

HOUSE BILL NO. 319

INTRODUCED BY R. FITZGERALD, M. MARLER, M. HOPKINS, T. BROCKMAN, D. HARVEY, J. KARLEN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PARTICIPATION IN THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM; AMENDING SECTIONS 19-13-104 AND 19-13-210, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 19-13-104, MCA, is amended to read:

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

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

(2) "Compensation" means:

(a) for a full-paid firefighter, the remuneration paid from funds controlled by an employer in payment for the member's services before any pretax deductions allowed by state and federal law are made;

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

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

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

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

(i) overtime, holiday payments, shift differential payments, compensatory time payments, and

1 payments in lieu of sick leave;

2 (ii) maintenance, allowances, and expenses; or

3 (iii) bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and

4 not considered part of base pay.

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

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

7 (b) unmarried, under 24 years of age, and attending an accredited postsecondary educational

8 institution as a full-time student in anticipation of receiving a certificate or degree.

9 (4) "Employer" means:

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

12 (b) a city or a rural fire district, fire authority, or authority having jurisdiction for an airport referred to
13 in 19-13-210(3);

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

16 (d) any other statutorily allowed entity that elects to join this retirement system pursuant to 19-13-
17 210.

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

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

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

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

28 (c) Excess earnings limits must be applied to the calculation of the highest average compensation

1 pursuant to 19-2-1005(2).

2 (8) "Minimum retirement date" means the first day of the month coinciding with or immediately
3 following, if none coincides, the date on which a member both reaches 50 years of age or older and completes
4 5 or more years of membership service.

5 (9) "Newly confirmed firefighter" means a new member of a fire department appointed pursuant to
6 7-33-4106 and meeting the standards of 7-33-4107.

7 (10) "Part-paid firefighter" means a person other than a full-paid firefighter employed by a second-
8 class city who receives compensation in excess of \$300 in a fiscal year for service as a firefighter and who is
9 appointed by an employer as a firefighter under the standards provided in 7-33-4106 and 7-33-4107.

10 (11) "Prior plan" means the fire department relief association plan of a city that elects to join the
11 retirement system under 19-13-211 or the fire department relief association plan of a city of the first or second
12 class.

13 (12) "Retirement date" means the date on which the first payment of benefits is payable.

14 (13) "Retirement system" means the firefighters' unified retirement system provided for in this
15 chapter.

16 (14) "Surviving spouse" means the spouse married to a member at the time of the member's death."
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18 **Section 2.** Section 19-13-210, MCA, is amended to read:

19 **"19-13-210. Participation in retirement system.** (1) Cities of the first and second class that employ
20 full-paid firefighters shall participate in the retirement system. If a city of the first or second class is reduced to a
21 city of the third class or a town under 7-1-4118, it shall continue to participate in the retirement system as long
22 as it has retired firefighters or survivors eligible to receive retirement benefits.

23 (2) Firefighters hired by the Montana air national guard on or after October 1, 2001, or on or after
24 the date of the execution of an agreement between the department of military affairs and the board, whichever
25 is later, shall participate in the retirement system.

26 (3) (a) A city that is not covered under subsection (1) and that has full-paid firefighters
27 covered by the public employees' retirement system and any rural fire district department, fire authority, or
28 authority having jurisdiction for an airport with full-paid firefighters covered by the public employees' retirement

1 system may elect to be covered under the retirement system as provided in 19-13-211.

2 (b) An election by a city fire department to be covered by the retirement system must be made
3 through adoption of an ordinance stating that the governing body of the city agrees to be bound by the
4 provisions of the retirement system.

5 (c) A similar election may be made by a rural fire district, fire authority, or authority having
6 jurisdiction for an airport through adoption of a resolution stating that the governing body of the fire district
7 agrees to be bound by the provisions of the retirement system.

8 (d) The ordinance or resolution must specify the effective date of the election. The provisions of
9 the retirement system become applicable on the effective date specified in the adopted ordinance or resolution.
10 A certified copy of the ordinance or resolution must be provided to the board.

11 (4) The following are the terms and conditions of an election to join the retirement system pursuant
12 to subsection (3):

13 (a) Each firefighter employed by the fire department before the effective date of the election must
14 be given 90 days from the effective date of the election to make an individual, one-time, irrevocable election to
15 remain in the public employees' retirement system or to join the retirement system. Failure to make an election
16 under this subsection (4)(a) must be considered an election to remain in the public employees' retirement
17 system.

18 (b) Each firefighter employed by the fire department who is hired on or after the effective date of
19 the election must be covered by the retirement system.

20 (c) A firefighter electing to join the retirement system may retain prior service in the public
21 employees' retirement system or purchase the prior service and transfer that prior service to the retirement
22 system as provided for in 19-2-715."
23

24 **NEW SECTION. Section 3. Effective date.** [This act] is effective July 1, 2023.

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