

1 HOUSE BILL NO. 328

2 INTRODUCED BY F. WILMER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE TRANSFER OF CERTAIN PUBLIC SAFETY
5 COMMUNICATIONS OFFICERS, ALSO KNOWN AS DISPATCHERS, FROM THE PUBLIC EMPLOYEES'
6 RETIREMENT SYSTEM TO THE SHERIFFS' RETIREMENT SYSTEM; AMENDING SECTIONS 19-7-101,
7 19-7-301, AND 19-7-302, MCA; AND PROVIDING AN EFFECTIVE DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 19-7-101, MCA, is amended to read:

12 **"19-7-101. Definitions.** Unless the context requires otherwise, the following definitions apply in this
13 chapter:

14 (1) (a) "Compensation" means remuneration paid from funds controlled by an employer for the member's
15 services or for time during which the member is excused from work because the member has taken
16 compensatory leave, sick leave, annual leave, or a leave of absence before any pretax deductions allowed by
17 state or federal law are made.

18 (b) Compensation does not include maintenance, allowances, and expenses.

19 (2) "Detention officer" means any detention officer who is hired by a sheriff, employed in a detention
20 center, and acting as a detention officer for the sheriff and who has received or is expected to receive training
21 to meet the employment standards set for detention officers by the Montana public safety officer standards and
22 training council established in 2-15-2029.

23 (3) "Highest average compensation" means a member's highest average monthly compensation during
24 any 36 consecutive months of membership service or, if a member has not served at least 36 months, the total
25 compensation earned divided by the number of months of service. Lump-sum payments for severance pay,
26 including payment for compensatory leave, sick leave, and annual leave, paid to the member upon termination
27 of employment may be used in the calculation of a retirement benefit only to the extent that they are used to
28 replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation
29 of the highest average compensation. A lump-sum payment may not be added to a single month's compensation.

30 (4) "Investigator" means a person who is employed by the department of justice as a criminal investigator

1 or as a gambling investigator.

2 (5) "Public safety communications officer" means a public safety communications officer as defined in
3 7-31-201.

4 ~~(5)(6)~~ "Sheriff" means any elected or appointed county sheriff or undersheriff or any appointed, lawfully
5 trained, appropriately salaried, and regularly acting deputy sheriff with the requisite professional certification and
6 licensing."

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8 **Section 2.** Section 19-7-301, MCA, is amended to read:

9 **"19-7-301. Membership -- inactive vested members -- inactive nonvested members.** (1) (a) Except
10 as provided in subsection (1)(b), each sheriff ~~shall~~ must become a member of the sheriffs' retirement system.

11 (b) A sheriff who was a member of the public employees' retirement system on July 1, 1974, may remain
12 a public employees' retirement system member or elect to become a member of the sheriffs' retirement system
13 by filing a written election with the board at any time before retirement.

14 (2) (a) Except as provided in subsection (2)(b), an investigator ~~shall~~ must become a member of the
15 sheriffs' retirement system.

16 (b) An investigator who was a member of the public employees' retirement system on July 1, 1993, may
17 remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement system
18 by filing a written election with the board at any time before retirement.

19 (3) (a) Except as provided in subsection (3)(b), a detention officer ~~shall~~ must become a member of the
20 sheriffs' retirement system.

21 (b) A detention officer who was a member of the public employees' retirement system on July 1, 2005,
22 may remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement
23 system by filing a written election with the board before May 1, 2006.

24 (4) (a) Except as provided in subsection (4)(b), a public safety communications officer must become a
25 member of the sheriffs' retirement system.

26 (b) A public safety communications officer who is a member of the public employees' retirement system
27 on July 1, 2011, may remain in the public employees' retirement system or may elect to become a member of
28 the sheriffs' retirement system by filing a written election with the board no later than October 1, 2011.

29 ~~(4)(5)~~ A member of the public employees' retirement system who begins employment in a position
30 covered by the sheriffs' retirement system may remain in the public employees' retirement system or may elect

1 to become a member of the sheriffs' retirement system by filing a written election with the board no later than 30
2 days after beginning the employment.

3 ~~(5)(6)~~ A sheriff or investigator who elects to become a member of the sheriffs' retirement system must
4 be an active member as long as actively employed in an eligible capacity, except as provided in 19-7-1101(2).

5 ~~(6)(7)~~ (a) An inactive member with at least 5 years of membership service is an inactive vested member
6 and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this
7 chapter.

8 (b) If an inactive vested member chooses to take a lump-sum payment rather than a retirement benefit,
9 the lump-sum payment consists of only the member's accumulated contributions and not the employer's
10 contributions.

11 ~~(7)(8)~~ (a) An inactive member with less than 5 years of membership service is an inactive nonvested
12 member and is not eligible for any benefits from the retirement system.

13 (b) An inactive nonvested member is eligible only for a refund of the member's accumulated
14 contributions."
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16 **Section 3.** Section 19-7-302, MCA, is amended to read:

17 **"19-7-302. Ineligibility for membership in public employees' retirement system.** (1) After July 1,
18 1974, a sheriff may not become a member of the public employees' retirement system and the provisions of The
19 Public Employees' Retirement System Act do not apply to sheriffs.

20 (2) After July 1, 1993, an investigator is not eligible to become a member of the public employees'
21 retirement system and the provisions of The Public Employees' Retirement System Act do not apply to
22 investigators, except as provided in 19-7-301.

23 (3) After July 1, 2005, a detention officer is not eligible to become a member of the public employees'
24 retirement system and the provisions of The Public Employees' Retirement System Act do not apply to detention
25 officers, except as provided in 19-7-301.

26 (4) After July 1, 2011, a public safety communications officer is not eligible to become a member of the
27 public employees' retirement system and the provisions of The Public Employees' Retirement System Act do not
28 apply to public safety communications officers, except as provided in 19-7-301.

29 ~~(4)(5)~~ This chapter may not be construed to deny any sheriff or investigator any benefits accrued under
30 provisions of the public employees' retirement system prior to membership in this retirement system."

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2 NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2011.

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