
2 system described in this subsection shall be considered,
3 solely for the purposes of making normal contributions, as
4 permanently separated from service. Exclusion under this
5 subsection is subject to the following exceptions:

6 (a) When an employer has entered into a collective
7 bargaining agreement which includes provisions for payments
8 or 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, the employees remain eligible, if
11 otherwise qualified, for membership in the retirement
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13 may not be considered a part of the employees' compensation
14 for purposes of computing the employer or employee
15 contributions to the retirement system.

16 (b) For the purpose of this subsection (8), persons
17 receiving pensions, retirement allowances, or other payments
18 from any source on account of employment other than as an
19 employee as defined in this chapter are not considered,
20 because of such receipt, members of any other retirement or
21 pension system.

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

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

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

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

13 (13) students of any public elementary school, high
14 school, vocational-technical center, or community college or
15 any unit of the state university system, except that a
16 person so excluded from membership as a student of a public
17 community college or a unit of the state university system
18 who later becomes a member by otherwise becoming an employee
19 may affirmatively exercise the option of qualifying the
20 service excluded by this subsection by applying to the board
21 in writing within 1 year after becoming a member and become
22 eligible to receive credit for the excluded service under
23 the provisions of 19-3-505;

24 (14) effective October 1, 1978, employees whose
25 positions are funded under the federal Comprehensive

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

13 (15) 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."

-End-

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SECOND READING BILL
WAS NOT PRINTED.

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1 contract which specifies the creation of an
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