

CONDITIONS FOR REEMPLOYMENT OF TRS RETIREES UNDER HOUSE BILL 363

House Bill 363, 2009 Legislative Session, sponsored by Representative Llew Jones, allows a TRS retired member with 30 or more years of service to be reemployed as a teacher, specialist, or administrator on a full time basis by a school district without the loss or interruption their of TRS retirement benefits. A retired member hired under this provision is exempt from the one-third earning's and part-time employment limits under Montana Code Annotated (MCA) § 19-20-731.

HB 363 applies only to school district employers as defined in §§ 20-6-101 and 20-6-701, MCA, and does not include state agencies, counties, education cooperatives, the university system, community colleges, or any other employer participating in the TRS.

The intent behind HB 363, as explained by the Sponsor, is to help school districts fill positions when they can not find a qualified applicant, and to do so in such a way as to not have an adverse impact on the funding of the TRS. Therefore, before hiring a retired teacher, a school district must first certify to the TRS office that they advertised the position each school year but were unable to fill the position because the school district received no qualified applications or did not receive an acceptance of an offer of employment made to a non-retired teacher, specialist, or administrator. Advertisement of the position and certification of inability to fill the position must occur each school year prior to entering into a contract with a retired member, including re-contracting with the same retired member.

To be eligible for reemployment under HB 363, a retired member must have retired under the TRS with 30 or more years of creditable service. In addition, a TRS retired member must also have received at least two monthly retirement benefits. Monthly benefits are processed on the last business day of each month. For example, if a retiree terminated in June, they would not be eligible to be reemployed under this provision until September 1, after they have received their July and August retirement benefits.

The maximum number of years a TRS retired member may only be employed pursuant to HB 363 is three years during their lifetime. A year is defined to mean all or any part of a fiscal year (July 1 through June 30). Retired members reemployed under HB 363 will not receive any increase in their retirement benefits due to additional service time or salary received while working and drawing retirement benefits.

HB 363 will sunset on July 1, 2015; therefore, a contract cannot be for a term extending beyond June 30, 2015. In addition, to help fund any adverse impact HB 363 may have on TRS, school districts will be required to contribute to TRS the sum of all employee and employer contributions rates (17.11% effective July 1, 2009) on the salaries paid to retired members working under HB 363. **Note:** this rate will be paid by the school district; retired members reemployed under HB 363 will not be required to contribute to the TRS.

Before a retired member is offered a contract for reemployment pursuant to HB 363, the TRS must certify that the retired members meets the minimum requirements under HB 363 to be reemployed and continue to receive their TRS retirement benefits. Two new forms are available from the TRS office for this purpose: "Employer Certification to Employ a Retired Member" form and the "Retired Member Application to Return to Work" form. Both forms, together with a copy of the proposed contract, must be received by the TRS office prior to signing a contract with the retired member. The TRS will advise both the employer and retired member within 10 days of receipt of the forms if the retired member is eligible to be reemployed under the terms of HB 363.

Once the contract has been signed by both the school district and the retired member, a copy must be sent to the Teachers' Retirement System, Attention Karla Scharf, Retired Payroll Manager, Teachers' Retirement System, PO Box 20139, Helena, MT 59620-0139.

Important Note Regarding Retired Members: Entering into an employment contract prior to receiving verification from TRS that a retired member is eligible to be rehired under HB 363 could result in the individual being contractually bound to provide service as an employee, which, if the TRS denies eligibility under HB 363, may result in loss or interruption of retirement benefits during the term of that employment.

Please contact the TRS if you have any questions regarding retired members returning to work under HB 363 in a TRS eligible position at 406-444-3135, 406-444-3185, or 1-866-600-4045.