

SENATE FILE NO. SF0059

Public employee retirement plans benefit increases.

Sponsored by: Joint Appropriations Interim Committee

A BILL

for

1 AN ACT relating to public employee retirement plans;  
2 eliminating cost-of-living increases for specified plans;  
3 providing findings; providing parameters for future benefit  
4 increases; requiring information to be provided to  
5 employees; providing for a study; making conforming  
6 amendments; specifying applicability; and providing for an  
7 effective date.

8

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

10

11 **Section 1.** W.S. 9-3-453 is created to read:

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13 **9-3-453. Public employee retirement plans; funding;**  
14 **legislative findings; required determinations for benefit**  
15 **increases.**

16

17 (a) The legislature finds:

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2 (i) Wyoming public employee retirement plans'  
3 actuarial funding levels are higher than many public  
4 employee retirement plans in other states, but as  
5 constructed by statute, the Wyoming plans were not intended  
6 to and cannot support cost of living or other benefit  
7 increases. Numerous indicators support this conclusion;

8

9 (ii) The ratio of the actuarial value of assets  
10 to the actuarial accrued liability, or the "funded ratio"  
11 is a standard measure of a plan's funded status at a given  
12 point in time. Funded ratios of the various retirement  
13 plans were as follows:

14

15 (A) The public employee retirement plan  
16 administered by the Wyoming retirement board under W.S.  
17 9-3-401 through 9-3-430 had a funded ratio of eighty-four  
18 and six-tenths percent (84.6%) as of January 1, 2011, down  
19 from eighty-seven and five-tenths percent (87.5%) on  
20 January 1, 2010. On a market value of assets basis, the  
21 plan's funded ratio was eighty and one-tenth percent  
22 (80.1%) as of January 1, 2011, an improvement from seventy-  
23 five and seven-tenths percent (75.7%) as of January 1,  
24 2010;

1

2 (B) The Wyoming state highway patrol, game  
3 and fish warden and criminal investigator retirement plan  
4 administered by the Wyoming retirement board under W.S.  
5 9-3-601 through 9-3-620, had a funded ratio of eighty-four  
6 and one-tenth percent (84.1%) as of January 1, 2011, down  
7 from eighty-seven and four-tenths percent (87.4%) on  
8 January 1, 2010. On a market value of assets basis, the  
9 funded ratio was seventy-nine and four-tenths percent  
10 (79.4%) as of January 1, 2011, an improvement from seventy-  
11 five and three-tenths percent (75.3%) as of January 1,  
12 2010;

13

14 (C) The law enforcement plan administered  
15 by the Wyoming retirement board under W.S. 9-3-401 through  
16 9-3-432, had a funded ratio of ninety-nine and nine-tenths  
17 percent (99.9%) as of January 1, 2011, down from one  
18 hundred two and two-tenths percent (102.2%) as of January  
19 1, 2010. On a market value of assets basis, the plan's  
20 funded ratio was ninety-five and three-tenths percent  
21 (95.3%) as of January 1, 2011, an improvement from eighty-  
22 nine percent (89.0%) as of January 1, 2010;

23

1                   (D) The judicial retirement plan  
2 administered by the Wyoming retirement board under W.S.  
3 9-3-701 through 9-3-713, had a funded ratio of one hundred  
4 eight and five-tenths percent (108.5%) as of January 1,  
5 2011, slightly up from one hundred eight and two-tenths  
6 percent (108.2%) on January 1, 2010. On a market value of  
7 assets basis, the plan's funded ratio was one hundred four  
8 and four-tenths percent (104.4%) as of January 1, 2011 an  
9 improvement from ninety-five and one-tenth percent (95.1%)  
10 as of January 1, 2010;

11

12                   (E) The paid firemen plan B, administered  
13 by the Wyoming retirement board under W.S. 15-5-401 through  
14 15-5-422, had a funded ratio of one hundred fifteen and  
15 seven-tenths percent (115.7%) as of January 1, 2011, down  
16 from one hundred sixteen and two-tenths percent (116.2%) as  
17 of January 1, 2010. On a market value of assets basis, the  
18 plan's funded ratio was one hundred eleven and three-tenths  
19 percent (111.3%) as of January 1, 2011, an improvement from  
20 one hundred two percent (102.0%) as of January 1, 2010;

21

22                   (F) The air national guard firefighters  
23 plan administered by the Wyoming retirement board under  
24 W.S. 9-3-401 through 9-3-431 had a funded ratio of seventy-

1 seven and four-tenths percent (77.4%) as of January 1,  
2 2011. On a market value of assets basis, the plan's funded  
3 ratio was eighty and one-tenth percent (80.1%) as of  
4 January 1, 2011. 2011 was the first year this plan was  
5 isolated for review from the public employees plan under  
6 W.S. 9-3-401 through 9-3-430;

7

8 (G) The paid firemen plan A administered by  
9 the Wyoming retirement board under W.S. 15-5-201 through  
10 15-5-209, had a funded ratio of eighty-five and six-tenths  
11 percent (85.6%) as of January 1, 2011 down from ninety-one  
12 and two-tenths percent (91.2%) as of January 1, 2010. On a  
13 market value of assets basis, the plan's funded ratio was  
14 seventy-eight and nine-tenths percent (78.9%) as of January  
15 1, 2011, an improvement from seventy-six and seven-tenths  
16 percent (76.7%) as of January 1, 2010;

17

18 (H) The volunteer firefighters plan  
19 administered by the volunteer fireman's pension board under  
20 W.S. 35-9-601 through 35-9-615, had a funded ratio of one  
21 hundred four and six-tenths percent (104.6%) as of January  
22 1, 2011, down from one hundred eight and nine-tenths  
23 percent (108.9%) as of January 1, 2010. On a market value  
24 of assets basis, the plan's funded ratio was ninety-eight

1 and six-tenths percent (98.6%) as of January 1, 2011, an  
2 improvement from ninety-three and five-tenths percent  
3 (93.5%) as of January 1, 2010;

4  
5 (J) The volunteer emergency medical  
6 technician's plan, administered by the volunteer emergency  
7 medical technician's pension board under W.S. 35-29-101  
8 through 35-29-112, had a funded ratio of one hundred  
9 seventeen and eight-tenths percent (117.8%) as of January  
10 1, 2011, up from eighty-three and six-tenths percent  
11 (83.6%) as of January 1, 2010. On a market value of assets  
12 basis, the plan's funded ratio was one hundred twenty-nine  
13 and five-tenths percent (129.5%) as of January 1, 2011, an  
14 improvement from ninety and seven-tenths percent (90.7%) as  
15 of January 1, 2010. While the funded ratio has increased,  
16 reliance on the improvement as an indication of this plan's  
17 financial health would be misplaced as the legislation  
18 establishing the plan provided a general fund appropriation  
19 of nine hundred seventy-eight thousand two hundred dollars  
20 (\$978,200.00) to fund the difference between the  
21 actuarially determined premium for participation in the  
22 plan and the contributions required by law. The  
23 contributions required by law are insufficient to support  
24 the stated benefits under the plan and no long term

1 external funding source was provided when the plan was  
2 established, nor thereafter.

3

4 (iii) All of the funded ratios specified in  
5 paragraph (ii) of this subsection, except for the paid  
6 firemen's plan A, were calculated with the assumptions of  
7 no benefit increases or additional cost-of-living  
8 adjustment increases;

9

10 (iv) Actuarial funded ratios at any single point  
11 in time disclose only a portion of the soundness of the  
12 retirement plans. Underlying the ratios is an assumed  
13 eight percent (8%) return on each of the various funds.  
14 The average market value returns for the largest plan under  
15 the board's administration has been three and sixty-three  
16 hundredths percent (3.63%) for the last five (5) years and  
17 four and twenty-three hundredths percent (4.23%) for the  
18 last ten (10) years, both well below the assumed eight  
19 percent (8%). The retirement system's actuary has stated:  
20 "Even seemingly minor changes in the assumptions can  
21 materially change the liabilities, calculated contribution  
22 rates and funding periods." Investment returns of less  
23 than one-half (1/2) of the assumed rate is a major  
24 deviation from assumptions;

1

2 (v) Where the current actuarial value of assets  
3 is higher than the market value of assets, continued  
4 recovery in the investment markets will be needed over the  
5 next few years, annual returns in excess of the assumed  
6 earning rate of eight percent (8.0%), to keep the plans'  
7 funded ratios and unfunded actuarial accrued liability  
8 relatively stable in the short term;

9

10 (vi) While investments in markets have been  
11 authorized by constitutional amendment for retirement funds  
12 and supported by legislative authorization, if annual  
13 realized returns are lower than assumed or higher than  
14 assumed, the funded ratios are respectively overstated or  
15 understated;

16

17 (vii) The public employee plan administered  
18 under W.S. 9-3-401 through 9-3-430 has by far the largest  
19 membership as it contains eighty-eight and six-tenths  
20 percent (88.6%) of the membership of all public employee  
21 retirement plans administered by the Wyoming retirement  
22 board. The actuarial funded ratio for this plan has  
23 dropped from one hundred thirteen and seventy-seven  
24 hundredths percent (113.77%) in 2001 to eighty-four and



1 fifty-nine hundredths percent (84.59%) in 2011, even though  
2 the actuarial accrued liability in 2001 was calculated  
3 using the maximum cost-of-living adjustment authorized by  
4 statute and the 2011 liability was calculated using no  
5 cost-of-living liability. In light of the lower funded  
6 ratio, the Wyoming retirement board recommended and the  
7 Legislature enacted in 2010 a combined employer and  
8 employee contribution increase from eleven and twenty-five  
9 hundredths percent (11.25%) to fourteen and twelve  
10 hundredths percent (14.12%) effective September 1, 2010;

11

12 (viii) Actuarial funded ratios have fallen over  
13 the past decade for all other plans identified in this  
14 section, other than the judicial retirement plan. The  
15 funded ratio of the volunteer firefighter's plan and the  
16 firefighter's plan B have dropped by over fifty (50)  
17 percentage points. These decreases were incurred in spite  
18 of a change in assumptions from a maximum cost-of-living  
19 increase allowed by statute to no cost-of-living increase,  
20 except for the paid firemen plan A;

21

22 (ix) From 1991 through 2008, cost-of-living  
23 increases ranging from one percent (1%) to three percent  
24 (3%) were provided for eighteen (18) consecutive years in

1 the largest public employee retirement plan, resulting in  
2 cumulative increases in an employee's benefit amount  
3 ranging from one and three-hundredths (1.03%) for employees  
4 first eligible for a cost-of-living adjustment in 2008 to  
5 thirty-four percent (34%) for those eligible for a cost-of-  
6 living adjustment in 1991;

7

8 (x) Other benefit increases have been provided  
9 by legislation, including a 2001 enactment of an increased  
10 benefit multiplier for each year of service in the largest  
11 plan, which resulted in an increased cost of over five  
12 hundred twenty-one million dollars (\$521,000,000.00)  
13 through July 1, 2011. An ad hoc increase of three dollars  
14 (\$3.00) per month per year of service made in the same  
15 legislation resulted in over two hundred seventeen million  
16 dollars (\$217,000,000.00) in increased costs to the plan  
17 over the same period;

18

19 (xi) As of January 1, 2011, it is estimated that  
20 over forty (40) years will be required until the largest  
21 public employee plan currently administered by the Wyoming  
22 retirement board meets a one hundred percent (100%)  
23 actuarial funded ratio. Other plans administered by the  
24 Wyoming retirement board, volunteer firefighters pension

1 board and volunteer emergency medical technician's pension  
2 board have higher or lower funded ratios;

3

4 (xii) Stability in providing stated benefits is  
5 a critical feature of a retirement plan. With large  
6 portions of public employee retirement plans invested in  
7 markets and with market fluctuations having a significant  
8 effect on funded ratios, actuarial funded ratios in excess  
9 of one hundred percent (100%) are necessary to maximize  
10 stability in providing stated benefits;

11

12 (xiii) Until a retirement plan has achieved an  
13 actuarial funded ratio of one hundred twenty percent (120%)  
14 the legislature finds that there will be no opportunity to  
15 increase benefits from plan assets, including but not  
16 limited to cost-of-living increases, and the legislature  
17 should not revisit future increases in benefits from plan  
18 assets until that funding level is achieved;

19

20 (xiv) When determining whether to increase  
21 benefits, including changes to multipliers and cost-of-  
22 living increases, the full cost of the increases should be  
23 considered and funded. At a minimum the analysis should  
24 include a decision matrix in which the first step is

1 determining whether the contribution rate is currently  
2 sufficient to cover what is actuarially required and  
3 whether the actuarial funded ratio is at least one hundred  
4 twenty percent (120%). If not, there should be no  
5 increase. If so, further analysis should include:

6

7 (A) Consideration of the current actuarial  
8 value in relation to current market value of assets;

9

10 (B) A fully amortized cost over the full  
11 applicable term of the benefit increase;

12

13 (C) Current and expected actuarial funded  
14 ratios with and without the increase;

15

16 (D) A review of assumptions made in  
17 determining funded ratios and a review of anticipated  
18 funded ratios with differing investment return assumptions;

19

20 (E) Recognition of potential effects of the  
21 increase on plan participants' working and retirement  
22 periods;

23

1 (F) The potential isolation, by  
2 establishment of separate accounts, of the liability  
3 incurred as a result of the cost of living or other benefit  
4 increase.

5

6 **Section 2.** W.S. 9-3-405(a) by creating a new  
7 paragraph (vii), 9-3-425 and 9-3-708(b) are amended to  
8 read:

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10 **9-3-405. Retirement board duties and powers.**

11

12 (a) In addition to any other duties prescribed by  
13 law, the board shall:

14

15 (vii) In collaboration with participating  
16 employers, provide information, through a variety of  
17 methods including a mandatory education program, to all  
18 employees who are members as of July 1, 2012, and to all  
19 members initially enrolling after July 1, 2012. The  
20 information and program shall review retirement benefits,  
21 costs expected to be incurred in retirement and income  
22 amounts anticipated to be necessary to maintain the  
23 member's preretirement standard of living. The information  
24 and program shall:

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(A) Emphasize that benefits provided under the plans administered by the Wyoming retirement board should not be expected to provide one hundred percent (100%) of the member's required income in retirement;

(B) Advise that no future cost-of-living increases or other benefit increases are incorporated into the plans as constructed;

(C) Contain citation to and the language of W.S. 9-3-428 providing that nothing in Wyoming statutes title 9, chapter 3, article 4, shall be construed to acknowledge any past, present or future liability of or obligate the state of Wyoming for contribution except the employer's contributions provided for in that article, to either the Wyoming retirement system provided by that article or any other retirement system previously existing in the state of Wyoming.

**9-3-425. Right of members retired under terminated systems to retirement benefits from account; no prohibition to increase provided in W.S. 9-3-419.**

1 Any member retired under one (1) of the terminated systems  
2 or continued in retirement under the system is entitled to  
3 receive service or disability retirement benefits from the  
4 retirement account in accordance with the terminated  
5 systems. This section does not prohibit an increase in  
6 benefits as provided for in W.S. ~~9-3-419~~ 9-3-419(a).

7

8 **9-3-708. Death benefits; survivor's benefits.**

9

10 (b) Upon the death of a former employee who is  
11 receiving a retirement allowance under this act, the  
12 employee's survivor shall receive a monthly retirement  
13 allowance during the survivor's life equal to fifty percent  
14 (50%) of the allowance received by the former employee  
15 under this act at the time of the employee's death.  
16 ~~Survivor's benefits are subject to the adjustment under~~  
17 ~~W.S. 9-3-707(b).~~

18

19 **Section 3.** W.S. 9-3-419(b), 9-3-432(g), 9-3-610(d),  
20 9-3-707(b), 15-5-416, 35-9-608(k) and 35-29-106(g) are  
21 repealed.

22

23 **Section 4.** The joint appropriations interim committee  
24 shall study the implementation of a supplemental defined

1 contribution plan with employee and matching employer  
2 contributions as an alternative to addressing cost-of-  
3 living increases in the plans subject to this act. The  
4 committee shall develop legislation for introduction in the  
5 2013 general session as it determines appropriate to  
6 implement any such plan.

7

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

12

13

(END)