

HOUSE BILL NO. 574

INTRODUCED BY J. ESSMANN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MUNICIPAL POLICE OFFICERS' AND THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM LAWS CONCERNING THE DEFINITION OF "COMPENSATION" AND CONTRIBUTIONS BASED ON THAT COMPENSATION; AMENDING SECTIONS 19-9-104, 19-9-702, 19-9-703, 19-13-104, 19-13-604, AND 19-13-605, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

WHEREAS, a portion of the current 2.75% insurance premium tax in section 33-2-705, MCA, dates back to an 1864 license fee imposed on fire insurance companies for the specific purpose of funding local fire relief association disability funds; and

WHEREAS, the license fee was expanded in 1897 to apply to all insurance companies doing business in Montana and was used for local police pension and disability funds; and

WHEREAS, in 1911, an additional tax commonly known as the State Fire Marshall's Tax was imposed on the fire risks portion of the premiums collected by insurance companies to fund the State Fire Marshall's office as well as local fire departments and was later combined with the other insurance premium taxes which continued to be used for local police and fire pension and disability benefits; and

WHEREAS, the Municipal Police Officers' Retirement System (MPORS) was established in 1977 and the Firefighters' Unified Retirement System (FURS) was established in 1981 as statewide consolidations of local police and fire pension and disability funds; and

WHEREAS, in 1997, earmarks on the insurance premium taxes were removed, the taxes were deposited directly to the general fund, and the state's contributions to MPORS and FURS were made directly from the general fund;

WHEREAS, in Fiscal Year 2014, more than \$73 million was collected in insurance premium taxes, with more than \$60 million deposited to the general fund; and

WHEREAS, the current state general fund contributions to MPORS and FURS amount to only about \$26 million; and

WHEREAS, it is desirable to revise the definition of "compensation" for police officers and firefighters so they can save for retirement based on their total compensation; and

1 WHEREAS, it is desirable to specify that a portion of the insurance premium tax revenue now going to
 2 the general fund be used to offset any fiscal impact to local governments for the revised definition of
 3 "compensation" in MPORS and FURS.

4

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

6

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

8 **"19-9-104. Definitions.** Unless the context requires otherwise, the following definitions apply in this
 9 chapter:

10 (1) "Additional compensation" means overtime payments, holiday payments, shift differential payments,
 11 compensatory time payments, and payments in lieu of sick leave and annual leave.

12 (2) "Base compensation" means compensation excluding overtime payments, holiday payments, shift
 13 differential payments, compensatory time payments, and payments in lieu of sick leave and annual leave.

14 ~~(1)~~(3) (a) "Compensation" means the remuneration paid from funds controlled by an employer in
 15 payment for the member's services before any pretax deductions allowed by state or federal law are made,
 16 including overtime, holiday payments, shift differential payments, compensatory time payments, and payments
 17 in lieu of sick leave and annual leave.

18 (b) ~~Compensation~~ The term does not include:

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

21 ~~(ii)~~(i) maintenance, allowances, and expenses; or

22 ~~(iii)~~(ii) bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not
 23 considered part of base pay.

24 ~~(2)~~(4) "Dependent child" means a child of a deceased member:

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

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

28 ~~(3)~~(5) "Employer" means any city that participated in a prior plan or that elects to join this retirement
 29 system under 19-9-207.

30 ~~(4)~~(6) (a) "Final average compensation" means the monthly compensation of a member averaged over

1 the last 36 months of the member's service or, in the event a member has not served at least 36 months, the total
2 compensation earned divided by the number of months of service.

3 (b) Excess earnings limits must be applied to the calculation of the final average compensation pursuant
4 to 19-2-1005(2).

5 ~~(5)~~(7) "Minimum retirement date" means the first day of the month coinciding with or, if none coincides,
6 the date on which a member both becomes age 50 and completes 5 years of membership service.

7 ~~(6)~~(8) Any reference to "municipality", "city", or "town" includes those jurisdictions that, prior to the
8 effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created
9 for urban law enforcement services, or the entire county included in the county-municipal consolidation.

10 ~~(7)~~(9) "Police officer" means an appointed, lawfully trained, appropriately salaried, and regularly acting
11 officer with the requisite professional certification and licensing.

12 ~~(8)~~(10) "Prior plan" means the local police reserve or pension trust fund of a city that elects to join the
13 retirement system under 19-9-207.

14 ~~(9)~~(11) "Retirement date" means the date on which the first payment of the retirement, disability, or
15 survivorship benefits of a member or a survivor is payable.

16 ~~(10)~~(12) "Surviving spouse" means the spouse married to a member at the time of the member's death.

17 ~~(11)~~(13) "Survivor" means a surviving spouse or dependent child of the member."
18

19 **Section 2.** Section 19-9-702, MCA, is amended to read:

20 "**19-9-702. State contribution.** (1) The state shall make its contributions from the general fund. The
21 general fund contributions must be made annually after the end of each fiscal year but no later than November
22 1. The board shall notify the state auditor by September 1 of each fiscal year of the annual compensation paid
23 to all active members during the preceding fiscal year.

24 (2) The state's contribution is an amount equal to 29.37% of the base compensation paid to members.

25 (3) The state's additional contribution is an amount equal to 14.41% of the additional compensation paid
26 to members.

27 (4) The contributions are statutorily appropriated as provided in 17-7-502."
28

29 **Section 3.** Section 19-9-703, MCA, is amended to read:

30 "**19-9-703. Employer contribution.** Each employer shall make its contribution through the city treasurer

1 or other appropriate official out of money available to the city for that purpose. The employer shall pay as
 2 employer contributions an amount equal to 14.41% of the base compensation paid to all of the employer's
 3 employees, except those properly excluded from membership."

4

5 **Section 4.** Section 19-13-104, MCA, is amended to read:

6 **"19-13-104. Definitions.** Unless the context requires otherwise, the following definitions apply in this
 7 chapter:

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

11 (2) "Additional compensation" means overtime payments, holiday payments, shift differential payments,
 12 compensatory time payments, and payments in lieu of sick leave.

13 (3) "Base compensation" means compensation excluding overtime payments, holiday payments, shift
 14 differential payments, compensatory time payments, and payments in lieu of sick leave.

15 ~~(2)~~(4) (a) "Compensation" means:

16 ~~(a)~~(i) for a full-paid firefighter, the remuneration paid from funds controlled by an employer in payment
 17 for the member's services before any pretax deductions allowed by state and federal law are made, including
 18 overtime payments, holiday payments, shift differential payments, compensatory time payments, and payments
 19 in lieu of sick leave;

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

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

24 ~~(ii)~~(B) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration,
 25 ~~excluding~~ including overtime, holiday payments, shift differential payments, compensatory time payments, and
 26 payments in lieu of sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters employed
 27 by cities of the second class.

28 ~~(e)~~(b) Compensation for full-paid and part-paid firefighters does not include:

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

1 ~~(ii)~~(i) maintenance, allowances, and expenses; or
2 ~~(iii)~~(ii) bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not
3 considered part of base pay.

4 ~~(3)~~(5) "Dependent child" means a child of a deceased member who is:

5 (a) unmarried and under 18 years of age; or
6 (b) unmarried, under 24 years of age, and attending an accredited postsecondary educational institution
7 as a full-time student in anticipation of receiving a certificate or degree.

8 ~~(4)~~(6) "Employer" means:

9 (a) any city that is of the first or second class or that elects to join this retirement system under
10 19-13-211;

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

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

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

15 ~~(5)~~(7) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

16 ~~(6)~~(8) "Full-paid firefighter" means a person appointed pursuant to 7-33-4106 by an employer as a
17 firefighter meeting the standards provided in 7-33-4107.

18 ~~(7)~~(9) (a) "Highest average compensation" means the monthly compensation of a member averaged over
19 the highest consecutive 36 months of the member's active service or, in the event a member has not served at
20 least 36 consecutive months, the total compensation earned divided by the number of months of service.

21 (b) Lump-sum payments for annual leave paid to the member upon termination of employment may be
22 used to replace, on a month-for-month basis, the regular compensation for a month or months included in the
23 calculation of highest average compensation.

24 (c) Excess earnings limits must be applied to the calculation of the highest average compensation
25 pursuant to 19-2-1005(2).

26 ~~(8)~~(10) "Minimum retirement date" means the first day of the month coinciding with or immediately
27 following, if none coincides, the date on which a member both reaches 50 years of age or older and completes
28 5 or more years of membership service.

29 ~~(9)~~(11) "Newly confirmed firefighter" means a new member of a fire department appointed pursuant to
30 7-33-4106 and meeting the standards of 7-33-4107.

