
APPENDIX A

Selected statutes

Wyoming Constitution

Article 16 – PUBLIC INDEBTEDNESS

Section 6 – LOAN OF CREDIT; DONATIONS PROHIBITED; WORKS OF INTERNAL IMPROVEMENT

Neither the state nor any county, city, township, town, school district, or any other political subdivision, shall loan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, *except that funds of public employee retirement systems and the permanent funds of the state of Wyoming may be invested in such stock under conditions the legislature prescribes*. The state shall not engage in any work of internal improvement unless authorized by a two-thirds (2/3) vote of the people (*LSO emphasis added*).

Article 19 – MISCELLANEOUS

Section 11 – USE OF MONIES IN PUBLIC EMPLOYEE RETIREMENT FUNDS RESTRICTED

All monies from any source paid into any public employee retirement system created by the laws of this state shall be used only for the benefit of the members, retirees and beneficiaries of that system, including the payment of system administrative costs.

Big Plan Statutes

TITLE 9 - ADMINISTRATION OF THE GOVERNMENT

CHAPTER 3 - COMPENSATION AND BENEFITS

ARTICLE 4 – RETIREMENT

(Some sections are not included)

9-3-401. Short title.

This article is known and may be cited as "The Wyoming Retirement Act".

9-3-402. Definitions.

(a) As used in this article:

(i) "Account" or "member account" means the member's contributions, the member's contributions paid by an employer under W.S. 9-3-412 and any amounts transferred to the system from a terminated system on behalf of the member, plus interest compounded annually at a rate determined by the board not to exceed the average annual investment yield earned on the assets of the system;

(ii) Repealed by Laws 1994, ch. 67, § 3.

(iii) "Actuarial equivalent amount" means a benefit of equal value computed upon the basis of a unisex mortality table based on the average of the 1971 group annuity mortality tables for males and females set back one (1) year and six and one-quarter percent (6.25%) interest per year;

(iv) "Board" or "retirement board" means the retirement board of the Wyoming retirement system established by this article;

(v) "Disability" means the mental or physical incapacitation of any member including:

- (A) "Total disability" which is a disability condition that renders a member unable to engage in any occupation for which he is reasonably suited by training or experience and which is reasonably expected to last at least twelve (12) months; and
- (B) "Partial disability" which is a disability condition that renders a member unable to perform the occupation for which he is reasonably suited by training and experience but still allows him to function in other employment and which is reasonably expected to last at least twelve (12) months.
- (vi) "Employer" or "participating employer" means:
- (A) The state of Wyoming and any department, board, commission or other agency or instrumentality of the state;
- (B) Any county, except county memorial hospitals or special hospital districts, city or town or legally constituted department designated to the board by the appropriate governing body as an employer under this article;
- (C) Any municipal corporation;
- (D) Any school district;
- (E) The Wyoming School Activities Association;
- (F) The Wyoming Education Association;
- (G) The Wyoming School Boards' Association;
- (H) The Wyoming Public Employees' Association;
- (J) Repealed by Laws 1994, ch. 67, § 3.
- (K) Repealed by Laws 1994, ch. 67, § 3.
- (M) The Wyoming County Commissioners' Association;
- (N) The Wyoming Association of Municipalities;
- (O) Any senior citizen center within the state;
- (P) Community-based mental health, substance abuse, developmental disabilities, family violence and sexual assault programs which receive state support and which operate under standards established by the division of community programs [department of health] pursuant to W.S. 9-2-102, those programs and facilities serving youth certified by the department of family services pursuant to W.S. 9-2-2101 and those programs and facilities serving individuals in need of vocational rehabilitation as certified by the division of vocational rehabilitation pursuant to W.S. 9-2-109;
- (Q) The state legislature;
- (R) The state judicial branch;
- (S) Any community college;
- (T) The University of Wyoming;
- (U) Any special district; and
- (W) Any other political subdivision of the state or local government or any organization or entity which by virtue of its organization or purpose is considered by the board to be a governmental entity and receives a major portion of its funding from taxing authority delegated by law, from federal, state or local government or from an agency or political subdivision of state or local government.
- (vii) "Member" means and includes any full-time or regular part-time employee of an employer, including substitute teachers if treated by the employer as regular, part-time employees and including law enforcement officers and firefighter members, but "member" does not mean:
- (A) An employee who is compensated:
- (I) As an independent contractor; or
- (II) On a fee basis.
- (B) An employee who is reimbursed on a per diem basis;
- (C) An employee whose term of employment is on a temporary basis for less than six (6) months;
- (D) A permanent employee of the legislature, unless the employee elects in writing to become a member under rules adopted by the board;

- (E) Members of any state board or commission not otherwise employed by the state who elect in writing not to become a member of the system under rules adopted by the board;
- (F) Employees covered by other retirement plans of the state or a political subdivision of the state, including:
 - (I) The supreme court and district court justices' pension plan, and employees covered under the judicial retirement act under W.S. 9-3-701 through 9-3-713;
 - (II) Police pension plans;
 - (III) County memorial hospital or special hospital district pension plans;
 - (IV) The paid firemen pension plans;
 - (V) The Wyoming state highway patrol, game and fish warden and criminal investigator retirement program.
- (G) Members of the legislature;
- (H) Students employed by the University of Wyoming, community colleges or school districts;
- (J) Employees of the agricultural extension service of the University of Wyoming who hold a federal civil service appointment and are required to participate in the federal civil service retirement program;
- (K) An employee of the University of Wyoming or a community college who earns no more than five thousand five hundred dollars (\$5,500.00) per year for part-time teaching and has elected in writing not to participate in the system under rules adopted by the board;
- (M) An at-will contract employee under W.S. 9-2-1022(a)(xi)(F), unless specifically authorized by the contract pursuant to W.S. 9-2-1022(a)(xi)(F)(III) or (IV).
- (viii) Repealed by Laws 1994, ch. 67, § 3.
- (ix) "Prior creditable service" means service credit earned by a member prior to April 1, 1953 in one (1) of the terminated systems and for which necessary employer and employee contributions were transferred to the retirement system;
- (x) "Employee" means an employee of a participating employer as defined by this article;
 - (A) Repealed by Laws 1994, ch. 67, § 3.
 - (B) Repealed by Laws 1994, ch. 67, § 3.
 - (C) Repealed by Laws 1994, ch. 67, § 3.
 - (D) Repealed by Laws 1994, ch. 67, § 3.
 - (E) Repealed by Laws 1994, ch. 67, § 3.
 - (F) Repealed by Laws 1994, ch. 67, § 3.
 - (G) Repealed by Laws 1994, ch. 67, § 3.
 - (H) Repealed by Laws 1994, ch. 67, § 3.
 - (xi) Repealed by Laws 1994, ch. 67, § 3.
- (xii) "Regular interest" means interest compounded annually at the rate determined by the board, not exceeding the average amount of interest actually earned per annum by the account;
- (xiii) "Retire", "retired" or "retirement" means the termination of a member's working career for a salary as an employee and the fulfillment of the requirements for eligibility to receive either a retirement or a disability benefit under this article;
- (xiv) "Retirement benefit" or "benefit" means a sum of money paid monthly in accordance with this article to a member who has retired;
- (xv) "Retirement system" means the Wyoming retirement system created by this article;
- (xvi) "Salary" means the cash remuneration paid to a member in a calendar year, including employee contributions required by W.S. 9-3-412 and including member contributions paid by the employer under a salary reduction arrangement under W.S. 9-3-412(c). "Salary" taken into account for a member shall not exceed the amount specified under section 401(a)(17) of the United States Internal Revenue Code;
- (xvii) "Terminated system" or repeal acts in the case of a teacher means the Wyoming teacher retirement system provided by Chapter 159, Session Laws of Wyoming, 1951, and in the case of a state employee means the state employees' retirement association provided by Chapter 42, Session Laws of Wyoming, 1949, as amended by Chapter 140, Session Laws of Wyoming, 1951;

(xviii) "Law enforcement officer" or "officer" means any member who is a county sheriff, deputy county sheriff, municipal police officer, duly authorized investigator of the Wyoming livestock board meeting the specifications of W.S. 7-2-101(a)(iv)(E), investigator employed by the Wyoming state board of outfitters and professional guides meeting the specifications of W.S. 7-2-101(a)(iv)(J), Wyoming correctional officer, probation and parole agent employed by the Wyoming department of corrections, Wyoming law enforcement academy instructor, University of Wyoming campus police officer, detention officer or dispatcher for law enforcement agencies;

(xix) "Highest average salary" means the average annual salary of a member for the highest paid three (3) continuous years of service;

(xx) "General member" means a member who is not a law enforcement officer or a firefighter member;

(xxi) "Service credit" means the credit earned by a member for eligibility for benefits and benefits payable under the system. Service credit is earned on the basis of actual years of employment for an employer as a member under rules adopted by the board under W.S. 9-3-417;

(xxii) "System" means the Wyoming retirement system created by this article;

(xxiii) "Year of service" means a twelve (12) month period of employment with an employer as a member;

(xxiv) "Retirement account" means the account established under this article;

(xxv) "Firefighter member" means any employee of the Wyoming air national guard fire department crash and rescue unit employed on a full-time basis for firefighting and rescue operations within the department;

(xxvi) "Duty connected" means an illness, injury or disability from an injury or disease which results primarily from a specific act or occurrence determinable by a definite time and place, from a physical or mental trauma which arises from the nature and in the course of a person's law enforcement employment.

9-3-403. Wyoming retirement system; establishment; purpose; powers as body corporate.

The Wyoming retirement system is established to provide retirement and other benefits to eligible employees of participating employers. It shall be a body corporate, may sue and be sued and shall have all other powers and privileges of a corporation. In its name all its business shall be transacted, all funds invested and all of its monies, securities and other property held in trust for the purposes of this article.

9-3-404. Wyoming retirement board; responsibility for administration of system; composition; appointment; term; vacancies; meetings; election of chairman.

(a) The responsibility for the administration and operation of the retirement system is vested solely and exclusively in the Wyoming retirement board. The board shall be composed of eleven (11) members, not more than six (6) of whom shall be from the same political party. The members shall be:

(i) The state treasurer;

(ii) A retired recipient of the retirement system;

(iii) Two (2) members, exclusive of the public school system, the community colleges and the University of Wyoming, one (1) of which is a participant in the Wyoming deferred compensation program established under W.S. 9-3-501 through 9-3-508;

(iv) Two (2) members of the public school system, the community colleges or the University of Wyoming;

(v) Five (5) qualified electors from Wyoming who are known for their public spirit and business or professional ability, none of whom are members and at least one (1) of whom has professional expertise in investments and finance.

(b) The governor, with the consent of the Wyoming senate, shall appoint all board members other than the state treasurer. Appointed board members shall serve six (6) year terms and may be removed by the governor as provided in W.S. 9-1-202.

(c) A vacancy shall be filled as provided in W.S. 28-12-101.

(d) The board shall meet annually and elect a chairman from among its members. The board shall meet at such other times as the chairman directs or upon request of a majority of its members.

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

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

- (i) File with the legislative service office:
 - (A) All system actuarial reports;
 - (B) An annual audit report by an independent audit firm showing the financial status of the retirement system. The report required by this paragraph shall be submitted as part of the annual report required by W.S. 9-2-1014;
 - (C) A statement of any proposed benefit changes and the projected cost of the changes to the system.
 - (ii) At the request of any city, town or county not covered by the state retirement system, negotiate terms and conditions through which the city, town or county and its employees could become members of the state retirement system in accordance with the following terms and conditions:
 - (A) Any city, town or county may choose to cover only its full-time employees under the retirement system;
 - (B) Liabilities for any city, town or county's employees' service rendered prior to affiliation with the retirement system and credited by the local retirement program shall be determined according to procedures the board adopts after consultation with the system actuary;
 - (C) Excluding law enforcement officers, the service rendered by any city, town or county's employees prior to affiliation with the retirement system and which may be credited toward retirement under the retirement system shall not exceed ten (10) years and shall be the shorter of ten (10) years or the period from July 1, 1971 to the entry date of the political subdivision into the retirement system. Service rendered by any city, town or county law enforcement officer prior to affiliation with the retirement system and which may be credited toward retirement under W.S. 9-3-432 shall include all years served as a law enforcement officer with that city, town or county. Effective July 1, 2002, and ending June 30, 2008, any city, town or county may elect to have its law enforcement officers covered under W.S. 9-3-432, if such law enforcement officers were not participating in a pension fund pursuant to W.S. 15-5-301 prior to July 1, 2002. Any such election shall be subject to the following:
 - (I) The city, town or county shall contribute funds in an amount equivalent to one-half (1/2) the cost of each officer's prior service credits with the city, town or county;
 - (II) The city, town or county may require the officer to contribute the amount specified in subdivision (I) of this subparagraph as a condition of participation in the election to be covered under W.S. 9-3-432;
 - (III) The state shall contribute funds in an amount equivalent to one-half (1/2) the cost of each officer's prior service with the city, town or county.
 - (D) Affiliation with the retirement system shall be effective as of July 1, following a determination of the city, town or county's liabilities and completion of other reasonable procedures as the board directs.
 - (iii) Receive and act upon reports relating to the operations and funds of the system;
 - (iv) Ensure that the system is administered according to law;
 - (v) Serve as investment trustee of the funds of the system;
 - (vi) Through the director employed under W.S. 9-3-406(a), administer the Wyoming deferred compensation program established under W.S. 9-3-501 through 9-3-508.
- (b) The board may establish special pay plans that upon retirement or separation from service, entitle an employee of the state to a contribution to a qualified retirement plan established in the employee's name. Special pay plans established under this paragraph shall be in compliance with section 401(a) of the federal Internal Revenue Code, which reduce the federal tax burden on accumulated vacation, sick or other accumulated leave payments to employees upon retirement or separation from service. In the event an employee elects to withdraw his contribution to the special pay plan prior to reaching age fifty-five (55), the state shall reimburse the employee the difference between any Federal Insurance Contributions Act (FICA) and any Medicare tax savings to the employee and any early withdrawal penalty imposed by the Internal Revenue Service.

9-3-406. Retirement board; employment and compensation of director, consulting actuary and assistants; director designated secretary; compensation of members; quorum; seal.

- (a) The board shall employ a director and a consulting actuary and other professional and clerical assistants necessary for the administration of the retirement system and the Wyoming deferred compensation program established under W.S. 9-3-501 through 9-3-508. The compensation of employees shall be fixed by the board, subject to confirmation and approval by the personnel division and together with all other necessary expenses of the board shall be paid by vouchers drawn on the state treasurer of Wyoming. The director shall also serve, without additional compensation, as secretary of the board.
- (b) The members of the board, other than the five (5) elector members shall serve without compensation but shall suffer no loss of wages for the time devoted to the duties of the board. The elector members of the board shall receive fifty dollars (\$50.00) per day for the time actually and necessarily devoted to the duties of the board. All members and employees of the board shall be reimbursed for their expenses incurred through service on the board at rates applicable to other state employees.
- (c) A majority of the members of the board constitutes a quorum for the transaction of its business. The board may adopt and use a common seal and alter it at the board's direction.

9-3-407. Retirement board; control and management of account containing assets of retirement system; payments from account.

- (a) The retirement account is established.
- (b) The board has the control and management of the retirement account which shall contain all the assets of the retirement system.
- (c) From the retirement account shall be paid:
- (i) Refunds of member accounts in accordance with this article;
 - (ii) Benefits for members retired under the terminated systems;
 - (iii) Repealed by Laws 1994, ch. 67, § 3.
 - (iv) Retirement or disability benefits under this article;
 - (v) Death and survivor benefits as provided for by this article; and
 - (vi) Administrative expenses under this article.

9-3-408. Designated custodian of retirement account; disbursements; investment of account monies.

- (a) The board may designate the state treasurer or a master custodial bank approved by the state treasurer as the custodian of the retirement account. Disbursements from the retirement account for purposes specified in W.S. 9-3-407(c) shall be made only upon warrants drawn by the state auditor upon certification by authorized system employees. All retirement account disbursements shall be accounted for in accordance with the uniform state accounting system or in a manner approved by the state auditor or the state treasurer as provided under W.S. 9-4-214. As used in this subsection, "authorized system employees" means the director and his designees who have authorized signatures on file with the state auditor.
- (b) The board, or its designee, which shall be registered under the Investment Advisor's Act of 1940 as amended, or any bank as defined in that act, upon written authority, shall invest monies in the retirement account, which investments shall not be considered disbursements for the purposes of W.S. 9-4-214 and subsection (a) of this section. In investing and managing monies in the retirement account, the board, or its designee, shall exercise the judgment and care that a prudent investor would, in light of the purposes, terms, distribution requirements and all other circumstances surrounding the monies in the retirement account, including risk and return objectives established by the board which are reasonably suitable to the purpose of the Wyoming retirement system.
- (i) Repealed By Laws 1997, ch. 148, § 2.
 - (ii) Repealed By Laws 1997, ch. 148, § 2.
 - (iii) Repealed By Laws 1997, ch. 148, § 2.
 - (iv) Repealed By Laws 1997, ch. 148, § 2.
 - (v) Repealed By Laws 1997, ch. 148, § 2.
 - (vi) Repealed By Laws 1997, ch. 148, § 2.
- (c) Repealed By Laws 1997, ch. 148, § 2.

- (d) The director of the retirement system, upon approval and authority of the retirement board, may make use of the services of whatever investment board or commission which has been designated by legislative action for the purpose of assisting in the selection of investments for public funds of this state.
- (e) The board may for purposes of this section, retain the services of a custodial bank to supervise a program of securities lending in exchange for a fee or other consideration. Supervision of the program shall include:
- (i) Procedures to review the creditworthiness of all borrowers;
 - (ii) Requirements for full collateralization of all loans; and
 - (iii) Other methods and procedures required by the board for securing the lending program.
- (f) Repealed By Laws 2006, Chapter 51, § 2.

9-3-409. Retirement board; rules and regulations; powers and privileges required to perform functions; requiring employers to furnish information and keep records.

- (a) The retirement board shall adopt rules and regulations for the administration of the retirement system and the control and disbursement of its assets, the administration of the Wyoming deferred compensation program established under W.S. 9-3-501 through 9-3-508 and shall have the powers and privileges required in the performance of its functions under this article and W.S. 9-3-501 through 9-3-508.
- (b) The board shall:
- (i) Regulate the duties of participating employers imposed by this article;
 - (ii) Specify the time, place, amount and manner in which contributions shall be withheld and paid;
 - (iii) Require employers to furnish information in written or electronic format and keep records necessary for the discharge of its duties under this article. The board shall assist employers in complying with any electronic reporting requirements imposed under this paragraph.

9-3-410. Retirement board; actuarial investigation and valuation of system; annual valuation of assets and liabilities to be prepared and published; public record of proceedings.

- (a) The retirement board shall keep in convenient form data necessary for actuarial valuations and investigations of the retirement system. At least once in each six (6) year period, the board shall cause an actuarial valuation to be made of the retirement system. An actuarial investigation of all the experience under the retirement system shall be made at times the board directs but not less often than once in each eight (8) year period.
- (b) The board shall cause an annual valuation to be made of the assets and liabilities of the retirement system and shall prepare an annual statement of the accrued liability contribution rate which, after approval by the legislature, shall be payable by the employers. The board shall also publish annually the valuation of the assets and liabilities and a statement of receipts and disbursements of the retirement system.
- (c) The board shall keep a record of all of its proceedings which shall be open to public inspection.

9-3-411. Retirement board; right to hearing before board; judicial review.

Any person aggrieved by any ruling of the board is entitled to a hearing before the board after giving reasonable notice. The decision of the board upon hearing is a final administrative decision and is subject to judicial review in accordance with the Wyoming Administrative Procedure Act.

9-3-412. Members' contributions; payroll deductions; employer authorized to pay employee's share.

- (a) Except as otherwise provided in this section and W.S. 9-3-431 and 9-3-432, every member covered under this article and firefighter members, shall pay into the account five and fifty-seven hundredths percent (5.57%) of his salary. Payments shall be deducted each pay period from each member's salary by the chief fiscal officer of each participating employer.
- (b) From and after July 1, 1983 and except as provided by W.S. 9-2-1022(a)(xi)(F)(III) or (IV), the contributions required by subsection (a) of this section shall be paid by the employer for state employee members and may be paid by the employer for member employees of political subdivisions of this state in order to be treated as employer contributions for the sole purpose of determining tax treatment under the United States Internal Revenue Code, section 414(h). Unless otherwise specified by contract, any contract employee authorized to participate in the state retirement system under W.S.

9-2-1022(a)(xi)(F)(III) shall pay the entire member contribution and the entire employer contribution under W.S. 9-3-413. From and after July 1, 2007 and for the contributions as provided by W.S. 9-2-1022(a)(xi)(F)(IV), the contributions required by subsection (a) of this section may be paid by the Wyoming livestock board for state employee members in order to be treated as employer contributions for the sole purpose of determining tax treatment under the United States Internal Revenue Code, section 414(h). The amounts shall be stated in the employment contract.

(c) The contributions under subsection (b) of this section shall be paid from the source of funds which is used in paying salary to the member. The employer may pay these contributions by a reduction in cash salary of the member or by an offset against a future salary increase, or by a combination of a reduction in salary and an offset against a future salary increase, provided:

(i) No salary reduction, offset or combination thereof shall exceed the percentage amount actually deducted from a member's salary for contributions to the Wyoming retirement system as of July 1, 1983; and

(ii) Any employer may pay any amount of a member's share of retirement contributions without a salary reduction, offset or combination thereof.

(d) Repealed by Laws 2002, Ch. 82, § 3.

9-3-413. Employer's contributions; payable monthly; transfer to account; interest imposed upon delinquent contributions; recovery.

Except as provided by W.S. 9-2-1022(a)(xi)(F)(III) or (IV), 9-3-431 and 9-3-432, each employer including employers of firefighter members, shall on a monthly basis, pay into the account a contribution equal to five and sixty-eight hundredths percent (5.68%) of the salary paid to each of its members covered under this article and may on a monthly basis, pay into the account any amount of the members' share of retirement contributions. Employer contributions for any month, together with the members' contributions for that month, if any, shall be transferred to the board not later than the twelfth day of the following month. These contributions shall be credited to the account in a manner as directed by the board. Any employer failing to transfer contributions under this section in sufficient time for the board to receive the contributions by the twenty-fifth day of the month due shall be assessed interest at the rate of eight percent (8%) per annum. Interest imposed under this section shall be payable not later than the twelfth day of the next succeeding month. If the contributions and any interest imposed under this section are not transferred to the board when due, they may be recovered, together with court costs, in an action brought for that purpose in the first judicial district court in Laramie County, Wyoming.

9-3-414. Provision for employers' contributions to be made in budgets; notice to department heads.

Provision for the payment by employers of the employers' contributions under this article shall be made in the budgets of the several departments, divisions and subdivisions of the state government and of other employer units. At least thirty (30) days prior to the date for submission of departmental budgets to the state budget officer, the Wyoming retirement board shall notify all department heads that it will be necessary to include funds in the departmental budget for the payment of employers' contributions under this article for the ensuing appropriation period.

9-3-415. When retirement permitted; service credit.

(a) Except as provided under W.S. 9-3-431 and 9-3-432, normal retirement benefits under the system are payable to a member who:

(i) Has at least four (4) years of service credit and is at least sixty (60) years of age; or

(ii) Has a combined total of years of service credit and years of age which equals at least eighty-five (85).

(b) Except as provided under W.S. 9-3-432, early retirement benefits are payable to a member who has at least four (4) years of service and is at least fifty (50) but not yet sixty (60) years of age or has at least twenty-five (25) years of service and is not yet fifty (50) years of age. The early retirement benefit amount is equal to the normal retirement benefit amount otherwise payable reduced on an actuarial equivalent basis under rules established by the board.

(c) Repealed By Laws 2001, Ch. 38, § 2.

(d) Any vested member may elect to make a one-time purchase of up to five (5) years of service credit as established in rules promulgated by the board. Any member electing to purchase service credit shall pay into the account a single lump-sum amount equal to the actuarial equivalent of the benefits to be derived from the service credit computed on the basis of actuarial assumptions approved by the board and the individual's attained age and the benefit structure of the appropriate

plan. Service credit purchased under this subsection shall qualify as service credit defined in W.S. 9-3-402(a)(xxi), 9-3-602(a)(iii), 9-3-702(a)(iii) and 15-5-402(a)(iv).

(e) Any person who is participating in a lawfully established retirement plan of any Wyoming community college or the University of Wyoming as authorized by W.S. 21-19-102 and elects coverage under this article shall have his Wyoming service under both the community college or University of Wyoming retirement plan and under this article counted to meet the eligibility requirements for retirement as specified in this section.

(f) Repealed By Laws 2002, Ch. 82, § 3.

(g) Subject to subsection (h) of this section and in accordance with rule and regulation of the board protecting the actuarial integrity of the system and its status as a federally qualified plan, any retired member rehired after a break in service of not less than thirty (30) days by a participating employer in any capacity including, but not limited to, as a contract employee or as an employee of a third party contractor under an agreement with a participating employer, shall notify the board in writing of his election to:

(i) Discontinue retirement benefits and be reinstated as a contributing member; or

(ii) Continue receiving retirement benefits and not be reinstated as a contributing member.

(h) If a retired member is rehired by a participating employer in any capacity including, but not limited to, as a contract employee or as an employee of a third party contractor under an agreement with a participating employer, and the retiree is rehired following a break in service of not less than thirty (30) days, the employer shall pay into the account an amount equal to both the members' and employer's contributions required by law under the Wyoming retirement system based upon the retiree's salary. Service by the retiree under this subsection shall not increase retirement benefits under the Wyoming retirement system.

(i) Repealed By Laws 2007, Ch. 78, § 2.

(ii) Repealed By Laws 2007, Ch. 78, § 2.

(j) If any retired member or employer violates subsection (h) of this section, the board shall immediately cancel the retiree's retirement benefit and shall reinstate that member as a contributing member.

9-3-416. Members leaving service without withdrawing accumulated contributions eligible for retirement.

Except for law enforcement officers, any member who has left service without withdrawing his accumulated contributions and who has a minimum of four (4) years of service is eligible to receive a retirement benefit computed according to the terms of this article, at the age specified in W.S. 9-3-415(a) or (b). Law enforcement officers leaving service without withdrawing accumulated contributions and who have a minimum of four (4) years of service may receive a retirement benefit amount in accordance with W.S. 9-3-432.

9-3-417. Determination of eligibility for retirement; board to determine equivalent of years of service; credit for military service.

(a) The board shall determine the total years of service creditable to each member for the purpose of determining eligibility for retirement under this article including law enforcement officers for retirement under W.S. 9-3-432. It may require members to file detailed statements of all service as a covered member and to give other necessary information as a condition to the receipt of benefits under this article.

(b) The board shall determine and adopt appropriate rules and regulations defining how much service in any year is the equivalent of one (1) year of service, but in no case shall it allow credit for more than one (1) year of service for all service rendered within one (1) calendar year. In addition, part-time employment shall be credited as follows, with eighty-six (86) or more hours per month considered full-time employment:

(i) Forty (40) or more but less than eighty-six (86) hours per month -- one half (1/2) month credit;

(ii) less than forty (40) hours per month -- one quarter (1/4) month credit.

(c) Credit shall be allowed for any period of time which a member spends in military or other emergency service of the United States in accordance with rules adopted by the board pursuant to the Veterans' Reemployment Rights Act (38 U.S.C. 4321, et seq. P.L. 93-508). Subject to amounts made available by legislative appropriation and in accordance with rule and regulation of the board, up to two (2) years of credit allowed under this subsection may be provided at no cost to the member.

(d) Repealed by Laws 1994, ch. 67, § 3.

9-3-418. Amount of service retirement benefit; firefighter members excluded.

- (a) The normal retirement benefit for a member who first becomes covered under this article after June 30, 1981 is equal to two and one-eighth percent (2 1/8%) of the highest average salary multiplied by his years of service credit for the first fifteen (15) years of service credit, and two and one-fourth percent (2 1/4%) of the highest average salary multiplied by his years of service credit for any years of service credit exceeding fifteen (15) years.
- (b) The retirement benefit for a member with service after March 31, 1953 but prior to July 1, 1981 is equal to the following:
- (i) Repealed by Laws 1994, ch. 67, § 3.
 - (ii) A monthly benefit amount based on the actuarial equivalent of double the member's account with any applicable increase under W.S. 9-3-419; or
 - (iii) Two and one-eighth percent (2 1/8%) of the member's highest average salary multiplied by his years of service credit for the first fifteen (15) years of service credit, and two and one-fourth percent (2 1/4%) of the member's highest average salary multiplied by his years of service credit for any years of service credit exceeding fifteen (15) years.
- (c) Repealed by Laws 1994, ch. 67, § 3.
- (d) Repealed by Laws 1994, ch. 67, § 3.
- (e) This section does not apply to any firefighter member covered and vested under W.S. 9-3-431 or any law enforcement member covered and vested under W.S. 9-3-432.

9-3-419. Retirement benefit adjustments.

- (a) The retirement benefit specified under W.S. 9-3-418(b)(ii) is subject to the following cumulative increases:
- (i) The benefit for covered service prior to July 1, 1975 is increased by twenty-five percent (25%) with a maximum increase of twenty-five dollars (\$25.00) per month;
 - (ii) The benefit of a member, survivor or beneficiary is increased by forty percent (40%);
 - (iii) The benefit of a member for service prior to July 1, 1975 is increased by twenty percent (20%).
 - (iv) Repealed by Laws 1994, ch. 67, § 3.
 - (v) Repealed by Laws 1994, ch. 67, § 3.
 - (vi) Repealed by Laws 1994, ch. 67, § 3.
 - (vii) Repealed by Laws 1994, ch. 67, § 3.
- (b) Effective July 1, 2001 and on each July 1 thereafter, and except as provided for law enforcement officers under W.S. 9-3-432, any retirement benefit, survivor benefit or disability benefit received by eligible individuals under this article shall be adjusted as follows:
- (i) Before each July 1, the board shall determine the percentage increase in the cost of living for the preceding calendar year. The percentage increase in the cost of living for a calendar year is equal to the annual percentage increase in the cost of living as of the immediately following January 1 as shown by the Wyoming cost-of-living index as determined by the division of economic analysis of the department of administration and information;
 - (ii) Subject to the limitation imposed under paragraph (vi) of this subsection, the benefits existing on each July 1 for each eligible individual may be increased by an amount not to exceed the greater of the percentage increase in the cost of living as determined by the board under paragraph (i) of this subsection or a percentage adjustment to a level the system's actuary determines to be actuarially sound pursuant to paragraph (v) of this subsection;
 - (iii) The amount of any percentage increase in the cost of living which exceeds the percentage adjustment under paragraph (ii) of this subsection shall to the extent determined actuarially sound by the system's actuary, be accumulated and added to future years' percentage increases in the cost of living;
 - (iv) Individuals who have been receiving applicable benefits for at least two (2) years, either alone or in combination with a member, if the individual is a survivor, are eligible for the benefits under this subsection;
 - (v) An increase in benefits under this subsection is effective only upon a determination by the system's actuary that the increase is actuarially sound. The actuary shall annually report its determination pursuant to this paragraph to the governor and the joint appropriations interim committee; and
 - (vi) The total benefit adjustment under this subsection shall not exceed three percent (3%) in any one (1) year.

9-3-428. Construction of article; limitation of liability of state.

(a) Nothing in this article shall be construed to:

- (i) Acknowledge any past, present or future liability of or obligate the state of Wyoming for contribution except the employer's contributions provided for in this article, to either the Wyoming retirement system provided by this article or any other retirement system previously existing in the state of Wyoming; or
- (ii) Constitute a contract or binding obligation of any kind whatsoever or to create or grant any vested right or interest in any individual, corporation or body politic.

W. S. 9-3-433 – 452 (the MPERS Act)

Some parts of this act address issues already addressed by the Wyoming Retirement Act. Therefore, headings are shown with excerpts from the text pertinent to chapter discussions.

9-3-433. Short title.

This act may be cited as the Uniform Management of Public Employee Retirement Systems (MPERS) Act.

9-3-434. Definitions.

(a) As used in this act:

(xi) "Fiduciary" means a person who:

- (A) Exercises any discretionary authority to manage a retirement system;
- (B) Exercises any authority to invest or manage assets of a system;
- (C) Provides investment advice for a fee or other direct or indirect compensation with respect to assets of a system or has any authority or responsibility to do so; or
- (D) Is a trustee or a member of a trustee board.

(xiii) "Governing law" means state and local laws establishing or authorizing the creation of a retirement program or system and the principal state and local laws and regulations governing the management of a retirement program or system or assets of either;

(xxii) "Retirement system" means an entity established or maintained by a public employer to manage one (1) or more retirement programs, or to invest or manage the assets of one (1) or more retirement programs;

(xxiii) "Trustee" means a person who has ultimate authority to manage a retirement system or to invest or manage its assets;

(xxiv) "This act" means W.S. 9-3-433 through 9-3-452.

9-3-435. Scope.**9-3-436. Establishment of trust.**

(a) *Except as otherwise provided in subsection (b) of this section, all assets of a retirement system are held in trust. The trustee has the exclusive authority, subject to this act, to invest and manage those assets. (LSO emphasis added)*

(b) Assets of a retirement system which consist of insurance contracts or policies issued by an insurer, assets of an insurer, and assets of the system held by an insurer need not be held in trust.

(c) If an insurer issues a guaranteed benefit policy to a retirement system, assets of the system include the policy but not assets of the insurer.

(d) If a retirement system invests in a security issued by an investment company registered under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), the assets of the system include the security, but not assets of the investment company.

9-3-437. Powers of trustee.

- (a) In addition to other powers conferred by the governing law, a trustee has exclusive authority, consistent with the trustee's duties under this act, to:
- (i) Establish an administrative budget sufficient, subject to legislative approval, to perform the trustee's duties and, as appropriate and reasonable, draw upon assets of the retirement system to fund the budget;
 - (ii) Obtain by employment or contract the services necessary to exercise the trustee's powers and perform the trustee's duties, including actuarial, auditing, custodial, investment and legal services; and
 - (iii) Procure and dispose of the goods and property necessary to exercise the trustee's powers and perform the trustee's duties.

9-3-438. Delegation of functions.

- (a) A trustee or administrator may delegate functions that a prudent trustee or administrator acting in a like capacity and familiar with those matters could properly delegate under the circumstances.
- (b) The trustee or administrator shall exercise reasonable care, skill and caution in:
- (i) Selecting an agent;
 - (ii) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the retirement program; and
 - (iii) Periodically reviewing the agent's performance and compliance with the terms of the delegation.
- (c) In performing a delegated function, an agent owes a duty to the retirement system and to its participants and beneficiaries to comply with the terms of the delegation and, if a fiduciary, to comply with the duties imposed by W.S. 9-3-439.
- (d) A trustee or administrator who complies with subsections (a) and (b) of this section is not liable to the retirement system or to its participants or beneficiaries for the decisions or actions of the agent to whom the function was delegated.
- (e) By accepting the delegation of a function from the trustee or administrator, an agent submits to the jurisdiction of the courts of this state.
- (f) A trustee may limit the authority of an administrator to delegate functions under this section.

9-3-439. General duties of trustee and fiduciary.

- (a) A trustee or other fiduciary shall discharge duties with respect to a retirement system:
- (i) Solely in the interest of the participants and beneficiaries;
 - (ii) For the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses of administering the system;
 - (iii) With the care, skill and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
 - (iv) Impartially, taking into account any differing interests of participants and beneficiaries;
 - (v) Incurring only costs that are appropriate and reasonable; and
 - (vi) In accordance with a good-faith interpretation of the law governing the retirement program and system.

9-3-440. Duties of trustee in investing and managing assets of retirement system.

- (a) In investing and managing assets of a retirement system pursuant to W.S. 9-3-439, a trustee with authority to invest and manage assets:
- (i) Shall consider among other circumstances:
 - (A) General economic conditions;
 - (B) The possible effect of inflation or deflation;
 - (C) The role that each investment or course of action plays within the overall portfolio of the retirement program or appropriate grouping of programs;
 - (D) The expected total return from income and the appreciation of capital;
 - (E) Needs for liquidity, regularity of income and preservation or appreciation of capital; and
 - (F) For defined benefit plans, the adequacy of funding for the plan based on reasonable actuarial factors.
 - (ii) Shall diversify the investments of each retirement program or appropriate grouping of programs unless the trustee reasonably determines that, because of special circumstances, it is clearly prudent not to do so;

(iii) Shall make a reasonable effort to verify facts relevant to the investment and management of assets of a retirement system;

(iv) May invest in any kind of property or type of investment consistent with this act; and

(v) May consider benefits created by an investment in addition to investment return only if the trustee determines that the investment providing these collateral benefits would be prudent even without the collateral benefits.

(b) A trustee with authority to invest and manage assets of a retirement system shall adopt a statement of investment objectives and policies for each retirement program or appropriate grouping of programs. The statement shall include the desired rate of return on assets overall, the desired rates of return and acceptable levels of risk for each asset class, asset-allocation goals, guidelines for the delegation of authority and information on the types of reports to be used to evaluate investment performance. At least annually, the trustee shall review the statement and change or reaffirm it.

9-3-441. Special application of duties.

9-3-442. Reviewing compliance.

9-3-443. Liability of trustee or other fiduciary.

(a) *A trustee or other fiduciary who breaches a duty imposed by this act is personally liable to a retirement system for any losses resulting from the breach and any profits made by the trustee or other fiduciary through use of assets of the system by the trustee or other fiduciary. The trustee or other fiduciary is subject to other equitable remedies as the court considers appropriate, including removal. (LSO emphasis added)*

(b) An agreement that purports to limit the liability of a trustee or other fiduciary for a breach of duty under this act is void.

(c) A retirement system may insure itself against liability or losses occurring because of a breach of duty under this act by a trustee or other fiduciary.

(d) A trustee or other fiduciary may insure against liability or losses occurring because of a breach of duty under this act if the insurance is purchased or provided either by the trustee or fiduciary personally or, on the trustee or fiduciary's behalf, by this state, the retirement system, a public employer whose employees participate in a retirement program served by the trustee or fiduciary, an employee representative whose members participate in a retirement program served by the trustee or fiduciary or the trustee or fiduciary's employer.

9-3-444. Open meetings and records.

9-3-445. Disclosure to public.

9-3-446. Disclosure to participants and beneficiaries.

9-3-447. Reports to agency.

9-3-448. Summary plan description.

9-3-449. Annual disclosure of financial and actuarial status.

(a) An annual disclosure of financial and actuarial status shall contain:

(i) The name of the retirement system and identification of each retirement program and, when programs are in an appropriate grouping of programs, of each appropriate grouping of programs;

(ii) The name and business address of the administrator;

(iii) The name and business address of each trustee and each member of a trustee board and a brief description of how the trustee or member was selected;

(iv) The name and business address of each agent for the service of process;

(v) The number of employees covered by each retirement program not in an appropriate grouping of programs, or by each appropriate grouping of programs, or both;

- (vi) The name and business address of each fiduciary;
- (vii) The current statement of investment objectives and policies required by W.S. 9-3-440(b);
- (viii) Financial statements and notes to the financial statements in conformity with generally accepted accounting principles;
- (ix) An opinion on the financial statements by a qualified public accountant in conformity with generally accepted auditing standards;
- (x) In the case of a defined benefit plan, actuarial schedules and notes to the actuarial schedules in conformity with generally accepted actuarial principles and practices for measuring pension obligations;
- (xi) In the case of a defined benefit plan, an opinion by a qualified actuary that the actuarial schedules are complete and accurate to the best of the actuary's knowledge, that each assumption and method used in preparing the schedules is reasonable, that the assumptions and methods in the aggregate are reasonable, and that the assumptions and methods in combination offer the actuary's best estimate of anticipated experience;
- (xii) A description of any material interest, other than the interest in the retirement program itself, held by any public employer participating in the system or any employee organization representing employees covered by the system in any material transaction with the system within the last three (3) years or proposed to be effected;
- (xiii) A description of any material interest held by any trustee, administrator or employee who is a fiduciary with respect to the investment and management of assets of the system, or by a related person, in any material transaction with the system within the last three (3) years or proposed to be effected;
- (xiv) A schedule of the rates of return, net of total investment expense, on assets of the system overall and on assets aggregated by category over the most recent one (1), three (3), five (5) and ten (10) year periods, to the extent available, and the rates of return on appropriate benchmarks for assets of the system overall and for each category over each period;
- (xv) A schedule of the sum of total investment expense and total general administrative expense for the fiscal year expressed as a percentage of the fair value of assets of the system on the last day of the fiscal year, and an equivalent percentage for the preceding five (5) fiscal years; and
- (xvi) A schedule of all assets held for investment purposes on the last day of the fiscal year aggregated and identified by issuer, borrower, lessor or similar party to the transaction stating, if relevant, the asset's maturity date, rate of interest, par or maturity value, number of shares, cost and fair value and identifying any asset that is in default or classified as uncollectible.

9-3-450. Annual report.**9-3-451. Enforcement.**

- (a) An action may be maintained by:
 - (i) A public employer, participant, beneficiary or fiduciary:
 - (A) To enjoin an act, practice or omission that violates this act;
 - (B) For appropriate equitable relief for a breach of trust under W.S. 9-3-443; or
 - (C) For other appropriate equitable relief to redress the violation of or to enforce this act; or
 - (ii) The retirement system to enjoin any violation of W.S. 9-3-447.
- (b) In an action under this section by a participant, beneficiary or fiduciary, the court may award reasonable attorney fees and costs to either party.

9-3-452. Alienation of benefits.

Other Retirement Statutes:

TITLE 9 - ADMINISTRATION OF THE GOVERNMENT

CHAPTER 3 - COMPENSATION AND BENEFITS

ARTICLE 5 - DEFERRED COMPENSATION PROGRAM

ARTICLE 6 - STATE HIGHWAY PATROL, GAME AND FISH WARDEN AND CRIMINAL INVESTIGATOR RETIREMENT

ARTICLE 7 - JUDICIAL RETIREMENT

TITLE 15 - CITIES AND TOWNS

CHAPTER 5 - FIRE AND POLICE DEPARTMENTS

ARTICLE 2 - FIREMEN PENSIONS AND DEATH BENEFITS

ARTICLE 4 - FIREMEN'S PENSION ACCOUNT REFORM ACT OF 1981

TITLE 35 - PUBLIC HEALTH AND SAFETY

CHAPTER 9 - FIRE PROTECTION

ARTICLE 6 - VOLUNTEER FIREMEN'S PENSION FUND

TITLE 21 - EDUCATION

CHAPTER 19 - HIGHER EDUCATION RETIREMENT

