

HOUSE BILL NO. 120

INTRODUCED BY R. LENHART

BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING COUNTY DETENTION OFFICERS TO TRANSFER FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO THE SHERIFFS' RETIREMENT SYSTEM; PROVIDING THAT ALL NEW COUNTY DETENTION OFFICERS MUST BECOME MEMBERS OF THE SHERIFFS' RETIREMENT SYSTEM; AND AMENDING SECTIONS 19-7-101, 19-7-301, AND 19-7-302, MCA."

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

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

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

(1) "Compensation" means remuneration paid for services to a member out of funds controlled by an employer before any pretax deductions allowed by the Internal Revenue Code are made and exclusive of maintenance, allowances, and expenses.

(2) "Detention officer" means any officer hired by a sheriff, employed in a detention center, and acting as a detention officer for the sheriff.

~~(2)~~(3) "Highest average compensation" means the highest average monthly compensation received by a member for any 3 years of continuous service from which contributions were deducted or, in the event that a member has not served 3 years, the total compensation earned divided by the number of months served. Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, and annual leave, paid to an employee upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the highest average compensation. A lump-sum payment may not be added to a single month's compensation.

~~(3)~~(4) "Investigator" means a person who is employed as a criminal investigator or as a gambling investigator for the department of justice.

~~(4)~~(5) "Sheriff" means 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."

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

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

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

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

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

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

(b) A detention officer who was a member of the public employees' retirement system on [the effective date of this act] may remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement system by filing a written election with the board before May 1, 2004.

~~(3)~~(4) A member of the public employees' retirement system who begins employment in a position covered by the sheriffs' retirement system may remain in the public employees' retirement system or may elect to become a member of the sheriffs' retirement system by filing a written election with the board no later than 30 days after beginning the employment.

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

~~(5)~~(6) A member with at least 5 years of membership service who terminates service and does not take a refund of the member's accumulated contributions is an inactive vested member and retains the right to purchase service and to receive a retirement benefit under the provisions of this chapter.

~~(6)~~(7) A member with less than 5 years of membership service who terminates service and leaves the member's accumulated contributions in the pension trust fund is an inactive nonvested member and is not eligible for any benefits from the retirement system. An inactive nonvested member is eligible only for a refund of the member's accumulated contributions."

Section 3. Section 19-7-302, MCA, is amended to read:

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

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

(3) After [the effective date of this act] a detention officer is not eligible to become a member of the public employees' retirement system and the provisions of The Public Employees' Retirement System Act do not apply to detention officers, except as provided in 19-7-301.

~~(3)~~(4) This chapter may not be construed to deny any sheriff, ~~or investigator, or detention officer~~ any benefits accrued under provisions of the public employees' retirement system prior to membership in this retirement system."

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