

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

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

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1. What is the problem or issue?

When a retiree returns to work, his benefits are canceled and a new benefit is calculated when he/she again retires. This re-calculation can result in a benefit increase that is often underfunded. We found over 100 retirees who had returned to work since 1992 and re-retired with an average of 2.98 additional years, which resulted in an average benefit increase of \$469.01 when recalculated the second time. However, benefit increases have ranged from only a few dollars to over \$2,400 per month, with many of these increases actuarially unfunded. Any proposed change would only impact retirees who return to active status after the effective date of the legislation.

We recently discovered situations where a single position was split into two contracts, one TRS the second PERS, or the job description was changed to a PERS position, with a retired TRS member hired under the new contracts. In theory, splitting TRS positions or changing the classification of a position so that a retired TRS member could continue to be employed full-time (either under two contracts or assigned to PERS) would result in members drawing retirement benefits prior to when they would normally have retired. If members start drawing their TRS benefits earlier than normal, the System would pay more benefits over the retiree's lifetime, collect fewer contributions and earn less investment income, thus increasing the cost to fund benefits.

The TRS Board also discovered a situation that allows members to terminate their contract early in order to be eligible for benefits one month earlier than they otherwise would have been had they terminated at the end of the school year.

2. What do you want the legislation to do?

To address the funding concerns surrounding the first two “return to work” issues, the TRS Board has asked the Actuary to calculate the fiscal impact of past retirees who returned to work full-time and subsequently had benefits recalculated. In addition the Board is currently researching the best practices used by other State retirement systems to address these same problems. Based upon these findings, the Board anticipates legislation to revise current law, §19-20-731, MCA. What we have found as of the date of this writing is that many states require employers to pay an additional fee to the retirement system, usually equal to the combined contribution rates, to offset the additional cost of allowing retirees to return to work. Any proposed legislation will need to include a sunset and requirement that the Board review the actuarial cost of any changes adopted by the Legislature.

To stop the practice of members terminating just a few days prior to the end of their contract, the Board proposes to define “termination date” as the last day of the contract for anyone terminating within 30 days of the end of their contract.

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

§§ 19-20-703, 19-20-731, MCA.

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

If legislation were to require employers to contribute an additional fee equal to the combined contribution rates (17.1%) of all compensation paid to working retiree, the additional cost would be paid by school districts and state agencies who hire TRS retirees in lieu of a regular employee.

Any additional administrative expenses would be paid from the 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.

Every state has laws governing the ability of retired members to return to positions normally covered under the retirement systems. Some states, like Montana, limit the earnings and hours they can work, and others allow unlimited reemployment while continuing to receive retirement benefits; however, there are often other restrictions and/or required additional contributions.

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