HOUSE BILL NO. 304

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INTRODUCED BY MUELLER

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

IN THE HOUSE

January 18, 1983	Introduced and referred to Committee on State Administration.
January 28, 1983	Committee recommend bill do pass. Report adopted.
January 29, 1983	Bill printed and placed on members' desks.
February 1, 1983	Second reading, do pass.
February 2, 1983	Considered correctly engrossed.
February 3, 1983	Third reading, passed. Transmitted to Senate.
IN THE SENATE	
Pebruary 4, 1983	Introduced and referred to Committee on State Administration.
March 3, 1983	Committee recommend bill be concurred in. Report adopted.
March 5, 1983	Second reading, concurred in.
March 8, 1983	Third reading, concurred in. Ayes, 48; Noes, 0.

IN THE HOUSE

March 8, 1983

March 9, 1983

Returned to House.

Sent to enrolling.

Reported correctly enrolled.

48th Legislature

LC 0853/01

Young BILL NO. 304 1 INTRODUCED BY 2 BY REQUEST OF THE PUBLIC EMPLOYEES* RETIREMENT BOARD 3 4 A BILL FOR AN ACT ENTITLED: **"AN ACT CLARIFYING STUDENT** 5 6 EXCLUSION FROM MEMBERSHIP IN THE PUBLIC EMPLOYEES* 7 RETIREMENT SYSTEM; AMENDING SECTION 19-3-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.* 8 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 11 Section 1. Section 19-3-403, MCA, is amended to read: 12 #19-3-403. Exclusions. The following persons may not 13 become members of the retirement system: 14 (1) elective officers who have not filed with the 15 board written requests to become members, except that a 16 person so excluded from membership may later become a member 17 by otherwise becoming an employee or by written request after a subsequent election to office, 18 and if he 19 affirmatively exercises the option, the contributions of the 20 employer because of his membership shall be the same as they 21 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;

1 (4) independent contractors, Unless there is a written z contract which specifies the creation of an 3 employer-employee relationship for purposes of retirement 4 coverage under The Public Employees' Retirement System Act; 5 (5) employees serving in employment which does not 6 exceed the equivalent of 120 working days in any fiscal year 7 who have not filed with the board a written request to become members. A member so excluded from membership by this 8 9 subsection may later become a member by otherwise becoming 10 an employee or by written request after the initial date of 11 exclusion. If he affirmatively exercises the option and pays 12 the employee contribution plus interest, the contributions 13 of the employer, because of his membership, shall be the same as they would have been had he not been so excluded 14 15 plus accrued interest on all employer contributions from the 16 date the contributions would have been made to the date of 17 payment;

18 (6) employees in service on July 1, 1945, or prior 19 thereto who filed with the board elections not to become 20 members, except that a person so excluded from membership 21 may become a member and be eligible thereafter to receive 22 the same benefits that he would have received if he had 23 never filed an election not to be a member by meeting the 24 requirements prescribed in 19-3-505 and 19-3-506;

25 (7) persons directly appointed by the governor who do

INTRODUCED BILL

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

(8) persons who are members of any other retirement or 3 pension system supported wholly or in part by funds of the 4 5 United States government, any state government, or political 6 subdivision thereof and who are receiving credit in the 7 other system for service, it being the purpose of this 8 subsection to prevent a person from receiving credit for the 9 same service in two retirement systems supported wholly or 10 in part by public funds, except when the service qualifies, 11 is applied for, and purchased pursuant to 19-3-503. A member 12 of the retirement system who, because of his employment by 13 the state, is required to become a member of any other 14 system described in this subsection shall be considered. 15 solely for the purposes of making normal contributions, as 16 permanently separated from service. Exclusion under this 17 subsection is subject to the following exceptions:

18 (a) When an employer has entered into a collective 19 bargaining agreement which includes provisions for payments 20 or contributions by the employer in lieu of wages to a 21 retirement or pension plan qualified by the internal revenue 22 service for its employees, the employees remain eligible, if 23 otherwise qualified, for membership in the retirement 24 system, and the payments or contributions in lieu of wages 25 may not be considered a part of the employees' compensation

for purposes of computing the employer or employee
 contributions to the retirement system.

3 (b) For the purpose of this subsection (8), persons 4 receiving pensions, retirement allowances, or other payments 5 from any source on account of employment other than as an 6 employee as defined in this chapter are not considered, 7 because of such receipt, members of any other retirement or 8 pension system.

9 (9) court commissioners or appointive members of any 10 board or commission who serve the state or any contracting 11 employer intermittently and who are paid on a per diem 12 basis:

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

17 (11) employees of county hospitals or county rest homes
18 in the sixth- and seventh-class counties, unless they elect
19 to file with the board an election in writing to become
20 members:

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

25 (13) <u>full-time</u> students <u>employed at and_attending_the</u>

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same of---ony public elementary school, high school, 1 vocational-technical center, or community college or any 2 unit of the state university system, except that a person so 3 excluded from membership as a student of a public community 4 5 college or a unit of the state university system who later becomes a member by otherwise becoming an employee may 6 7 affirmatively exercise the option of qualifying the service 8 excluded by this subsection by applying to the board in 9 writing after becoming a member and become eligible to receive credit for the excluded service under the provisions 10 11 of 19-3-505;

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12 (14) effective October 1, 1978, employees whose 13 positions are funded under the federal Comprehensive Employment and Training Act (CETA) and who file with the 14 15 board elections not to become members. An employee who 16 exercises his election is considered terminated and is cligible for a refund under 19-3-703, and any employer 17 13 contributions made on his behalf after October 1, 1978, must 19 be returned to the funding agency. If he is subsequently 20 transferred to non-CETA employment and consequently becomes 21 a member, he may revoke his election within 1 year after the 22 transfer date by filing a written revocation with the board 23 and he will then be eligible to qualify the service previously excluded by this subsection under the provisions 24 25 of 19-3-505.

1 (15) the chief administrative officer of any city or 2 county where the chief administrative officer has filed an 3 election in writing with the board to be excluded from 4 membership, this election to be filed no later than July 1, 5 1979, or 30 days after initial employment by a county or 6 city whichever is later;

7 (16) all former members receiving a retirement 8 allowance other than as a beneficiary serving in employment if that employment does not exceed 60 working days in any 9 10 fiscal year. These former members must be reinstated into 11 membership on the 61st working day in any fiscal year unless they elect to return to membership prior to that day." 12 NEW SECTION. Section 2. Effective date. This act is 13 effective on passage and approval. 14

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Approved by Committee on State Administration

Home BILL NO. 304 1 INTRODUCED BY M. 2 BY REQUEST OF THE PUBLIC EMPLOYEES* RETIREMENT BOARD 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING STUDENT 5 MEMBERSHIP IN THE PUBLIC EMPLOYEES* 6 EXCLUSION FROM 7 RETIREMENT SYSTEM; AMENDING SECTION 19-3-403, MCA; AND 8 **PROVIDING AN IMMEDIATE EFFECTIVE DATE."** 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 19-3-403, MCA, is amended to read: 11 12 *19-3-403. Exclusions. The following persons may not become members of the retirement system: 13 (1) elective officers who have not filed with the 14 15 board written requests to become members, except that a 16 person so excluded from membership may later become a member 17 by otherwise becoming an employee or by written request 18 after a subsequent election to office, and if he 19 affirmatively exercises the option, the contributions of the 20 employer because of his membership shall be the same as they 21 would have been had he not been so excluded; (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

25 purpose of training, but who receive compensation;

1 (4) independent contractors, unless there is a written contract which specifies the creation 2 of an employer-employee relationship for purposes of retirement з coverage under The Public Employees' Retirement System Act; 4 5 (5) employees serving in employment which does not exceed the equivalent of 120 working days in any fiscal year 6 who have not filed with the board a written request to 7 8 become members. A member so excluded from membership by this 9 subsection may later become a member by otherwise becoming 10 an employee or by written request after the initial date of 11 exclusion. If he affirmatively exercises the option and pays 12 the employee contribution plus interest, the contributions 13 of the employer, because of his membership, shall be the 14 same as they would have been had he not been so excluded 15 plus accrued interest on all employer contributions from the 16 date the contributions would have been made to the date of 17 payment;

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

(7) persons directly appointed by the governor who do

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SECOND READING

1 not file with the board an election in writing to become
2 members;

3 (8) persons who are members of any other retirement or pension system supported wholly or in part by funds of the 4 5 United States government, any state government, or political 6 subdivision thereof and who are receiving credit in the 7 other system for service, it being the purpose of this 8 subsection to prevent a person from receiving credit for the same service in two retirement systems supported wholly or 9 10 in part by public funds, except when the service qualifies, 11 is applied for, and purchased pursuant to 19-3-503. A member 12 of the retirement system who, because of his employment by 13 the state, is required to become a member of any other 14 system described in this subsection shall be considered. solely for the purposes of making normal contributions, as 15 16 permanently separated from service. Exclusion under this subsection is subject to the following exceptions: 17

18 (a) When an employer has entered into a collective bargaining agreement which includes provisions for payments 19 or contributions by the employer in lieu of wages to a 20 21 retirement or pension plan qualified by the internal revenue 22 service for its employees, the employees remain eligible, if 23 otherwise qualified, for membership in the retirement 24 system, and the payments or contributions in lieu of wages may not be considered a part of the employees" compensation 25

for purposes of computing the employer or employee
 contributions to the retirement system.

3 (b) For the purpose of this subsection (8), persons 4 receiving pensions, retirement allowances, or other payments 5 from any source on account of employment other than as an 6 employee as defined in this chapter are not considered, 7 because of such receipt, members of any other retirement or 8 pension system.

9 (9) court commissioners or appointive members of any 10 board or commission who serve the state or any contracting 11 employer intermittently and who are paid on a per diem 12 basis;

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

17 (11) employees of county hospitals or county rest homes 18 in the sixth- and seventh-class counties, unless they elect 19 to file with the board an election in writing to become 20 members;

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

25 (13) <u>full-time</u> students <u>employed at and attending</u>, the

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1 same of---ony public elementary school, high school, 2 vocational-technical center, or community college or any unit of the state university system, except that a person so 3 excluded from membership as a student of a public community 4 5 college or a unit of the state university system who later 6 becomes a member by otherwise becoming an employee may 7 affirmatively exercise the option of qualifying the service 8 excluded by this subsection by applying to the board in 9 writing after becoming a member and become eligible to receive credit for the excluded service under the provisions 10 11 of 19-3-505;

(14) effective October 1, 1978, employees whose 12 13 positions are funded under the federal Comprehensive 14 Employment and Training Act (CETA) and who file with the 15 board elections not to become members. An employee who 16 exercises his election is considered terminated and is 17 oligible for a refund under 19-3-703, and any employer 13 contributions made on his behalf after October 1, 1978, must 19 be returned to the funding agency. If he is subsequently transferred to non-CETA employment and consequently becomes 20 21 a member, he may revoke his election within 1 year after the transfer date by filing a written revocation with the board 22 23 and he will then be eligible to qualify the service 24 previously excluded by this subsection under the provisions 25 of 19-3-505.

1 (15) the chief administrative officer of any city or 2 county where the chief administrative officer has filed an 3 election in writing with the board to be excluded from 4 memoership, this election to be filed no later than July 1, 5 1979, or 30 days after initial employment by a county or 6 city whichever is later;

7 (16) all former members receiving a retirement 8 allowance other than as a beneficiary serving in employment 9 if that employment does not exceed 60 working days in any 10 fiscal year. These former members must be reinstated into 11 membership on the 61st working day in any fiscal year unless 12 they elect to return to membership prior to that day." 13 <u>NEX_SECTION</u> Section 2. Effective date. This act is

14 effective on passage and approval.

-End-

LC 0853/01

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LC 0853/01

INTRODUCED BY <u>MARKER</u> BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING STUDENT EXCLUSION FROM MEMBERSHIP IN THE PUBLIC EMPLOYEES" RETIREMENT SYSTEM; AMENDING SECTION 19-3-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

House BILL NO. 304

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 Section 1. Section 19-3~403, MCA, is amended to read:
 "19-3-403. Exclusions. The following persons may not
 become members of the retirement system:

(1) elective officers who have not filed with the 14 board written requests to become members, except that a 15 person so excluded from membership may later become a member 16 17 by otherwise becoming an employee or by written request 18 after a subsequent election to office, and if he 19 affirmatively exercises the option, the contributions of the 20 employer because of his membership shall be the same as they 21 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 there is a written 1 specifies the creation 2 contract which of ลก employer-employee relationship for purposes of retirement 3 coverage under The Public Employees" Retirement System Act; (5) employees serving in employment which does not 5 exceed the equivalent of 120 working days in any fiscal year 6 who have not filed with the board a written request to 7 become members. A member so excluded from membership by this 8 subsection may later become a member by otherwise becoming 9 10 an employee or by written request after the initial date of exclusion. If he affirmatively exercises the option and pays 11 12 the employee contribution plus interest, the contributions 13 of the employer, because of his membership, shall be the 14 same as they would have been had he not been so excluded plus accrued interest on all employer contributions from the 15 16 date the contributions would have been made to the date of 17 payment;

18 (6) employees in service on July 1, 1945, or prior 19 thereto who filed with the board elections not to become 20 members, except that a person so excluded from membership 21 may become a member and be eligible thereafter to receive 22 the same benefits that he would have received if he had 23 never filed an election not to be a member by meeting the 24 requirements prescribed in 19-3-505 and 19-3-506;

(7) persons directly appointed by the governor who do

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THIRD READING

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

3 (8) persons who are members of any other retirement or 4 pension system supported wholly or in part by funds of the 5 United States government, any state government, or political subdivision thereof and who are receiving credit in the 6 other system for service. It being the purpose of this 7 subsection to prevent a person from receiving credit for the 8 9 same service in two retirement systems supported wholly or in part by public funds, except when the service qualifies, 10 is applied for, and purchased pursuant to 19-3-503. A member 11 12 of the retirement system who; because of his employment by the state, is required to become a member of any other 13 14 system described in this subsection shall be considered, solely for the purposes of making normal contributions, as 15 16 permanently separated from service. Exclusion under this 17 subsection is subject to the following exceptions:

18 (a) When an employer has entered into a collective 19 bargaining agreement which includes provisions for payments 20 or contributions by the employer in lieu of wages to a retirement or pension plan qualified by the internal revenue 21 22 service for its employees, the employees remain eligible, if 23 otherwise qualified, for membership in the retirement system, and the payments or contributions in lieu of wages 24 may not be considered a part of the employees* compensation 25

for purposes of computing the employer or employee 1 2 contributions to the retirement system. (b) For the purpose of this subsection (8), persons 3 receiving pensions, retirement allowances, or other payments 4 5 from any source on account of employment other than as an employee as defined in this chapter are not considered, 6 because of such receipt, members of any other retirement or 7 pension system. 8 (9) court commissioners or appointive members of any 9 10 board or commission who serve the state or any contracting employer intermittently and who are paid on a per diem 11 12 basis: (10) persons who become employees after they have 13 reached their 60th birthday and have no creditable service 14 in this system and who do not file with the board an 15 election to become members; 16 (11) employees of county hospitals or county rest homes 17 18 in the sixth- and seventh-class counties, unless they elect 19 to file with the board an election in writing to become 20 members; 21 (12) persons employed for 6 months or less by the 22 legislature or the legislative council to perform work 23 related to the legislative session who do not file with the 24 board an election in writing to become members;

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13 NEW SECTION. Section 2. Effective date. This act is

14 effective on passage and approval.

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LC 0853/01

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HB 0304/02

1 HOUSE BILL NO. 304 2 INTRODUCED BY MUELLER 3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING STUDENT 5 EXCLUSION FROM MEMBERSHIP IN THE PUBLIC EMPLOYEES! 6 7 RETIREMENT SYSTEM; AMENDING SECTION 19-3-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." 8 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Saction 1. Section 19-3-403, MCA, is amended to read: 12 #19-3-403. Exclusions. The following persons may not 13 become members of the retirement system: (1) elective officers who have not filed with the 14 15 board written requests to become members, except that a 16 person so excluded from membership may later become a member 17 by otherwise becoming an employee or by written request 18 after a subsequent election to office, and if he 19 affirmatively exercises the option, the contributions of the 20 employer because of his membership shall be the same as they 21 would have been had he not been so excluded; 22 (2) inmates of state institutions who are allowed compensation for such service as they are able to perform; 23

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-End-

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