

HOUSE BILL NO. 304

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

February 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

Returned to House.

March 9, 1983

Sent to enrolling.

Reported correctly
enrolled.

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5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING STUDENT
6 EXCLUSION FROM MEMBERSHIP IN THE PUBLIC EMPLOYEES'
7 RETIREMENT SYSTEM; AMENDING SECTION 19-3-403, MCA; AND
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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
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
23 compensation for such service as they are able to perform;

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

1 (4) independent contractors, unless there is a written
2 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
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;

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

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HB 304

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
4 pension system supported wholly or in part by funds of the
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

1 for purposes of computing the employer or employee
2 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
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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
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25 (13) full-time students employed at and attending the

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 4 excluded from membership as a student of a public community
 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
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 11 of 19-3-505;

12 (14) effective October 1, 1978, employees whose
 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
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 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 NEW SECTION. Section 2. Effective date. This act is
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