

bulletin

Legislative changes effective July 1, 2017 and other reminders for TRS employers

Topics addressed in this bulletin

Section 1: Bona fide volunteerspage 2

The Legislature clarified that a *bona fide volunteer position* is not reportable to TRS. We have revised the following documents to ensure the necessary information is collected:

- **TRS FORM 146 – RETIRED MEMBER’S AND EMPLOYER’S NOTICE OF POSTRETIREMENT EMPLOYMENT**
- **TRS FACT SHEET #4 – VOLUNTEER SERVICE**

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- A. How to report “extra duty service”
- B. How to report fringe benefits converted to cash
- C. Unpaid in-service leave may now be purchased
- D. Earnings limitation determines return to active membership for disability retirees
- E. When teacher stipends or national board certification are reportable to TRS as earned compensation
- F. Veto of proposed changes to 19-20-732, MCA, regarding reemployment of certain TRS retirees

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Section 1. *Bona Fide Volunteer Position* – and associated procedural changes

Senate Bill 121 amended §19-20-302, MCA, which defines TRS active membership. The definition now clarifies that any person in a *bona fide volunteer position* is not an active member of TRS. To protect the retirement system, the law also provides some restrictions.

What does this mean for TRS employers? It means that a TRS retiree may serve in a volunteer capacity without a 150 calendar day break in service, as long as the position fully meets the “bona fide volunteer position” definition. **Please note:**

- TRS has revised **FORM 146 RETIRED MEMBER’S AND EMPLOYER’S NOTICE OF POSTRETIREMENT EMPLOYMENT**. The form requires the employer to certify compliance with the new provisions, which are explained in the recently revised **TRS FACT SHEET 4 VOLUNTEER SERVICE**.
 - Old versions of Form 146 will no longer be accepted. Please discard any blank copies of earlier versions you might have on hand.
- The revised form and fact sheet are provided on the TRS website. Use the revised form for any position filled on or after July 1, 2017 by a retired TRS member.

Section 2. Other legislative changes affecting TRS employers

- A. Extra duty service.** House Bill 67 amended 19-20-401, MCA to clarify how creditable service and earned compensation credit is calculated and awarded for extra duty service. This affects how TRS employers report earnings for part-time employees who are already TRS members or for non-members who might work enough hours for TRS membership.
- If an active TRS member is paid hourly, simply report to TRS the actual hours worked and the actual salary paid.
 - If an active TRS member is paid a single fee or stipend, report the actual stipend amount. TRS staff will convert the stipend amount to days of creditable service based on the daily rate of pay for an entry-level teacher for your specific school district.
$$\text{Stipend amount} \div \text{daily rate of pay} = \text{days of service credit}$$
 - For a non-TRS member: Use the above formula to help you determine whether the employee will meet the 210-hour or 30-day requirement for active membership in TRS.

B. Fringe benefits. House Bill 67 amended 19-20-805, MCA to eliminate fringe benefits converted to cash as an exception to earned compensation. Previously, fringe benefits converted to cash were not included in the calculation of the member's Average Final Compensation (AFC) unless the employer had reported this compensation for five or more consecutive years.

- Now, employers should simply report fringe benefits converted to cash as earned compensation.
- The existing rule that imposes a 110% cap on earnings will apply. All reported compensation above the 110% cap on earnings will be included as termination pay Option 2 in the calculation of retirement benefits.
- This provision does not apply to cash paid *in lieu of* a benefit, such as offering employees an option between health insurance or a cash amount.

C. In-Service Leave. House Bill 67 amended 19-20-403, MCA to state that TRS members may purchase service and compensation credit for "in-service leave," such as maternity leave, sabbatical leave, or other employer-approved leave of absence in which the member remains employed or job-attached.

- This is informational only for TRS employers. At this time, no forms or procedures have changed; however, changes may be made in the future if deemed necessary.

D. Disability retirees who work in TRS-reportable positions. TRS members approved for disability retirement sometimes can manage employment in a less strenuous job capacity. Previously, these disability retirees were unable to accept full-time employment without reduction or suspension of their TRS benefit and return to active membership.

- House Bill 67 amended 19-20-905, MCA to state that, as of July 1, 2017, exceeding the earnings limit causes reduction or suspension of a disability retiree's monthly benefit, the same as for other working retirees. The disability retiree's FTE status is not considered.
- Other established requirements for disability retirees, such as periodic medical certification of disability, are unchanged.
- No changes to employer wage and contribution reporting procedures are needed.

E. Stipends for national board certification. Senate Bill 115 amended 20-4-134, MCA to increase the state funding for and frequency of teacher stipends for national board certification. The legislation also changed the definition of earned compensation in TRS law. As of July 1, 2017, teacher stipends paid *pursuant to 20-4-134, MCA* are not reportable to TRS as earned

compensation; this means both the state-funded portion and up to \$500 of the employer matching portion of the stipend.

- A stipend, incentive or bonus paid for national board certification that is not paid pursuant to 20-4-134, MCA is reportable to TRS, provided it otherwise meets the definition of earned compensation, including that it is paid as part of a series of annual payments as provided in Rule 2.44.530 of the Administrative Rules of Montana (ARM).
 - A stipend, bonus, or incentive for national board certification that is included in the employer's salary matrix or is regularly paid pursuant to a collective bargaining agreement usually will meet this requirement.
- Stipends, incentives, or bonuses paid to working retirees, including those paid pursuant to 20-4-134, MCA are always reportable to TRS as remuneration to a retired member (19-20-731, MCA).

If you have questions about whether a stipend, incentive or bonus meets the requirements of Rule 2.44.530, ARM, please contact TRS for clarification.

F. Reemployment of a TRS retiree on an emergency basis. Senate Bill 143 attempted to revise a 2009 law that allows a school district to employ an eligible TRS retiree when the district has not been able to hire a qualified, non-retired candidate. When approved for hire under this law, the TRS retiree continues to draw full retirement benefits regardless of earnings.

The bill would have changed several aspects of the existing law (19-20-732, MCA). Most notably, it would have expanded the list of employers allowed to hire retirees under these provisions, would have reduced the amount of creditable service required from 30 to 27 years for many retirees, and would have changed the number of years (or parts of years) a retired member was eligible to work under the law. However, SB 143 was vetoed by Governor Bullock and did not become law.

This means the existing law and TRS approval process remain in effect. A school district and an eligible retiree who wish to fill a vacant position under these provisions must submit the appropriate TRS forms (143EE and 143ER) to request approval. These forms explain the eligibility requirements in more detail and are available on the TRS website: trs.mt.gov/TrsInfo/Forms.

Section 3. Wage and Contribution reporting reminders

Submit June reports on or before July 15

Please make sure to submit June reports by July 15, as TRS must close the fiscal year soon thereafter. June reports submitted after that date can significantly affect an employer's Net Pension Liability on their GASB 68 reports. Late reports also can result in service credit being understated on members' annual statements, especially for part-time or hourly employees.

Make sure you submit reports for the correct month

TRS sometimes receives Wage and Contribution reports for the wrong reporting period. Usually this occurs when an employer has just missed the TRS reporting due date, which is the 15th of the following month. When the employer logs into the reporting system after that date, the default month has advanced automatically, even if the previous month's report is not yet submitted.

Always confirm the month displayed in the Wage and Contribution reporting system before you submit a report. If you inadvertently skip a month, TRS must back out your report and resubmit it for the correct month. This causes delays and prevents service from being credited to member accounts in a timely manner.

Please call the TRS office if you have concerns or questions about legislative changes or any other information provided in this bulletin.