

**Proposal for Legislation -- 2009**  
(for the 2009 Legislative Session)

RETURN TO: Dave Bohyer, Research Director  
Legislative Services Division  
Room 110, State Capitol  
PO Box 201706  
Helena, MT 59620-1706  
Phone: (406) 444-3592 FAX: (406) 444-3036  
email: [dbohyer@mt.gov](mailto:dbohyer@mt.gov)  
[http://test.leg.mt.gov/css/committees/interim/2007\\_2008/st\\_admin\\_vet\\_affairs/default.asp](http://test.leg.mt.gov/css/committees/interim/2007_2008/st_admin_vet_affairs/default.asp)

PROPOSER'S NAME/TITLE: David L. Senn, Executive Director

ORGANIZATION: Teachers' Retirement System

ADDRESS: 1500 East Sixth Avenue, Helena, MT  
PHONE: 406 444-3376  
FAX: 406 444-2641  
E-MAIL: [dsenn@mt.gov](mailto:dsenn@mt.gov)

1. What is the problem or issue?

The Teachers' Retirement Board generally has a housekeeping proposal to address administrative interpretation and clarification of laws governing the TRS and changes in federal laws and regulations.

The most significant new federal regulations requires the TRS change the definition of normal retirement age from any age with a minimum of 25 years of service, to a specific age. Under new IRS regulations, effective July 1, 2009, the current TRS definition of normal retirement age will no longer be acceptable. The regulations provide that "normal retirement age" must be an **age** that is "not earlier than the earliest age that is reasonably representative of the "typical retirement age" for the industry in which the covered workforce is employed". Several safe harbors are provided in the 2006 Pension Protection Act, under which a normal retirement age of at least age 62 is deemed to meet this new "typical retirement age" standard. For plans with normal retirement ages between ages 55 and 62, there will be a presumption that they are acceptable based on a "good faith determination of the typical retirement age for the industry in which the covered workforce is employed". For a normal retirement age that is lower than age 55, there is a presumption that it does not meet the new standard "absent facts and circumstances that demonstrate otherwise". (There are also exceptions for police and fire systems.)

2. What do you want the legislation to do?

Comply with federal regulation changes included in the Pension Protection Act of 2006 that are required to remain a qualification plan including the requirement to define normal retirement age, and to clarify statutes for administrative purposes related to membership for teachers and

administrators of community colleges, family law orders, optional retirement allowances, and monthly benefit payments.

Pending further guidance from IRS, Tax Counsel, and possibly further action by Congress, the Board proposes to change the TRS definition of normal retirement age to mean an age not less than 55 and eligible for unreduced retirement benefits. This change will not affect the calculation of benefits or the benefit amount members less than age 55 are eligible to receive. However, members wishing to return to work who are not “normal retirement age” IRS requires that the member have a “bona fide separation” from service. Under the IRS regulations, a “bona fide separation” from service would mean, that a member less than age 55 or receiving a reduced (early) retirement benefit could not have a prearranged agreement to be reemployed in any capacity with their same employer, or be guaranteed reemployment in any capacity with their same employer (including any part-time employment). If the member is reemployed before they receive their first TRS monthly benefit, or are guaranteed reemployment, they are considered to have continued in the status of an active member and are ineligible to receive retirement benefits.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

§§ 19-20-101, 19-20-302, 19-20-305, 19-20-603, 19-20-605, 19-20-702, 19-20-703, 19-20-731, 19-20-804, 20-15-106, and 20-15-403, MCA.

4. If the proposed change requires additional funding, what funding sources do you propose (e.g., an increase in or both)?

The proposed changes will not affect the pension liabilities of the TRS. There will be some administrative cost for system enhancements and form changes not expected to exceed \$5,000, which will be funded through investment earnings of the pension trust fund.

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.

None

6. If you are a holdover senator or a legislative candidate running unopposed, do you want the Legislative Services Division staff to consider this a bill draft request?

**PLEASE RETURN YOUR PROPOSAL FOR LEGISLATION by May 30, 2008**