

HOUSE BILL NO. 359

INTRODUCED BY J. ISALY, P. STRAND, E. TILLEMANN, E. MATTHEWS, M. ROMANO, M. THANE, J. LYNCH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING WORKING RETIREE PROVISIONS UNDER THE TEACHERS' RETIREMENT SYSTEM; ALLOWING RETIRED TEACHERS TO MENTOR NEW TEACHERS; AMENDING SECTION 19-20-734, MCA; AMENDING SECTION 6, CHAPTER 135, LAWS OF 2023; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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

Section 1. Section 19-20-734, MCA, is amended to read:

"19-20-734. (Temporary) Break-in-service requirements. (1) Except as provided in 19-20-732 and subsection (2) of this section, a retired member who first applies for retirement benefits or applies for resumed or recalculated retirement benefits pursuant to 19-20-733:

(a) based on a date of termination of January 1, 2014, through December 31, 2023, may not be employed in a position reportable to the retirement system pursuant to 19-20-731 until the employee has a break in service of 150 calendar days commencing on the first day following the member's date of termination; or

(b) based on a date of termination of January 1, 2024, or later, may not be employed in a position reportable to the retirement system pursuant to 19-20-731 until the employee has a break in service of 120 calendar days commencing on the first day following the member's date of termination.

(2) A retired member may be employed by an employer during the break-in-service period only if:

(a) the retired member:

(i) is employed as a substitute classroom teacher to carry on the duties of a regular, licensed teacher who is temporarily absent or is employed to mentor a newly hired teacher;

(ii) performs the service after attaining retired member status; and

(iii) performs the service for no more than 45 days during the break-in-service period; or

(b) the retired member continues employment in a position in which the retired member was

1 appropriately reported to the public employees' retirement system prior to and at the time of retirement with the
2 teachers' retirement system.

3 (3) If a retired member is employed in a position reportable to the retirement system in violation of
4 this section:

5 (a) the retired member must be returned to active member status with the retirement system
6 retroactive to the member's date of retirement or the date of resumption of retirement benefits, whichever is
7 later, and the member's retirement benefits must be terminated;

8 (b) the member shall repay all retirement benefits received in violation of this section, plus interest
9 at the actuarially assumed rate; and

10 (c) the member and the employer shall pay to the retirement system contributions on all earned
11 compensation paid to the member for service performed during the break-in-service period, plus interest at the
12 actuarially assumed rate.

13 (4) For purposes of this section, the term "employed in a position reportable to the retirement
14 system" includes any work performed or service provided by a retired member to or on behalf of an employer,
15 including but not limited to work performed or service provided through a professional employer arrangement,
16 an employee leasing arrangement, as a temporary service contractor, or as an independent contractor.
17 (Terminates June 30, 2027 ~~2029~~—sec. 6, Ch. 135, L. 2023.)

18 **19-20-734. (Effective July 1, 2027 2029) Break-in-service requirements.** (1) Except as provided in
19 19-20-732 and subsection (2) of this section, a retired member who first applies for retirement benefits or
20 applies for resumed or recalculated retirement benefits pursuant to 19-20-733 based on a date of termination of
21 January 1, 2014, or later may not be employed in a position reportable to the retirement system pursuant to 19-
22 20-731 until the employee has a break in service of 150 calendar days commencing on the first day following
23 the member's date of termination.

24 (2) A retired member may be employed by an employer during the break-in-service period only if:

25 (a) the retired member:

26 (i) is employed as a substitute classroom teacher to carry on the duties of a regular, licensed
27 teacher who is temporarily absent;

28 (ii) performs the service after attaining retired member status; and

1 (iii) performs the service for no more than 45 days during the break-in-service period; or
 2 (b) the retired member continues employment in a position in which the retired member was
 3 appropriately reported to the public employees' retirement system prior to and at the time of retirement with the
 4 teachers' retirement system.

5 (3) If a retired member is employed in a position reportable to the retirement system in violation of
 6 this section:

7 (a) the retired member must be returned to active member status with the retirement system
 8 retroactive to the member's date of retirement or the date of resumption of retirement benefits, whichever is
 9 later, and the member's retirement benefits must be terminated;

10 (b) the member shall repay all retirement benefits received in violation of this section, plus interest
 11 at the actuarially assumed rate; and

12 (c) the member and the employer shall pay to the retirement system contributions on all earned
 13 compensation paid to the member for service performed during the break-in-service period, plus interest at the
 14 actuarially assumed rate.

15 (4) For purposes of this section, the term "employed in a position reportable to the retirement
 16 system" includes any work performed or service provided by a retired member to or on behalf of an employer,
 17 including but not limited to work performed or service provided through a professional employer arrangement,
 18 an employee leasing arrangement, as a temporary service contractor, or as an independent contractor."
 19

20 **Section 2.** Section 6, Chapter 135, Laws of 2023, is amended to read:

21 **"Section 6. Termination.** ~~(1) [Sections Section 1 and 3] terminate/terminates June 30, 2027.~~

22 ~~(2) [Section 3] terminates June 30, 2029."~~

23
 24 NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2025.

25
 26 NEW SECTION. **Section 4. Termination.** [This act] terminates June 30, 2029.

27 - END -