

## HOUSE BILL NO. HB0112

Wyoming retirement plans-adjustments.

Sponsored by: Representative(s) Henderson, Brown, Connolly,  
Haley, Harshman and Sweeney and Senator(s)  
Pappas

A BILL

for

1 AN ACT relating to retirement benefits administered by the  
2 Wyoming retirement system; providing for a single,  
3 additional, noncumulative benefit payment under the Wyoming  
4 Retirement Act, the Wyoming State Highway Patrol, Game and  
5 Fish Warden and Criminal Investigator Retirement Act, the  
6 Wyoming Judicial Retirement Act, and the Firemen's Pension  
7 Account Reform Act of 1981 and the volunteer firefighter,  
8 EMT and search and rescue pension account; providing an  
9 appropriation; specifying legislative intent and making  
10 legislative findings; requiring a study for future  
11 retirement plan benefit adjustments; and providing for an  
12 effective date.

13

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

15

1           **Section 1.**

2

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

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5                   (i) Provide a single, immediate, small benefit  
6 payment to current retirees within the Wyoming public  
7 employee retirement plans who have received no cost-of-  
8 living adjustments for over a decade and who have been  
9 retired for more than five (5) years, in recognition of a  
10 dollar's reduced purchasing power over the past decade;

11

12                   (ii) Structure the public employee retirement  
13 plans in a responsible manner with ongoing retirement plan  
14 fund management by the board of the Wyoming retirement  
15 system and other boards managing the retirement plans,  
16 including providing timely adjustments for inflation to  
17 maintain plan value, and as an incentive to recruit and  
18 retain high quality workers who provide years of public  
19 service for the public benefit.

20

21           (b) The legislature finds:

22

1           (i) Wyoming public employee retirement plans  
2 have existed since as early as 1927. 1927 Wyoming Session  
3 Laws, Chapter 14 (providing for judicial retirement  
4 benefits). Nearly eighty thousand (80,000) public  
5 employees are retirees, vested former employees or active  
6 employees in Wyoming's public employee retirement plans.  
7 The largest public employee plan, currently covering over  
8 sixty-nine thousand (69,000) or approximately eighty-seven  
9 percent (87%) of public employees and retirees within the  
10 existing eight (8) public employee retirement plans, was  
11 established in 1949 and recreated in 1953. (1949 Wyoming  
12 Session Laws, Chapter 42, 1953 Wyoming Session Laws,  
13 Chapter 114);

14

15           (ii) Cost-of-living or other benefit adjustments  
16 have been made in various public employee retirement plans  
17 on an ongoing basis since as early as 1953 for the judicial  
18 retirement plan and 1978 for the largest retirement plan,  
19 resulting in benefit adjustments for past and future  
20 retirees. (1953 Wyoming Session Laws, Chapter 203, 1978  
21 Wyoming Session Laws, Chapter 50). Cost-of-living  
22 adjustments were provided for retirees in the largest plan  
23 each year from 1991 through 2008;

1

2           (iii) 2012 Wyoming Session Laws, Chapter 107,  
3 made significant modifications to cost-of-living and other  
4 benefit increases in all but one (1) of the public employee  
5 retirement plans. While finding that the actuarial funding  
6 levels of the Wyoming plans were higher than many public  
7 employee retirement plans in other states, the Legislature  
8 found that "as constructed by statute, the Wyoming plans  
9 were not intended to and cannot support cost-of-living or  
10 other benefit increases." That determination was made  
11 after recitation of reduced actuarial funded ratios of the  
12 various plans. The Legislature found a number of items  
13 contributed to the reduced funded ratios, including:

14

15           (A) Investment returns below assumed rates;

16

17           (B) Benefit increases authorized by  
18 legislation enacted by the Wyoming Legislature for the  
19 various plans, as benefit increases standing alone and  
20 without a corresponding influx of funds reduce the  
21 actuarial funded ratio. A benefit multiplier enacted in  
22 2001 was cited as contributing to an increased cost of over

1 five hundred twenty-one million dollars (\$521,000,000.00)  
2 to the largest plan;

3

4 (C) Cost-of-living increases ranging from  
5 one percent (1%) to three percent (3%) for eighteen (18)  
6 consecutive years in the largest public employee retirement  
7 plan, from 1991 to 2008.

8

9 (iv) The 2012 enactment removed the authority of  
10 the board of the Wyoming retirement system to provide cost-  
11 of-living adjustments and further required that no benefit  
12 changes could be recommended for public employee retirement  
13 plans to the Legislature unless the system's actuaries  
14 provided an opinion that the funded ratio of the affected  
15 plan would remain above an actuarial funded ratio of one  
16 hundred percent (100%) prior to and after the  
17 implementation of the benefit adjustment, plus an  
18 appropriate margin above the ratio to allow for market  
19 fluctuations;

20

21 (v) Since the 2012 enactment, no cost-of-living  
22 adjustments or other benefit increases have been made under  
23 any of the plans subject to the restrictions imposed by

1 that enactment. No cost-of-living adjustments have been  
2 provided since 2008 for retirees in the largest retirement  
3 plan, despite a cumulative inflation rate in Wyoming over  
4 that same period of twenty-three and four tenths percent  
5 (23.4%), as measured by the Wyoming cost-of-living index  
6 published by the division of economic analysis, Wyoming  
7 department of administration and information;

8

9 (vi) Of the seven (7) retirement plans subject  
10 to the cost-of-living restrictions in the 2012 enactment,  
11 only one (1) plan, (with eleven (11) retirees at present)  
12 is currently projected to have a one hundred percent (100%)  
13 funded ratio before 2039, and only two (2) other plans  
14 (with a total of approximately one thousand five hundred  
15 (1,500) current retirees) are projected to meet that  
16 threshold prior to 2049. Therefore the board of the  
17 Wyoming retirement system cannot even recommend a cost-of-  
18 living adjustment for over ninety-five percent (95%) of  
19 current retirees under current projections, for at least  
20 thirty (30) years;

21

22 (vii) As stated in the 2012 enactment, stability  
23 in providing stated benefits is a critical feature of a

1 retirement plan. At the same time, since the 2012  
2 enactment the board of the Wyoming retirement system and  
3 the Wyoming Legislature have taken a number of steps to  
4 ensure that stability in the various retirement plans,  
5 including:

6

7 (A) The "freeze" on benefit increases and  
8 cost-of-living adjustments for inflation subsequent to the  
9 2012 enactment;

10

11 (B) The establishment of a second tier in  
12 the largest plan, including lower benefit levels;

13

14 (C) Employer and employee paid salary  
15 contribution increases in a number of public employee  
16 retirement plans;

17

18 (D) Provision for new retirees to select  
19 one hundred percent (100%) self-funded cost-of-living  
20 increases in retirement benefits by accepting a lower  
21 monthly benefit;

22

1                   (E) Requiring employee education programs  
2 regarding retirement benefits and augmentation of those  
3 benefits by employees under the state administered deferred  
4 compensation program;

5

6                   (F) Adjustments in actuarial assumptions,  
7 including a reduced assumed rate of return on investments  
8 (composed of an inflation rate and net real rate of  
9 return).

10

11                   (viii) For the largest retirement plan, Wyoming  
12 law has provided, since the initiation of that plan in  
13 1949, that the enactment of the plan shall not constitute a  
14 contract or create other rights other than to receive a  
15 return of contributions upon withdrawal. The recreated act  
16 in 1953 reiterated that no contract was created and  
17 provided that the state was not incurring any future  
18 obligation or liability other than to make the employer  
19 contributions specified. (1953 Wyoming Session Laws,  
20 Chapter 114.) Those provisions have remained through the  
21 current day. (W.S. 9-3-428.) However, the Legislature is  
22 authorized to make appropriations to satisfy moral  
23 obligations of the state. State v. Carter, 215 P. 477



1 (Wyo. 1923). Payment under these retirement plans and this  
2 act is not considered in the light of a gift made to the  
3 employee but, on the contrary, is treated, partially at  
4 least, as a recognition of a moral and equitable  
5 obligation;

6

7 (ix) At the same time, benefit adjustments to  
8 existing retirees have been provided under the retirement  
9 plans on a regular basis by both legislative action and  
10 retirement board action taken pursuant to law. Those  
11 adjustments have been paid both from general funds of the  
12 state and from funds within the retirement accounts. A  
13 list of past legislative appropriations and increases to  
14 retirement benefits is provided in 2007 Wyoming Attorney  
15 General Opinion No. 1, (See, e.g., 1978 Wyoming Session  
16 Laws, Chapter 50; 1981 Wyoming Session Laws, Chapter 38;  
17 1982 Wyoming Session Laws, Chapter 40; 1988 Wyoming Session  
18 Laws, Chapter 21; 1991 Wyoming Session Laws, Chapter 12;  
19 1994 Wyoming Session Laws, Chapter 67; 2001 Wyoming Session  
20 Laws, Chapter 31.);

21

22 (x) While stability of retirement plans is  
23 critical, fair treatment of public employees is also

1 critical in order to employ and retain dedicated employees,  
2 as recognized by past legislative actions;

3

4 (xi) Eighty-seven percent (87%) of active  
5 employees in Wyoming public employee retirement plans  
6 believe that a pension is mostly or very important in  
7 staying in current employment according to a recent survey  
8 by the board of the Wyoming retirement system. Retirement  
9 plans providing for timely and responsible adjustments to  
10 retain at least a portion of current dollar value must be  
11 reasonably incorporated into Wyoming public employee  
12 retirement plans in order to attract and retain the highest  
13 caliber employees;

14

15 (xii) Approximately seventy-eight percent (78%)  
16 of benefit payments provided under the public retirement  
17 plans are paid to Wyoming residents.

18

19 (c) As used in this act "public employee retirement  
20 plan" or "retirement plan" includes the Wyoming Retirement  
21 system created by W.S. 9-3-401 et seq., the plan under the  
22 Wyoming State Highway Patrol, Game and Fish Warden and  
23 Criminal Investigator Retirement Act, the plan under the

1 Wyoming Judicial Retirement Act, the pension system under  
2 the Firemen's Pension Account Reform Act of 1981 and the  
3 volunteer firefighter, EMT and search and rescue pension  
4 plan operated pursuant to W.S. 35-9-616, et seq.

5

6 **Section 2.**

7

8 (a) The board of the Wyoming retirement system shall  
9 review the findings underlying the enactment of 2012  
10 Wyoming Session Laws, Chapter 107 and report to the  
11 Legislature:

12

13 (i) Subsequent legislative and board actions  
14 which affect the findings of the 2012 enactment;

15

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

19

20 (iii) Eligibility of retirees under each of the  
21 plans for social security benefits and the effect that  
22 eligibility for social security benefits:

23

1                   (A) Was and is considered in establishing a  
2 plan's benefits and contribution rates and pay provisions  
3 for active employees;

4

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

7

8                   (iv) Existing and projected funding ratios for  
9 each retirement plan, under current law and under any  
10 recommended benefit, contribution or other adjustment for  
11 each plan;

12

13                   (v) Statutory modifications to return to the  
14 board of the Wyoming retirement system and other boards  
15 administering a public employee retirement plan, the  
16 authority to implement benefit adjustments to existing  
17 retirees. The recommended modifications shall provide  
18 parameters under which any benefit adjustment may be  
19 authorized, including:

20

21                   (A) Recommended actuarial funded ratios;

22

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

3

4                   (C) Minimum and maximum adjustments over  
5 specified periods.

6

7           (b) The report required by this section shall be  
8 submitted not later than September 1, 2020.

9

10           (c) The joint appropriations committee shall consider  
11 the recommendations of the board of the Wyoming retirement  
12 system and develop legislation as the committee determines  
13 appropriate for introduction in the 2021 general session  
14 which incorporates a mechanism for benefit adjustments for  
15 retirees under each public employee retirement plan in a  
16 manner which recognizes the importance of preserving the  
17 financial stability of those plans and the need to attract  
18 and retain dedicated, high caliber public employees.

19

20           **Section 3.** A single additional payment shall be made  
21 on or before July 1, 2020, to each eligible individual  
22 receiving a service pension, survivor's pension, retirement  
23 benefit, survivor benefit, death benefit or disability

1 pension or benefit under the Wyoming Retirement Act, the  
2 Wyoming State Highway Patrol, Game and Fish Warden and  
3 Criminal Investigator Retirement Act, the Wyoming Judicial  
4 Retirement Act, the Firemen's Pension Account Reform Act of  
5 1981 or the volunteer firefighter, EMT and search and  
6 rescue pension account as provided in this section. The  
7 additional payment shall be limited to individuals who  
8 first began receiving the applicable benefit prior to July  
9 1, 2015, either alone or in combination with a member or  
10 retired or disabled employee if the individual is a  
11 survivor. If the individual is a survivor, the payment  
12 applicable benefit date shall be based on the initial  
13 retirement or disability benefit of the pertinent member.  
14 The additional payment to an eligible individual shall be  
15 calculated by multiplying the first fifteen thousand  
16 dollars (\$15,000.00) of the eligible individual's existing  
17 annual benefit by one-tenth of one percent (0.1%) for each  
18 year his retirement or disability benefit was effective  
19 prior to July 1, 2015, or if the individual is a survivor  
20 for each year the pertinent member's or employee's benefit  
21 was effective prior to July 1, 2015, up to a maximum amount  
22 of three percent (3%) of the existing annual benefit. The

1 single additional payment under this section shall not be  
2 ongoing or cumulative.

3

4 **Section 4.**

5

6 (a) The retirement board of the Wyoming retirement  
7 system shall certify to the state treasurer the total  
8 amount of funds necessary to make the payments required  
9 under this act not later than May 30, 2020.

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11 (b) There is appropriated from the general fund to  
12 the state treasurer's office an amount equal to the amount  
13 certified under subsection (a) of this section. The state  
14 treasurer shall transfer this appropriation to a separate  
15 account not later than thirty (30) days after the receipt  
16 of certification under subsection (a) of this section for  
17 use by the retirement board of the Wyoming retirement  
18 system in order to make the additional payments required by  
19 this act. This appropriation shall not be transferred or  
20 expended for any other purpose and any unexpended,  
21 unobligated funds remaining from this appropriation shall  
22 revert to the general fund on August 31, 2021.

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.

5

6

(END)