

HOUSE BILL NO. 234

INTRODUCED BY S. FITZPATRICK

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF "COMPENSATION" USED FOR CALCULATING RETIREMENT CONTRIBUTIONS AND BENEFITS UNDER THE MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM AND THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM; AND AMENDING SECTIONS 19-9-104 AND 19-13-104, MCA."

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

Section 1. Section 19-9-104, MCA, is amended to read:

"19-9-104. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) (a) "Compensation" means the remuneration paid from funds controlled by an employer in payment for the member's services or for compensatory leave, sick leave, annual leave, banked holiday time, or a leave of absence before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include:

~~—— (i) overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave and annual leave; and~~

~~—— (ii) maintenance, allowances, and expenses.~~

(2) "Dependent child" means a child of a deceased member:

(a) who is unmarried and under 18 years of age; or

(b) who is unmarried, under 24 years of age, and attending an accredited postsecondary educational institution as a full-time student in anticipation of receiving a certificate or degree.

(3) "Employer" means any city that participated in a prior plan or that elects to join this retirement system under 19-9-207.

(4) "Final average compensation" means the monthly compensation of a member averaged over the last 36 months of the member's service or, in the event a member has not served at least 36 months, the total compensation earned divided by the number of months of service.

(5) "Minimum retirement date" means the first day of the month coinciding with or, if none coincides, the

1 date on which a member both becomes age 50 and completes 5 years of membership service.

2 (6) Any reference to "municipality", "city", or "town" includes those jurisdictions that, prior to the effective
3 date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban
4 law enforcement services, or the entire county included in the county-municipal consolidation.

5 (7) "Police officer" means an appointed, lawfully trained, appropriately salaried, and regularly acting
6 officer with the requisite professional certification and licensing.

7 (8) "Prior plan" means the local police reserve or pension trust fund of a city that elects to join the
8 retirement system under 19-9-207.

9 (9) "Retirement date" means the date on which the first payment of the retirement, disability, or
10 survivorship benefits of a member or a survivor is payable.

11 (10) "Surviving spouse" means the spouse married to a member at the time of the member's death.

12 (11) "Survivor" means a surviving spouse or dependent child of the member."
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14 **Section 2.** Section 19-13-104, MCA, is amended to read:

15 **"19-13-104. Definitions.** Unless the context requires otherwise, the following definitions apply in this
16 chapter:

17 (1) Any reference to "city" or "town" includes those jurisdictions that, before the effective date of a
18 county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban
19 firefighting services, or the entire county included in the county-municipal consolidation.

20 (2) "Compensation" means:

21 (a) for a full-paid firefighter, the remuneration paid from funds controlled by an employer in payment for
22 the member's services or for compensatory leave, sick leave, annual leave, banked holiday time, or a leave of
23 absence before any pretax deductions allowed by state and federal law are made;

24 (b) for a part-paid firefighter employed by a city of the second class:

25 (i) 15% of the ~~regular remuneration, excluding overtime, holiday payments, shift differential payments,~~
26 ~~compensatory time payments, and payments in lieu of sick leave,~~ compensation paid on July 1 of each year to
27 a newly confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

28 (ii) if that city does not employ a full-paid firefighter, 15% of the average ~~regular remuneration, excluding~~
29 ~~overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of~~
30 ~~sick leave,~~ compensation paid on July 1 of each year to all newly confirmed, full-paid firefighters employed by

1 cities of the second class.

2 (c) Compensation for full-paid and part-paid firefighters does not include:

3 ~~—— (i) overtime, holiday payments, shift differential payments, compensatory time payments, and payments~~
4 ~~in lieu of sick leave; and~~

5 ~~—— (ii) maintenance, allowances, and expenses.~~

6 (3) "Dependent child" means a child of a deceased member who is:

7 (a) unmarried and under 18 years of age; or

8 (b) unmarried, under 24 years of age, and attending an accredited postsecondary educational institution
9 as a full-time student in anticipation of receiving a certificate or degree.

10 (4) "Employer" means:

11 (a) any city that is of the first or second class or that elects to join this retirement system under 19-13-211;

12 (b) a city or a rural fire district referred to in 19-13-210(3);

13 (c) with respect to firefighters covered in the retirement system pursuant to 19-13-210(2), the department
14 of military affairs established in 2-15-1201; and

15 (d) any other statutorily allowed entity that elects to join this retirement system pursuant to 19-13-210.

16 (5) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

17 (6) "Full-paid firefighter" means a person appointed by an employer as a firefighter under the standards
18 provided in 7-33-4106 and 7-33-4107.

19 (7) "Highest average compensation" means the monthly compensation of a member averaged over the
20 highest consecutive 36 months of the member's active service or, in the event a member has not served at least
21 36 consecutive months, the total compensation earned divided by the number of months of service. Lump-sum
22 payments for annual leave paid to the member upon termination of employment may be used to replace, on a
23 month-for-month basis, the regular compensation for a month or months included in the calculation of highest
24 average compensation.

25 (8) "Minimum retirement date" means the first day of the month coinciding with or immediately following,
26 if none coincides, the date on which a member reaches both 50 years of age or older and completes 5 or more
27 years of membership service.

28 (9) "Part-paid firefighter" means a person employed under 7-33-4109 who receives compensation in
29 excess of \$300 a year for service as a firefighter and who is appointed by an employer as a firefighter under the
30 standards provided in 7-33-4106 and 7-33-4107.

