

HOUSE BILL NO. 175

INTRODUCED BY F. WILMER

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

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

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

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

(3) (a) "Highest average compensation" means:

(i) for members hired prior to July 1, 2011, the member's highest average monthly compensation during any 36 consecutive months of membership service;

(ii) for members hired on or after July 1, 2011, the highest average compensation during any 60 consecutive months of membership service; or

(iii) if a member has not served the minimum specified period of membership service as applicable in subsection (3)(a)(i) or (3)(a)(ii), the total compensation earned divided by the number of months of service.

(b) Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, and



1 annual leave, paid to the member upon termination of employment may be used in the calculation of a retirement
 2 benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation
 3 for a month or months included in the calculation of the highest average compensation. A lump-sum payment may
 4 not be added to a single month's compensation.

5 (4) "Investigator" means a person who is employed by the department of justice as a criminal investigator
 6 or as a gambling investigator.

7 (5) "Public safety communications officer" means a public safety communications officer as defined in
 8 7-31-201.

9 (5)(6) "Sheriff" means any elected or appointed county sheriff or undersheriff or any appointed, lawfully
 10 trained, appropriately salaried, and regularly acting deputy sheriff with the requisite professional certification and
 11 licensing."
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13 **Section 2.** Section 19-7-301, MCA, is amended to read:

14 "**19-7-301. Membership -- inactive vested members -- inactive nonvested members.** (1) (a) Except
 15 as provided in subsection (1)(b), each sheriff ~~shall~~ must become a member of the sheriffs' retirement system.

16 (b) A sheriff who was a member of the public employees' retirement system on July 1, 1974, may remain
 17 a public employees' retirement system member 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 (2) (a) Except as provided in subsection (2)(b), an investigator ~~shall~~ must become a member of the
 20 sheriffs' retirement system.

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

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

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

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

1 (b) A public safety communications officer who was a member of the public employees' retirement
 2 system on July 1, 2013, may remain in the public employees' retirement system or elect to become a member
 3 of the sheriffs' retirement system by filing a written election with the board no later than October 1, 2013.

4 ~~(4)~~(5) A member of the public employees' retirement system who begins employment in a position
 5 covered by the sheriffs' retirement system may remain in the public employees' retirement system or may elect
 6 to become a member of the sheriffs' retirement system by filing a written election with the board no later than 30
 7 days after beginning the employment.

8 ~~(5)~~(6) A sheriff, investigator, ~~or~~ detention officer, or public safety communications officer who elects to
 9 become a member of the sheriffs' retirement system must be an active member as long as actively employed in
 10 an eligible capacity, except as provided in 19-7-1101(2).

11 ~~(6)~~(7) (a) An inactive member with at least 5 years of membership service is an inactive vested member
 12 and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this
 13 chapter.

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

17 ~~(7)~~(8) (a) An inactive member with less than 5 years of membership service is an inactive nonvested
 18 member and is not eligible for any benefits from the retirement system.

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

23 **"19-7-302. Ineligibility for membership in public employees' retirement system.** (1) After July 1,
 24 1974, a sheriff may not become a member of the public employees' retirement system and the provisions of The
 25 Public Employees' Retirement System Act do not apply to sheriffs.

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

29 (3) After July 1, 2005, a detention officer is not eligible to become a member of the public employees'
 30 retirement system and the provisions of The Public Employees' Retirement System Act do not apply to detention

1 officers, except as provided in 19-7-301.

2 (4) After July 1, 2013, a public safety communications officer is not eligible to become a member of the
3 public employees' retirement system and the provisions of The Public Employees' Retirement System Act do not
4 apply to public safety communications officers, except as provided in 19-7-301.

5 ~~(4)~~(5) This chapter may not be construed to deny any sheriff, investigator, ~~or~~ detention officer, or public
6 safety communications officer any benefits accrued under provisions of the public employees' retirement system
7 prior to membership in this retirement system."

8

9 NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 2013.

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