

ORIGINAL SENATE  
FILE NO. 0072

ENROLLED ACT NO. 27, SENATE

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2010 BUDGET SESSION

AN ACT relating to the Wyoming retirement system; increasing employee and employer contributions; providing for contribution rates by employers and employees; repealing obsolete and inconsistent language; providing appropriations; and providing for an effective date.

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

**Section 1.** W.S. 9-2-1022(a)(xi)(F)(IV), 9-3-412(a), (b) and (c) and 9-3-413 are amended to read:

**9-2-1022. Duties of department performed through human resources division.**

(a) Subject to subsection (b) of this section, the department through the human resources division shall:

(xi) Promulgate reasonable rules:

(F) Necessary to administer a program whereby at-will contract employees may be utilized by agencies to meet programmatic needs. These rules shall be structured so that:

(IV) Notwithstanding subdivision (III) of this subparagraph, if the employment contract so provides, an at-will, year-round, full-time brand inspection contract employee authorized to carry out the duties specified by W.S. 11-20-201 may be eligible for membership in the state employees' and officials' group insurance plan in accordance with W.S. 9-3-207, and the state retirement system under W.S. 9-3-412, provided the employee pays the total premium or total contribution required, or the portion of the premium or contribution, if any, the employment contract directs the employee to pay

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2010 BUDGET SESSION

and the employee's wages under the contract are reported on an Internal Revenue Service Form W-2 Wage and Tax Statement. Subject to the limitations of W.S. 9-3-412(c), the Wyoming livestock board shall have sole discretion to determine the amount of the total premium or contribution to be paid by the employee and the amount to be paid by the board, if any. The amounts shall be stated in the employment contract. The time limitations provided in subdivision (V) of this subparagraph shall not apply to any employee under this subdivision;

**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%)~~ seven percent (7%) of his salary. Payments shall be deducted each pay period from each member's salary by the chief fiscal officer of each participating employer. Employee contributions shall be transferred to the account in accordance with subsection (c) of this section.

(b) ~~From and after July 1, 1983 and~~ Except as provided by W.S. 9-2-1022(a)(xi)(F)(III) or (IV), 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 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~~

ORIGINAL SENATE  
FILE NO. 0072

ENROLLED ACT NO. 27, SENATE

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2010 BUDGET SESSION

~~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) Except as provided in paragraphs (iii) and (iv) of this subsection, any employer may pay any amount of a member's share of retirement contributions without a salary reduction, offset or combination thereof; ~~-~~

(iii) For state employee members five and fifty-seven hundredths percent (5.57%) of the member's salary shall be paid by the employer without any salary reduction or offset. The remaining portion of the state employee's

ORIGINAL SENATE  
FILE NO. 0072

ENROLLED ACT NO. 27, SENATE

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2010 BUDGET SESSION

contribution shall be paid through a reduction in cash salary of the state employee unless specified otherwise by legislative act; and

(iv) For full-time brand inspection contract employees authorized to participate in the state retirement system under W.S. 9-2-1022(a)(xi)(F)(IV), not more than five and fifty-seven hundredths percent (5.57%) of the contract employee's salary shall be paid by the livestock board unless specified otherwise by legislative act.

**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%)~~ seven and twelve hundredths percent (7.12%), 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

ORIGINAL SENATE  
FILE NO. 0072

ENROLLED ACT NO. 27, SENATE

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2010 BUDGET SESSION

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.

**Section 2.**

(a) There is appropriated to the state auditor the following amounts:

(i) Ten million five hundred seventy thousand eight hundred thirty dollars (\$10,570,830.00) from the general fund;

(ii) Three million two hundred eight thousand seven hundred forty-six dollars (\$3,208,746.00) from the general fund; and

(iii) For state agency employers whose retirement contributions are made from nongeneral fund sources there is appropriated from those accounts and funds amounts necessary to provide the increase in employer contribution rate required by W.S. 9-3-413 as amended by this act for the period specified in subsection (c) of this section.

(b) There is appropriated twenty-three million four hundred ninety-five thousand dollars (\$23,495,000.00) from the school foundation program account to the state auditor.

(c) The appropriations under paragraphs (a)(i) and (iii) of this section shall only be expended for the purpose of providing each state agency's increased employer contribution required by W.S. 9-3-413 as amended by this act, for the 2011-2012 fiscal biennium. The appropriation under paragraph (a)(ii) of this section shall only be expended for the purpose of providing the University of

ORIGINAL SENATE  
FILE NO. 0072

ENROLLED ACT NO. 27, SENATE

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2010 BUDGET SESSION

Wyoming and community college increased employer contribution under W.S. 21-19-101 through 21-19-106 corresponding to the increased employer contribution under W.S. 9-3-413 as amended by this act, for the 2011-2012 fiscal biennium. The auditor shall transfer the funds to the state retirement system or to individual state agencies as determined by the department of administration and information to be necessary to meet the provisions of this act.

(d) The appropriation under subsection (b) of this section shall only be expended for the purpose of providing each school district's increased employer contribution required by W.S. 9-3-413 as amended by this act, for the 2011-2012 fiscal biennium. The auditor shall transfer the funds to the state retirement system or to the department of education for distribution to individual school districts as determined by the department of administration and information to be necessary to meet the provisions of this act.

(e) No part of these appropriations shall be used to provide the increased employee contribution required by this act. Notwithstanding any other provision of law, the appropriations under this section shall not be transferred or expended for any purpose other than as specified in this section. Any unexpended, unobligated funds remaining from the appropriations under this section shall revert as provided by law on June 30, 2012. These appropriations shall not be included in the state auditor's 2013-2014 standard biennial budget request.

(f) As used in this section "state agency" includes each community college and any state executive, legislative or judicial department, board, commission or other agency

ORIGINAL SENATE  
FILE NO. 0072

ENROLLED ACT NO. 27, SENATE

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2010 BUDGET SESSION

or instrumentality of the state, including the University  
of Wyoming.

**Section 3.** This act is effective September 1, 2010.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk