

EXHIBIT 9
DATE 2-18-04
HB 644

MONTANA PUBLIC EMPLOYEES' RETIREMENT BOARD
HB 644 Airport Police Officers to Join SRS

Currently airport police officers are generally considered to be members of PERS. The Sheriffs' Retirement System's contributions are significantly higher for the employer (9.535% of compensation) vs. PERS (6.8%) and for the employee (9.245% of compensation) vs. PERS (6.9%). The estimated increase in contributions for the 24 identified airport police officers will be \$53,038 in FY06 and \$55,292 in FY07.

Aside from the additional cost, the PER Board has 2 primary concerns regarding HB 644. First, and foremost is the lack of a clear definition of airport police officers.

The office of sheriff or deputy sheriff is clearly defined: "any elected or appointed county sheriff or undersheriff or **any appointed, lawfully trained, appropriately salaried, and regularly acting deputy sheriff with the requisite professional certification and licensing.**"

The proposed definition of "airport police officer" is much less clear, placing the PER Board in the difficult position of determining who are real "airport police officers" and who are not.

"Employed by a city or an airport authority to provide law enforcement services at an airport and who has authority to carry a weapon and make arrests"

Is training required?

At the Law Enforcement Academy?

What constitutes law enforcement services?

What authority is required to carry a weapon; to make arrests?

Do citizen arrests count?

The PER Board is sometimes asked to make these decisions after years of contributions to the cheaper PERS. When that happens, the PER Board has to send a huge bill to a very unhappy employer for past due employer and employee contributions.

The Board requests, at a minimum, a definition of "airport police officer" that is similar to that for sheriffs and deputy sheriffs. However, this request leads directly to the Board's second concern. Are these individuals actually police officers? Particularly the officers working at the Billings Logan International Airport who are required to be sworn, POST-certified police officers? If so, they should be members of the Municipal Police Officers Retirement System, not PERS.

Finally, there are individuals currently working as airport police officers that are retired members of SRS, MPORS, GWPORS and HPORS. If the officers are required to join a system from which they have retired, they will be unable to retain their position and continue receiving their retirement benefit.

For the reasons indicated, the Board respectfully requests a DO NOT PASS on HB 644. However, if the committee supports the legislation, the Board urges adoption of amendments clarifying the term "airport police officers".

Melanie Symons
PER Board Legal Counsel
February 16, 2005