

MONTANA CONSTITUTION

(underlining added for emphasis)

ARTICLE VIII

Section 15. Public retirement system assets. (1) Public retirement systems shall be funded on an actuarially sound basis. Public retirement system assets, including income and actuarially required contributions, shall not be encumbered, diverted, reduced, or terminated and shall be held in trust to provide benefits to participants and their beneficiaries and to defray administrative expenses.

(2) The governing boards of public retirement systems shall administer the system, including actuarial determinations, as fiduciaries of system participants and their beneficiaries.

History: En. Sec. 2, Const. Amend. No. 25, approved Nov. 8, 1994.

MONTANA CODE ANNOTATED

19-2-409. Plans to be funded on actuarially sound basis -- definition. As required by Article VIII, section 15, of the Montana constitution, each system must be funded on an actuarially sound basis. For purposes of this section, "actuarially sound basis" means that contributions to each retirement plan must be sufficient to pay the full actuarial cost of the plan. For a defined benefit plan, the full actuarial cost includes both the normal cost of providing benefits as they accrue in the future and the cost of amortizing unfunded liabilities over a scheduled period of no more than 30 years. For the defined contribution plan, the full actuarial cost is the contribution defined by law that is payable to an account on behalf of the member.

POLICY ISSUES THAT DESERVE CONSIDERATION

Q 1. Do sheriffs' departments consider the job duties of county jailers to be comparable to the law enforcement duties of a deputy sheriff or sheriff?

A 1.

Salaries suggest otherwise.

- The Yellowstone County final budget for Fiscal Year 2004-2005 shows 39 patrol officers in SRS, with an average wage of \$46,104/year (more for administrators and detectives). Yellowstone County shows 86 detention officers with an average wage of \$34,328/year.
- The most recent actuarial experience study showed the 2004 average salary of 662 members of the Sheriffs' Retirement System to be \$40,408/year with an average tenure of 8.8 years of service. Actuarial Valuation, p. 23, Table 9: Information submitted to the Senate Local Government Committee by the Sheriffs and Peace Officers Association (SPOA) assumed a salary of less than \$25,000 for a detention officer with 9 years of experience; roughly \$30,000 with 30 years experience. Salary for those with only minimal part-time detention duties is unknown.

Training suggests otherwise.

- A basic certificate for a peace officer requires 3 months of training. A basic certificate for a detention officer or a juvenile detention officer requires 3 weeks of training. All detention facility employees are encouraged to get this minimal training, not just the guards.
- Apparently, ongoing training is not generally provided to jailers. The SPOA suggested to the Senate Committee that training costs would decrease because new jailers require training, but not those retained for 20 years.

Q 2. Will a 20 year retirement system assist in county jail **recruitment and retention**?

A 2. The answer is unknown. However, it seems reasonable to say if turnover is 20% to 100% each year, the problems will not be resolved with a 20 year retirement system. An employee will not remain in an intolerable situation for the promise of a retirement system benefit in 20 years.

- SB 370 could actually make it **harder to recruit** county jailers.
- ❖ Employee contributions are increased and take-home pay is decreased by 2.345% (almost \$600/year on a \$25,000/year salary).
- ❖ Salary increases may be more difficult for all SRS members because of increased employer contributions necessary to fund SRS:
 - HB148 increases the SRS employer contributions by 1.2 percent FY 2006 and another 1.2 percent in FY 2008. With the passage of HB 148, employer contributions will increase by \$480,700 and \$501,129 for fiscal years 2006 and 2007, respectively. In FY2008 the cost will increase again by roughly \$150,000, to about \$650,000, increasing each year as payroll increases.

- SRS contributions are significantly higher for the employer (9.535% of compensation) vs. PERS (6.8%). The increased cost has been calculated as more than \$334,000 next year, increasing each year as payroll increases. Some counties may be able to afford this increase. Others may not.
 - Counties have already asked the state for reimbursement of some detention costs (HB243–Rep. Lambert, passed 2d Reading in the House 94-6), presumably based on need. This suggests two things: First, the counties do not have enough money to add additional costs to detention center operations. Second, if HB243 passes, this bill will increase costs to the state for the state’s portion of the operational cost reimbursement.
- SB 370 may actually make it **harder to retain** county jailers.
 - ❖ HB 370 provides an incentive for detention officers to terminate and take a refund of employee contributions to get back the larger employee contributions they have made.
 - ❖ SB 370 facilitates transfer to regular state and local law enforcement positions, that are 20 year retirement systems. If those positions are less stress and risk (as stated by the Sheriffs and Peace Officers Association in Senate committee testimony), why would county jailers not move to other law enforcement positions?

Q 3. Will SB370 reduce cost by eliminating high salaried jailers after 20 years?

A 3. That speculation is unsupported.

- The Sheriffs and Peace Officers’ Association told the Senate Local Government Committee that most jurisdictions experience 20% to 100% turnover annually. Even if that figure improves, the number of detention officers currently reaching 20 years of service would seem to be relatively few, the number currently staying beyond 20 years even less.
- A twenty year retirement system does not mean that everyone with 20 years of service will retire. In the Sheriffs’ Retirement System currently about 1 in 9 members has more than 20 years of service.

Q 4. Will SB 370 reduce cost by reducing older jailers, who might be more injury prone?

A 4. That speculation is unsupported. Whether there are more or less older jailers will be determined by the age at which jailers first become employed and the duration of their employment. About 1 in 6 current members of SRS are over 50 years old.

Q 5. Is SB 370 optional for each county?

A 5. No. Whether or not SB 370 is a good management tool or fiscally responsible for a particular county, all counties must allow their detention officers the option to join SRS and all counties must place all new detention officers in SRS.

No Magic Money Formula

$$\mathbf{B = C + I - E}$$

Benefits = Contributions + Investment Income – Expenses

The amount of benefits that can be paid will always equal the amount of contributions (employer contributions and employee contributions) into the pension trust fund plus the investment income from the investment of that trust fund, minus the expenses of investment and administration of the system.

Each benefit improvement requires additional contributions into the pension trust fund.