

HOUSE BILL NO. HB0095

State retirement plans-ad hoc payment.

Sponsored by: Representative(s) Harshman, Henderson, Olsen,
Schwartz and Sweeney

A BILL

for

1 AN ACT relating to public employee retirement plans;
2 providing for a single, additional, noncumulative benefit
3 payment under the Wyoming Retirement Act, the Wyoming State
4 Highway Patrol, Game and Fish Warden and Criminal
5 Investigator Retirement Act and the Firemen's Pension
6 Account Reform Act of 1981; specifying legislative intent
7 and making legislative findings; requiring a study of plans
8 administered by the Wyoming retirement system board or
9 director; requiring reports and certifications; providing
10 an appropriation; and providing for an effective date.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

13

14 **Section 1.**

15

1 (a) It is the intent of the legislature to:

2

3 (i) Provide a single benefit payment to retirees
4 within specified Wyoming public employee retirement plans
5 as provided in this act;

6

7 (ii) Review public employee retirement plans to
8 determine if adjustments for inflation can be made while
9 still keeping the plans actuarially sound.

10

11 (b) The legislature finds:

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13 (i) Wyoming public employee retirement plans
14 have existed since as early as 1927. Cost-of-living or
15 other benefit adjustments have been made in various public
16 employee retirement plans on an ongoing basis since as
17 early as 1953;

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19 (ii) 2012 Wyoming Session Laws, Chapter 107,
20 made significant modifications to cost-of-living and other
21 benefit increases in public employee retirement plans.
22 While finding that the actuarial funding levels of the
23 Wyoming plans were higher than many public employee

1 retirement plans in other states, the legislature found
2 that "as constructed by statute, the Wyoming plans were not
3 intended to and cannot support cost-of-living or other
4 benefit increases";

5

6 (iii) The 2012 enactment removed the authority
7 of the board of the Wyoming retirement system to provide
8 cost-of-living adjustments and placed further restrictions
9 on cost-of-living adjustments. Since the 2012 enactment,
10 no cost-of-living adjustments or other benefit increases
11 have been made under any of the plans subject to the
12 restrictions imposed by that enactment;

13

14 (iv) Wyoming law has provided, since the
15 initiation of the largest state retirement plan in 1949,
16 that the enactment of the plan shall not constitute a
17 contract or create other rights other than to receive a
18 return of contributions upon withdrawal. The act was
19 recreated in 1953 and both reiterated that no contract was
20 created and provided that the state was not incurring any
21 future obligation or liability other than to make the
22 employer contributions specified. Those provisions have
23 remained through the current day. However, the legislature

1 is authorized to make appropriations to satisfy moral
2 obligations of the state. State v. Carter, 215 P. 477
3 (Wyo. 1923). Payment under these retirement plans and this
4 act is not a gift to the employee but is a recognition of a
5 moral and equitable obligation;

6

7 (v) While the stability of Wyoming's retirement
8 plans is critical, fair treatment of public employees is
9 also important in order to employ and retain dedicated
10 employees, as recognized by past legislative actions.

11

12 **Section 2.**

13

14 (a) The board of the Wyoming retirement system shall
15 review the findings underlying the enactment of 2012
16 Wyoming Session Laws, Chapter 107, and report to the joint
17 appropriations committee:

18

19 (i) Subsequent legislative and board actions and
20 other facts that affect the findings of the 2012 enactment;

21

1 (ii) The effect of inflation on retirees since
2 the last benefit adjustments were provided to retirees in
3 each public employee retirement plan;

4

5 (iii) Eligibility of retirees under each of the
6 plans for social security benefits and the effect that
7 eligibility for social security benefits:

8

9 (A) Was and is considered in establishing a
10 plan's benefits and contribution rates for active
11 employees;

12

13 (B) Has in offsetting benefit purchasing
14 power reduced as a result of inflation.

15

16 (iv) Existing and projected funding ratios for
17 each retirement plan, under current law and under any
18 benefit, contribution or other adjustment proposed by the
19 board for each plan;

20

21 (v) An explanation of each plan, providing:

22

1 (A) The contribution rates by employer and
2 employee and identifying mandated employee "out-of-pocket"
3 contributions;

4

5 (B) An explanation of eligibility
6 requirements for normal and early retirement and disability
7 benefits and how benefits are calculated;

8

9 (C) Annual benefits paid;

10

11 (D) Historical changes to each plan; and

12

13 (E) Number of active, inactive and retired
14 participants under each plan.

15

16 (vi) Funds needed to fund each plan at an
17 actuarial funded ratio of one hundred percent (100%) at the
18 time of the report and at a thirty (30) year projection,
19 and benefit adjustments that would reach these ratios
20 without increases in funding that are not currently
21 provided by law;

22

1 (vii) Recommended modifications to current law
2 that provide parameters under which benefit adjustments may
3 be authorized, including:

4

5 (A) Recommended actuarial funded ratios;

6

7 (B) An index by which to measure true cost
8 increases or decreases for retirees;

9

10 (C) Minimum and maximum adjustments over
11 specified periods and the immediate and projected cost of
12 the adjustments.

13

14 (b) The board shall include within its review the
15 feasibility of establishing an endowment within each
16 retirement fund or account to provide either regular cost-
17 of-living adjustments or ad hoc adjustments for retirees.
18 The board shall consider the possibility of funding the
19 endowments with any portion of investment returns that are
20 above the assumed rate of return used by the board in
21 calculating the actuarial funding level of each plan and by
22 using earnings from the investment of endowed funds.

23

1 (c) The report required by this section shall be
2 submitted not later than September 1, 2022.

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4 (d) The joint appropriations committee shall consider
5 the report and recommendations required by this section and
6 may develop legislation as the committee determines
7 appropriate for introduction in the 2023 general session of
8 the legislature.

9

10 **Section 3.** As used in sections 1, 2 and 4 of this
11 act, "public employee retirement plan" or "retirement plan"
12 includes all retirement plans administered by the Wyoming
13 retirement board, the volunteer firefighter, EMT and search
14 and rescue pension plan under W.S. 35-9-616 through
15 35-9-628 and the paid firemen plan A administered by the
16 Wyoming retirement board under W.S. 15-5-201 through
17 15-5-209.

18

19 **Section 4.**

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21 (a) A single, additional payment shall be made on or
22 before July 1, 2023 to each eligible person receiving a
23 service pension, survivor's pension, retirement benefit,

1 survivor benefit, death benefit or disability pension or
2 benefit under a retirement plan other than the paid fireman
3 A plan administered by the Wyoming retirement board under
4 W.S. 15-5-201 through 15-5-209. The additional payment
5 shall be limited to persons who first began receiving
6 benefits prior to July 1, 2021, either alone or in
7 combination with a member or retired or disabled employee
8 if the person is a survivor. If the person is a survivor,
9 the payment date shall be based on the initial retirement
10 or disability benefit of the applicable employee. Each
11 payment to an eligible person shall be in an amount
12 calculated by multiplying the eligible person's existing
13 annual benefit by one-tenth of one percent (0.1%) for each
14 year his retirement or disability benefit was effective
15 prior to July 1, 2021, or if the person is a survivor for
16 each year the applicable employee's benefit was effective
17 prior to July 1, 2021, up to a maximum amount of three
18 percent (3%) of the existing annual benefit. The
19 additional payment under this section shall not be ongoing,
20 cumulative or in any way affect any future benefits paid to
21 any person.

22

1 (b) There is appropriated five million dollars
2 (\$5,000,000.00) from the general fund to the board of the
3 Wyoming retirement system for the purpose of making the
4 payment as provided in subsection (a) of this section. This
5 amount shall be allocated to each retirement plan on a
6 proportional basis using the amount of payments calculated
7 under subsection (a) of this section. This appropriation
8 shall not be transferred or expended for any other purpose
9 and any unexpended, unobligated funds remaining from this
10 appropriation shall revert as provided by law on June 30,
11 2024. It is the intent of the legislature that this
12 appropriation not be included in the board's standard
13 budget for the immediately succeeding fiscal biennium.

14

15 (c) Notwithstanding W.S. 9-3-454, any amount required
16 to make the payment as provided in subsection (a) of this
17 section in addition to the appropriation provided under
18 subsection (b) of this section shall be provided from
19 amounts within the applicable retirement plans and then
20 only in the amount necessary to make payments applicable to
21 persons who receive benefits from the retirement plan from
22 which the money is drawn.

23

1 **Section 5.** This act is effective immediately upon
2 completion of all acts necessary for a bill to become law
3 as provided by Article 4, Section 8 of the Wyoming
4 Constitution.

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6

(END)