

SENATE BILL NO. 159

INTRODUCED BY FULLER, J. BROWN

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

IN THE SENATE

January 18, 1985	Introduced and referred to Committee on State Administration.
January 31, 1985	Committee recommend bill do pass. Report adopted.
February 1, 1985	Bill printed and placed on members' desks.
February 2, 1985	Motion pass consideration.
February 4, 1985	Second reading, do pass.
February 5, 1985	Considered correctly engrossed.
February 6, 1985	Third reading, passed. Ayes, 49; Noes, 0.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on State Administration.
March 15, 1985	Committee recommend bill be concurrent in as amended. Report adopted.
March 19, 1985	Second reading, concurred in.
March 21, 1985	Third reading, concurred in.
	Returned to Senate with amendments.

IN THE SENATE

March 21, 1985

Received from House.

March 23, 1985

Second reading, amendments
concurred in.

March 26, 1985

Third reading, amendments
concurred in. Ayes, 49; Noes, 1.

Sent to enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 159
 2 INTRODUCED BY Fuller, G. Brown
 3 BY REQUEST OF THE PUBLIC
 4 EMPLOYEES' RETIREMENT BOARD

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE AMOUNT
 7 THAT A RETIREE MAY EARN IN COVERED EMPLOYMENT UNDER THE
 8 PUBLIC EMPLOYEES' RETIREMENT SYSTEM BEFORE RECEIVING A
 9 REDUCTION IN HIS RETIREMENT ALLOWANCE; CHANGING THE RATE AT
 10 WHICH A RETIREE'S ALLOWANCE WILL BE REDUCED AFTER HIS
 11 EARNINGS EXCEED THIS AMOUNT; AMENDING SECTIONS 19-3-403 AND
 12 19-3-1106, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY
 13 DATE AND AN IMMEDIATE EFFECTIVE DATE."

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

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

19 (1) elective officers who have not filed with the
 20 board written requests to become members, except that a
 21 person so excluded from membership may later become a member
 22 by otherwise becoming an employee or by written request
 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 120 working days in any fiscal year
 12 who have not filed with the board a written request to
 13 become members. A member so excluded from membership by this
 14 subsection may later become a member by otherwise becoming
 15 an employee or by written request after the initial date of
 16 exclusion. If he affirmatively exercises the option and pays
 17 the employee contribution plus interest, the contributions
 18 of the employer, because of his membership, shall be the
 19 same as they would have been had he not been so excluded
 20 plus accrued interest on all employer contributions from the
 21 date the contributions would have been made to the date of
 22 payment.
 23 (6) employees in service on July 1, 1945, or prior
 24 thereto who filed with the board elections not to become
 25 members, except that a person so excluded from membership

1 may become a member and be eligible thereafter to receive
 2 the same benefits that he would have received if he had
 3 never filed an election not to be a member by meeting the
 4 requirements prescribed in 19-3-505 and 19-3-506;

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

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

23 (a) When an employer has entered into a collective
 24 bargaining agreement which includes provisions for payments
 25 or contributions by the employer in lieu of wages to a

1 retirement or pension plan qualified by the internal revenue
 2 service for its employees, the employees remain eligible, if
 3 otherwise qualified, for membership in the retirement
 4 system, and the payments or contributions in lieu of wages
 5 may not be considered a part of the employees' compensation
 6 for purposes of computing the employer or employee
 7 contributions to the retirement system.

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

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

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

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

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

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

17 (14) effective October 1, 1978, employees whose
 18 positions are funded under the federal Comprehensive
 19 Employment and Training Act (CETA) and who file with the
 20 board elections not to become members. An employee who
 21 exercises his election is considered terminated and is
 22 eligible for a refund under 19-3-703, and any employer
 23 contributions made on his behalf after October 1, 1978, must
 24 be returned to the funding agency. If he is subsequently
 25 transferred to non-CETA employment and consequently becomes

1 a member, he may revoke his election within 1 year after the
 2 transfer date by filing a written revocation with the board
 3 and he will then be eligible to qualify the service
 4 previously excluded by this subsection under the provisions
 5 of 19-3-505.

6 (15) the chief administrative officer of any city or
 7 county where the chief administrative officer has filed an
 8 election in writing with the board to be excluded from
 9 membership, this election to be filed no later than July 1,
 10 1979, or 30 days after initial employment by a county or
 11 city, whichever is later;

12 (16) all former members receiving a retirement
 13 allowance, other than as a beneficiary, serving in
 14 employment if that employment does not exceed 60 working
 15 days in any fiscal calendar year. These former members must
 16 be reinstated into membership on the 61st working day in any
 17 fiscal calendar year unless they elect to return to
 18 membership prior to that day."

19 Section 2. Section 19-3-1106, MCA, is amended to read:
 20 "19-3-1106. Reduction of retirement allowance upon
 21 limited reemployment. Any person receiving a service
 22 retirement allowance, not as a beneficiary, who is not
 23 eligible for membership may return to covered employment for
 24 a period not to exceed 60 working days in any fiscal
 25 calendar year. The retirement allowance of a retiree so

1 employed will be reduced by \$1 for each ~~\$2~~ \$3 earned in
2 excess of ~~\$3,500~~ \$5,000 for each calendar year."

3 NEW SECTION. Section 3. Extension of authority. Any
4 existing authority of the public employees' retirement board
5 to make rules on the subject of the provisions of this act
6 is extended to the provisions of this act.

7 NEW SECTION. Section 4. Applicability. This act
8 applies retroactively, within the meaning of 1-2-109, to
9 covered employment performed after December 31, 1984.

10 NEW SECTION. Section 5. Effective date. This act is
11 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

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INTRODUCED BY Fuller, J. Brown
BY REQUEST OF THE PUBLIC
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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 board written requests to become members, except that a person so excluded from membership may later become a member by otherwise becoming an employee or by written request after a subsequent election to office, and if he affirmatively exercises the option, the contributions of the employer because of his membership shall be the same as they

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(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 contract which specifies the creation of an employer-employee relationship for purposes of retirement coverage under The Public Employees' Retirement System Act;
(5) employees serving in employment which does not exceed the equivalent of 120 working days in any fiscal year who have not filed with the board a written request to become members. A member so excluded from membership by this subsection may later become a member by otherwise becoming an employee or by written request after the initial date of exclusion. If he affirmatively exercises the option and pays the employee contribution plus interest, the contributions of the employer, because of his membership, shall be the same as they would have been had he not been so excluded plus accrued interest on all employer contributions from the date the contributions would have been made to the date of payment.
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1 may become a member and be eligible thereafter to receive
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 4 requirements prescribed in 19-3-505 and 19-3-506;

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 6 not file with the board an election in writing to become
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 10 United States government, any state government, or political
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 3 BY REQUEST OF THE PUBLIC
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-End-

STANDING COMMITTEE REPORT

HOUSE

March ~~XX~~ 15 19 85

MR. SPEAKER

We, your committee on State Administration

having had under consideration Senate Bill No. 159

Third reading copy (Blue)
color

INCREASE AMOUNT RETIREE MAY EARN UNDER PERS WITHOUT REDUCTION
IN BENEFITS

Respectfully report as follows: That Senate Bill No. 159

BE AMENDED AS FOLLOWS:

1) Title, line 11.

Following: ";"

Insert: "CLARIFYING EXCLUSIONS TO MEMBERSHIP UNDER THE
RETIREMENT SYSTEM;"

2) Page 5, line 17 through line 5, page 6.

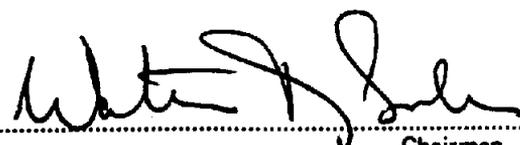
Strike: subsection (14) in its entirety

Renumber: subsequent subsections

AND AS AMENDED

BE CONCURRED IN

Jun 3/15 


Walter R. Sales, Chairman.

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 3 BY REQUEST OF THE PUBLIC
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 12 subdivision thereof and who are receiving credit in the
 13 other system for service, it being the purpose of this
 14 subsection to prevent a person from receiving credit for the
 15 same service in two retirement systems supported wholly or
 16 in part by public funds, except when the service qualifies,
 17 is applied for, and purchased pursuant to 19-3-503. A member
 18 of the retirement system who, because of his employment by
 19 the state, is required to become a member of any other
 20 system described in this subsection shall be considered,
 21 solely for the purposes of making normal contributions, as
 22 permanently separated from service. Exclusion under this
 23 subsection is subject to the following exceptions:

24 (a) When an employer has entered into a collective
 25 bargaining agreement which includes provisions for payments

1 or contributions by the employer in lieu of wages to a
 2 retirement or pension plan qualified by the internal revenue
 3 service for its employees, the employees remain eligible, if
 4 otherwise qualified, for membership in the retirement
 5 system, and the payments or contributions in lieu of wages
 6 may not be considered a part of the employees' compensation
 7 for purposes of computing the employer or employee
 8 contributions to the retirement system.

9 (b) For the purpose of this subsection (8), persons
 10 receiving pensions, retirement allowances, or other payments
 11 from any source on account of employment other than as an
 12 employee as defined in this chapter are not considered,
 13 because of such receipt, members of any other retirement or
 14 pension system.

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

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

23 (11) employees of county hospitals or county rest homes
 24 in the sixth- and seventh-class counties, unless they elect
 25 to file with the board an election in writing to become

1 members;

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

6 (13) full-time students employed at and attending the
7 same public elementary school, high school,
8 vocational-technical center, or community college or any
9 unit of the state university system, except that a person so
10 excluded from membership as a student of a public community
11 college or a unit of the state university system who later
12 becomes a member by otherwise becoming an employee may
13 affirmatively exercise the option of qualifying the service
14 excluded by this subsection by applying to the board in
15 writing after becoming a member and become eligible to
16 receive credit for the excluded service under the provisions
17 of 19-3-505;

18 ~~(14) effective October 17, 1978, employees whose~~
19 ~~positions are funded under the federal Comprehensive~~
20 ~~Employment and Training Act (CETA) and who file with the~~
21 ~~board elections not to become members. An employee who~~
22 ~~exercises his election is considered terminated and is~~
23 ~~eligible for a refund under 19-3-703, and any employer~~
24 ~~contributions made on his behalf after October 17, 1978, must~~
25 ~~be returned to the funding agency. If he is subsequently~~

1 transferred to non-CETA employment and consequently becomes
2 a member, he may revoke his election within 1 year after the
3 transfer date by filing a written revocation with the board
4 and he will then be eligible to qualify the service
5 previously excluded by this subsection under the provisions
6 of 19-3-505.

7 ~~(15)~~(14) the chief administrative officer of any city
8 or county where the chief administrative officer has filed
9 an election in writing with the board to be excluded from
10 membership, this election to be filed no later than July 1,
11 1979, or 30 days after initial employment by a county or
12 city, whichever is later;

13 ~~(16)~~(15) all former members receiving a retirement
14 allowance, other than as a beneficiary, serving in
15 employment if that employment does not exceed 60 working
16 days in any fiscal calendar year. These former members must
17 be reinstated into membership on the 61st working day in any
18 fiscal calendar year unless they elect to return to
19 membership prior to that day."

20 Section 2. Section 19-3-1106, MCA, is amended to read:
21 "19-3-1106. Reduction of retirement allowance upon
22 limited reemployment. Any person receiving a service
23 retirement allowance, not as a beneficiary, who is not
24 eligible for membership may return to covered employment for
25 a period not to exceed 60 working days in any fiscal

1 calendar year. The retirement allowance of a retiree so
2 employed will be reduced by \$1 for each \$2 \$3 earned in
3 excess of ~~\$3,500~~ \$5,000 for each calendar year."

4 NEW SECTION. Section 3. Extension of authority. Any
5 existing authority of the public employees' retirement board
6 to make rules on the subject of the provisions of this act
7 is extended to the provisions of this act.

8 NEW SECTION. Section 4. Applicability. This act
9 applies retroactively, within the meaning of 1-2-109, to
10 covered employment performed after December 31, 1984.

11 NEW SECTION. Section 5. Effective date. This act is
12 effective on passage and approval.

-End-