

HOUSE BILL NO. 228

INTRODUCED BY SWYSGOOD, GRADY
BY REQUEST OF THE STATE AUDITOR

IN THE HOUSE

JANUARY 15, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
FEBRUARY 3, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 4, 1987	PRINTING REPORT.
FEBRUARY 5, 1987	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 6, 1987	ENGROSSING REPORT.
FEBRUARY 7, 1987	THIRD READING, PASSED. TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 10, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
MARCH 4, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 6, 1987	SECOND READING, CONCURRED IN.
MARCH 9, 1987	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0. RETURNED TO HOUSE.

IN THE HOUSE

MARCH 10, 1987	RECEIVED FROM SENATE. SENT TO ENROLLING.
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1 House BILL NO. 228
 2 INTRODUCED BY *Ameywood Dandy*
 3 BY REQUEST OF THE STATE AUDITOR
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5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 6 33-1-711, MCA, TO REMOVE THE AUTOMATIC STAY OF AN ORDER UPON
 7 FILING NOTICE OF APPEAL UNDER THE MONTANA INSURANCE CODE."
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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 33-1-711, MCA, is amended to read:

11 "33-1-711. Appeals from the commissioner. (1) An
 12 appeal from the commissioner shall be taken only from an
 13 order on hearing or with respect to a matter as to which the
 14 commissioner has refused a hearing. Any person who was a
 15 party to such hearing or whose pecuniary interests are
 16 directly and immediately affected by any such order or
 17 refusal and who is aggrieved thereby may, within 30 days
 18 after the order has been mailed or delivered to the persons
 19 entitled to receive the same, the commissioner's order
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 21 delivered, or the commissioner's refusal to grant a hearing,
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 23 hearing. The appeal shall be taken to the district court of
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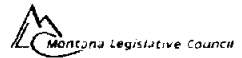
1 commissioner, except that in appeals from the suspension or
 2 revocation of the certificate of authority of a domestic
 3 insurer or of the license of an agent, solicitor, or surplus
 4 line agent, the person taking the appeal may at his option,
 5 in lieu of the district court of Lewis and Clark County,
 6 take the appeal to the district court of the county of
 7 Montana in which the insurer has its principal place of
 8 business or the licensee resides.

9 (2) Upon filing of the notice of appeal therein, the
 10 court shall have full jurisdiction and shall determine
 11 whether such filing shall operate as a stay of the order or
 12 action appealed from ~~except that in the following instances~~
 13 ~~the filing of the notice of appeal shall automatically stay~~
 14 ~~the order appealed from pending the judgment of the district~~
 15 ~~court on the appeal:~~

16 (a) ~~appeal from suspension or revocation of the~~
 17 ~~license of an agent, solicitor, or surplus line agent;~~

18 (b) ~~appeal from suspension or revocation of the~~
 19 ~~certificate of authority of an insurer.~~

20 (3) Within 20 days after filing of the copy of the
 21 notice of appeal in his office, the commissioner shall make
 22 and return to the court in which the appeal is pending a
 23 copy of his order appealed from and a full and complete
 24 transcript, duly certified by the commissioner, of his
 25 record of the hearing upon which the order was issued,



1 together with all exhibits and documentary evidence
 2 introduced thereat. If the appeal is from an action of the
 3 commissioner with respect to which a hearing was refused,
 4 the commissioner shall within such 20-day period make and
 5 return to the court a full and complete transcript, duly
 6 certified by him, of all documents on file in his office
 7 directly relating to the matter as to which such appeal is
 8 taken.

9 (4) Upon receipt of such transcripts and evidence, the
 10 court shall hear the matter de novo as soon as reasonably
 11 possible thereafter. Upon the hearing of the appeal, the
 12 court shall consider the evidence contained in the
 13 transcript, exhibits, and documents therein filed by the
 14 commissioner, together with such additional proper evidence
 15 as may be offered by any party to the appeal.

16 (5) After hearing the appeal, the court may affirm,
 17 modify, or reverse the order or action of the commissioner
 18 in whole or in part or remand the action to the commissioner
 19 for further proceedings in accordance with the court's
 20 direction.

21 (6) Costs shall be awarded as in civil actions.

22 (7) Appeal may be taken to the supreme court from the
 23 judgment of the district court as in other civil cases to
 24 which the state is a party. A stay of the effectiveness of
 25 any such judgment may be made only by order of the supreme

1 court upon the giving of such security as that court deems
 2 proper.

3 (8) This section shall not apply to appeals as to
 4 matters covered by chapter 16."

5 NEW SECTION. Section 2. Extension of authority. Any
 6 existing authority of the commissioner of insurance to make
 7 rules on the subject of the provisions of this act is
 8 extended to the provisions of this act.

-End-

1 House BILL NO. 229
 2 INTRODUCED BY Spaeth
 3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO TEMPORARILY REDUCE
 6 THE EMPLOYER AND EMPLOYEE CONTRIBUTION RATES TO THE PUBLIC
 7 EMPLOYEES' RETIREMENT SYSTEM DURING FISCAL YEARS 1988 AND
 8 1989; AMENDING SECTIONS 19-3-701 AND 19-3-801, MCA; AND
 9 PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 19-3-701, MCA, is amended to read:
 13 "19-3-701. Member's contribution to be deducted. (1)
 14 The normal contribution of each member is 6% of his
 15 compensation from July 1, 1975, to June 30, 1987; 5% of his
 16 compensation from July 1, 1987, to June 30, 1989; and 6% of
 17 his compensation from July 1, 1989, and thereafter. Payment
 18 of salaries or wages less the contribution shall be full and
 19 complete discharge and acquittance of all claims and demands
 20 whatsoever for the service rendered by members during the
 21 period covered by the payment, except their claims to the
 22 benefits to which they may be entitled under the provisions
 23 of this chapter.

24 (2) Each employer, pursuant to section 414(h)(2) of
 25 the federal Internal Revenue Code of 1954, as amended and

1 applicable on July 1, 1985, shall pick up and pay the
 2 contributions which would be payable by the member under
 3 subsection (1) for service rendered after June 30, 1985.

4 (3) The member's contributions picked up by the
 5 employer must be designated for all purposes of the
 6 retirement system as the member's contributions, except for
 7 the determination of a tax upon a distribution from the
 8 retirement system. These contributions must become part of
 9 the member's accumulated contributions but must be accounted
 10 for separately from those previously accumulated.

11 (4) The member's contributions picked up by the
 12 employer must be payable from the same source as is used to
 13 pay compensation to the member and must be included in the
 14 member's wages as defined in 19-1-102 and his compensation
 15 as defined in 19-3-104. The employer shall deduct from the
 16 member's compensation an amount equal to the amount of the
 17 member's contributions picked up by the employer and remit
 18 the total of the contributions to the board.

19 (5) For the purposes of this section, salaries and
 20 wages are considered earned when paid."

21 Section 2. Section 19-3-801, MCA, is amended to read:
 22 "19-3-801. Employer contribution rates -- actuarial
 23 determination. (1) Each employer shall contribute to the
 24 cost of benefits under the system. The amount of the
 25 employer contributions shall be computed by applying to

1 member's compensation the sum of the current service
 2 contribution rate and the unfunded liability contribution
 3 rate. The sum of these rates shall be 6.417% from July 1,
 4 1983, to June 30, 1987; 5% from July 1, 1987, to June 30,
 5 1989; and 6.417% from July 1, 1989, and thereafter.

6 (2) The actuary shall determine the current service
 7 contribution rate to be that level percentage of the present
 8 value of the future compensation of the average new member
 9 entering the system which equals the then present value of
 10 the excess of all prospective benefits in respect of such
 11 member over the member's own normal contributions.

12 (3) The actuary shall determine the minimum unfunded
 13 liability contribution rate to be that level percentage of
 14 the present value of the prospective compensation of all
 15 members for the 40-year period following the date of the
 16 determination which is equal to the unfunded liability on
 17 that date. The unfunded liability at any time is the excess
 18 of the present value of all future benefits payable in
 19 respect of all persons then entitled to benefits under the
 20 system over the sum of the retirement fund and the present
 21 values of the future current service contributions and
 22 normal contributions payable in respect of all such persons.

23 (4) For the purposes of this section, employer
 24 contribution rates will apply to member's compensation when
 25 actually paid."

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

5 NEW SECTION. Section 4. Effective date --
 6 termination. This act is effective July 1, 1987, and
 7 terminates June 30, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB229, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to temporarily reduce the employer and employee contribution rates to the Public Employees' Retirement System during fiscal years 1988 and 1989.

ASSUMPTIONS:

- Salaries for FY88 and FY89 are based upon the November 1986 payroll reports received by the Public Employees' Retirement Division for PERS-covered employees. No increase in salaries is assumed for the next biennium. If salaries increase, additional savings will accrue to employers and employees and less income will accrue to the PERS trust fund.
- Reducing the employer contribution rate from 6.417% of covered salaries to 5.0% of covered salaries and reducing the employee contribution rate from 6.0% of covered salaries to 5.0% of covered salaries for the period July 1, 1987 through June 30, 1988, would result in a 3.13 year increase in the amortization period required to fund the system's current unfunded liability (from 28.24 years to 31.37 years). (Information provided by Alton Hendrickson, consulting actuary to the Public Employees' Retirement System.)
- Assume 30% of state positions are funded through the general fund and 70% are non-general fund.
- PERS membership profile:

<u>Employee Group</u>	<u>Annualized Payroll</u>	<u>Total Members</u>	<u>Percent of Membership</u>	<u>Average Salary</u>	<u>% of Total Contributions</u>	<u>Total FTE's</u>	<u>% of FTE's</u>
State	\$195,850,043	9,643	37%	\$20,310	46%	9,190	38%
University	36,048,423	2,172	8%	16,597	8%	2,105	9%
Local Government	199,269,375	14,292	55%	13,943	46%	12,920	53%
TOTAL	\$431,167,841	26,107	(Avg.)	\$16,515		24,215	

(All figures projected from the November 1986 payroll report received by the Public Employees' Retirement System. FTE's have been calculated based upon the total hours reported, assuming 160 hours is one FTE.)

FISCAL IMPACT:

	<u>FY88</u>	<u>FY89</u>
<u>Employees</u>		
State (Including U-system)	\$3,286,001	\$3,286,001
Local Government	2,823,647	2,823,647
TOTAL	\$6,109,648	\$6,109,648

Assuming 30% of personal services is paid by the general fund the savings to the general fund is \$985,800 for each year of the biennium.

David L. Hunter DATE 1/21/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

Gary Spaeth DATE 1/21/87
 GARY SPAETH, PRIMARY SPONSOR

Fiscal Note for HB229, as introduced.

HB-229

Fiscal Note Request, HB229, as introduced.

Form BD-15

Page 2

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Will decrease expenditures of local government PERS employers (all counties, some cities, school districts, and other special districts) by \$2,823,647 in each year of the next biennium.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Will decrease contributions into the PERS trust fund by \$20,842,652 by June 30, 1988. This will increase the period required to amortize the unfunded liabilities of the system from 28.24 years to 31.37 years but will have no effect on the payment of current or future retirement benefits.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

There will need to be a coordination provision added to this bill in the event that both this legislation and the proposal to change the normal retirement service period to 25 years (LC 691) become law. This bill reduces the employee contribution rate from 6.0% to 5.0% for two years; LC 691 increases the employee contribution rate from 6.0% to 7.0% for 40 years. If both bills pass, the contribution rate would remain at 6% until July 1, 1988, at which time it would increase to 7% until July 1, 2027.

HB-229

APPROVED BY COMM. ON BUSINESS AND LABOR

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5 (8) This section shall not apply to appeals as to
 6 matters covered by chapter 16."

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 8 existing authority of the commissioner of insurance to make
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