

1 SENATE BILL NO. 42

2 INTRODUCED BY S. MALEK

3 BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ALLOCATION OF EMPLOYER CONTRIBUTIONS
6 AND THE EFFECTIVE DATE FOR CHANGES IN THE ALLOCATION OF EMPLOYER CONTRIBUTIONS IN
7 THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM DEFINED CONTRIBUTION PLAN AND THE UNIVERSITY
8 SYSTEM RETIREMENT PROGRAM; AMENDING SECTIONS 19-3-2117, 19-3-2121, AND 19-21-214, MCA;
9 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

10

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

12

13 **Section 1.** Section 19-3-2117, MCA, is amended to read:

14 **"19-3-2117. Allocation of contributions and forfeitures.** (1) The member contributions made under
15 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the
16 plan member's retirement account.

17 (2) Subject to subsection (3) and adjustment by the board as provided in 19-3-2121, of the employer
18 contributions under 19-3-316 received:

19 (a) an amount equal to:

20 (i) 4.19% of compensation must be allocated to the member's retirement account;

21 (ii) 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate;

22 (iii) 0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(b); and

23 (iv) 0.3% of compensation must be allocated to the long-term disability plan trust fund established
24 pursuant to 19-3-2141;

25 (b) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to
26 19-3-316(4)(b), the percentage of compensation specified in subsection (3) of this section ~~of compensation~~ must
27 be allocated in the following order:

28 ~~—— (i) to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability; and~~29 ~~(ii) to the long-term disability plan trust fund to provide disability benefits to eligible members; and~~30 (c) on July 1, 2013, continuing until ~~the additional employer contributions terminate pursuant to~~

1 ~~19-3-316(4)(b)~~ June 30, 2015, 1% of compensation must be allocated to the defined benefit plan unfunded
2 liabilities; and

3 (d) on July 1, 2015, continuing until the plan choice rate unfunded actuarial liability in the defined benefit
4 plan is fully paid, 1% of compensation must be allocated to the defined benefit plan as part of the plan choice rate.
5 Effective the first full pay period of the month following the board's verification that the plan choice rate unfunded
6 actuarial liability is fully paid, the 1% of compensation must be allocated to the member's account.

7 (3) The percentage of compensation to be contributed under subsection (2)(b) is 0.27% for fiscal year
8 2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30,
9 2024, the percentage of compensation to be contributed under subsection (2)(b) is 1.27%. If the plan choice rate
10 unfunded actuarial liability is paid off prior to the termination of the additional contributions pursuant to
11 19-3-316(4)(b), effective the first full pay period of the month following the board's verification that the plan choice
12 rate unfunded actuarial liability is fully paid, the percentage of compensation allocated as part of the plan choice
13 rate under this subsection must be allocated to the member's account until the additional contributions terminate
14 pursuant to 19-3-316(4)(b).

15 (4) Forfeitures of employer contributions and investment income on the employer contributions may not
16 be used to increase a member's retirement account. The board shall allocate the forfeitures under 19-3-2116 to
17 meet the plan's administrative expenses, including startup expenses."
18

19 **Section 2.** Section 19-3-2121, MCA, is amended to read:

20 **"19-3-2121. Determination and adjustment of plan choice rate and contribution allocations.** (1)
21 The board shall periodically review the sufficiency of the plan choice rate and shall adjust the allocation of
22 contributions under 19-3-2117 as specified in this section. The board shall collect and maintain the data
23 necessary to comply with this section.

24 (2) The plan choice rate set in 19-3-2117(2)(a)(ii) must be adjusted as provided in this section, taking
25 into account:

26 (a) as determined under subsection (3), the change in the normal cost contribution rate in the defined
27 benefit plan that is the result of member selection of the defined contribution plan; and

28 (b) as determined under subsection (4), the sufficiency of the plan choice rate to actuarially fund the
29 defined contribution plan member's appropriate share of the defined benefit plan's unfunded liabilities.

30 (3) The change in the normal cost contribution rate must be an amount equal to the difference between

1 the normal cost contribution rate in the defined benefit plan that would have resulted if all system members
2 remained in the defined benefit plan and the normal cost contribution rate in the defined benefit plan for the actual
3 members of the defined benefit plan, multiplied by the compensation paid to all of the members in the defined
4 benefit plan, divided by the compensation paid to all of the members in the defined contribution plan. The
5 measurements under this subsection must be based on the defined benefit plan in effect on the effective date
6 of the defined contribution plan until the board determines that the defined benefit plan has been amended in a
7 manner that significantly affects plan choices available to system members. After a board determination that the
8 defined benefit plan has been significantly changed, the measurements in this subsection with respect to
9 members entering the system after the significant change must be made on the basis of the defined benefit plan,
10 as amended.

11 (4) The sufficiency of the plan choice rate to actuarially fund the appropriate share of the defined benefit
12 plan's unfunded liabilities must be determined as follows:

13 (a) The board shall determine the number of years required to actuarially fund the defined benefit plan's
14 unfunded liabilities as of the June 30, 1998, actuarial valuation, which must be the initial schedule for the defined
15 contribution plan to actuarially fund the plan's share of the unfunded liabilities. The board shall reduce the
16 schedule by 1 year each biennium.

17 (b) During each subsequent actuarial valuation of the defined benefit plan conducted pursuant to
18 19-2-405, the board shall determine whether the plan choice rate minus the amount provided in subsection (2)(a)
19 of this section is sufficient to pay the unfunded liability obligations within the schedule determined under
20 subsection (4)(a) of this section. If the amount is insufficient to fund the liability over a period of 10 years longer
21 than the scheduled period or is more than sufficient to fund the liability over a period of 10 years earlier than the
22 scheduled period, the board shall determine to the nearest 0.1% the amount of the increase or decrease in the
23 plan choice rate that is required to actuarially fund the liabilities according to the established schedule.

24 (5) If the board determines that the plan choice rate should be increased or decreased, the plan choice
25 rate under 19-3-2117(2)(a)(ii) must be increased or decreased accordingly. If the plan choice rate is increased,
26 the allocation of employer contributions to member accounts under 19-3-2117(2)(a)(i) must be decreased by that
27 amount. If the plan choice rate is decreased, the allocation of employer contributions to member accounts under
28 19-3-2117(2)(a)(i) must be increased by that amount.

29 (6) If the board determines that the contribution rate to the disability plan under 19-3-2117(2)(a)(iv)
30 should be increased, the employer contribution to each member's account under 19-3-2117(2)(a)(i) must be

1 decreased by that amount. If the board determines that the contribution rate to the disability plan under
 2 19-3-2117(2)(a)(iv) should be decreased, the employer contribution to each member's account under
 3 19-3-2117(2)(a)(i) must be increased by that amount.

4 (7) By November 1 of the year of a determination pursuant to this section that the allocation of employer
 5 contributions under 19-3-2117(2) must be changed, the board shall notify system members, participating
 6 employers, employee and employer organizations, the governor, and the legislature of its determination and of
 7 the changes required.

8 (8) ~~Effective~~ A change in the allocation of contributions pursuant to this section is effective January 1 ~~of~~
 9 ~~the year after the regular legislative session that immediately follows a determination under this section, the plan~~
 10 ~~choice rate and the allocation of contributions under 19-3-2117(2) must be adjusted according to~~ following the
 11 board's determination."
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13 **Section 3.** Section 19-21-214, MCA, is amended to read:

14 **"19-21-214. Contributions and allocations for employees in positions covered under the public**
 15 **employees' retirement system.** (1) The contribution rates for employees in positions covered under the public
 16 employees' retirement system who elect to become program members pursuant to 19-3-2112 are as follows:

17 (a) the member's contribution rate must be the rate provided in 19-3-315; and

18 (b) the employer's contribution rate must be the rate provided in 19-3-316.

19 (2) Subject to subsection (3), of the employer's contribution:

20 (a) an amount equal to:

21 (i) 4.49% of compensation must be allocated to the participant's program account;

22 (ii) 2.37% of compensation must be allocated to the defined benefit plan under the public employees'
 23 retirement system as the plan choice rate; and

24 (iii) 0.04% of compensation must be allocated to the education fund pursuant to 19-3-112(1)(b); ~~and~~

25 (b) (i) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to
 26 19-3-316(4)(b), 0.27% of compensation must be allocated to the defined benefit plan to eliminate the plan choice
 27 rate unfunded actuarial liability.

28 (ii) on July 1, 2013, continuing until the additional employer contributions terminate pursuant to
 29 19-3-316(4)(b), the 0.27% contribution rate under subsection (2)(b)(i) must be increased by 0.1% each fiscal year
 30 through fiscal year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation

1 allocated under this subsection (2)(b) must be 1.27%. If the plan choice rate unfunded actuarial liability is paid
2 off before the additional employer contributions terminate pursuant to 19-3-316(4)(b), effective the first full pay
3 period of the month following the board's verification that the plan choice rate is fully paid, the percentage of
4 compensation allocated to the plan choice rate under this subsection (2)(b) must be allocated to the program
5 participant's account until the additional contributions terminate pursuant to 19-3-316(4)(b).

6 (c) on July 1, 2013, continuing until June 30, 2015, 1% of compensation must be allocated to the defined
7 benefit plan unfunded liabilities; and

8 (d) on July 1, 2015, 1% of compensation must be allocated to the defined benefit plan to pay the plan
9 choice rate unfunded actuarial liability. Effective the first full pay period of the month following verification by the
10 public employees' retirement board that the plan choice rate unfunded actuarial liability is fully paid, the 1% of
11 compensation must be allocated to the program participant's account.

12 (3) The allocations under subsection (2)(a) are subject to adjustment by the public employees' retirement
13 board, but only as described in and in a manner consistent with the express provisions of 19-3-2121."
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15 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.
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17 **NEW SECTION. Section 5. Retroactive applicability.** [Section 3(2)(b)(ii) and (2)(c)] apply retroactively,
18 within the meaning of 1-2-109, to contributions under 19-21-214(2)(b) on and after July 1, 2013.
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