Montana Public Employees' Retirement Board
Table of General Revision Legislation for 2021

MCA Section	Proposed Change	Reason	Notes
19-2-907	Amend last sentence of subpart (7) to read as: "The alternate payee's rights and interests may survive the alternate payee's death and may be transferred by inheritance" unless the FLO provides otherwise.	To clarify options available when an alternate payee dies prior to the member.	Consistent with federal law and current practice.
19-2-908	Clarify subpart (4) to make clear that GABA eligibility on January 1 must be after 12 separate monthly payments: "If a member begins receiving retirement benefits payments later than when the member is initially eligible, the guaranteed annual benefit adjustment . . . does not commence until January 1 of the year after the year in which the member ~~begins to receive the member's~~ has received a retirement benefit payment in each of that year's twelve months."	Some members believe they are entitled to GABA if they have received the equivalent of 12 benefit payments in a year rather than 12 separate payments.	Current Practice

MCA Section	Proposed Change	Reason	Notes
19-2-1007	Amend subpart (1) and (5) to read as follows: (1) Benefits must begin by ~~the later of~~ April 1 of the calendar year following the later of (1) the calendar year in which the member reaches 70 1/2 years of age (if the Member was born before July 1, 1949) or age 72 (if the Member was born after June 30, 1949) or (2) ~~April 1 of the calendar year following~~ the calendar year in which the member terminates employment. If a member fails to apply for retirement benefits by April 1 of the year following the calendar year in which the member attains age 70 1/2 (if the Member was born before July 1, 1949) or age 72 (if the Member was born after June 30, 1949) or April 1st of the year following the calendar year in which the member terminates employment, whichever is later . . . (5) When a member dies before distribution of benefits has begun, the entire interest of the member must be distributed within 5 years of the member's death. The 5-year payment rule does not apply to any portion of the member's interest that is payable to a designated beneficiary over the life or life expectancy of the beneficiary and that begins within 1 year after the date of the member's death. The 5-year payment rule does not apply to any portion of the member's interest that is payable to a surviving spouse, that is payable over the life or life expectancy of the spouse, and that begins no later than the date the member would have reached 70 1/2 years of age (if the Member was born before July 1, 1949) or age 72 (if the Member was born after June 30, 1949). Distributions to a member's beneficiary must begin as soon as administratively feasible, but must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died. If the beneficiary has not elected the form of payment by that date, payment to the beneficiary must be made in the form of a lifetime monthly benefit payment if the beneficiary is eligible for a monthly benefit or in a lump sum if that is the only benefit payable to the beneficiary.	The Setting Every Community Up for Retirement Enhancement (SECURE) Act was signed into law on December 20, 2019 and now requires that defined benefit plan distributions to a member must begin by no later than April 1 of the calendar year in which he or she attains (1) age 70 ½ (if the Member was born before July 1, 1949) or (2) age 72 (if the Member was born after June 30, 1949) or by April 1 of the calendar year following the calendar year in which the member terminates employment. In addition, the SECURE Act also amends the RMD date under the IRS' 5 year rule statutory exception for any portion of the member's interest that is payable over the life or life expectancy of a surviving spouse and that begins no later than the date the member would have reached 70 1/2 years of age (if the Member was born before July 1, 1949) or age 72 (if the Member was born after June 30, 1949).	* The IRS's "5 Year Rule" under IRC 401(9) requires that the entire member account balance must be distributed within 5 years of the death of the member if the member dies before the distribution of benefits has begun.

MCA Section	Proposed Change	Reason	Notes
19-3-503 **19-5-410** **19-6-801** **19-7-803** **19-8-901** **19-9-403** **19-13-403**	Amend military service purchase eligibility provisions in PERS, JRS, HPORS, SRS, GWPORS, MPORS, and FURS to reflect current federal court rulings preventing a statutory denial to a member to purchase previous military service on the basis that the member may derive a military pension benefit for the same military service. Specifically, delete provisions of (1)(b) of each statute that prevent a member from such a purchase if the member has "retired from active duty . . . with a military service retirement benefit based on that military service" or "is eligible to receive credit for that service retirement benefit based on that military service."	Courts that have reviewed this issue have recognized that a state administered pension plan is not required by federal law to offer any credit to members for prior military service. However, if a state does allow for that benefit, courts have held that the benefit cannot be denied a member on the basis that the member may derive a military pension benefit for military service as well.	
19-3-1605	Revise GABA statutory language for members hired prior to July 1, 2013 to reflect District Court's decision in AMPRE/GABA lawsuit.	The District Court found 19-3-1605, MCA to be unconstitutional as applied to members hired prior to July 1, 2007. Their GABA remains at 3% for those hired before 7/1/2007 and 1.5% for those hired between July 1, 2007 and June 30, 2013. Those hired on or after July 1, 2013, have a 1.5% GABA subject to reduction based on the system's funded percentage.	
19-3-2114	Revise specified interest transfer rate from 7.75% to the "actuarial assumed rate of return established by the board" for employees who elect to become members of the defined contribution plan and have their contributions transferred from the defined benefit plan to the defined contribution plan.	MPERB must generically update this statute to reflect the Board's "assumed rate of return" untied to any specific number currently in effect. This is necessary to prevent current statutory language, with specific numerical values, from contradicting future Board adopted rates of return.	

MCA Section	Proposed Change	Reason	Notes
19-3-2124	Revise subpart (3) to read as: "A member who is less than 70 1/2 years of age (if the Member was born before July 1, 1949) or age 72 (if the Member was born after June 30, 1949) who returns to service may not continue to receive a distribution under this section while actively employed in a covered position."	The Setting Every Community Up for Retirement Enhancement (SECURE) Act was signed into law on December 20, 2019 and now requires that defined benefit plan distributions to a member must begin by no later than April 1 of the calendar year in which he or she attains (1) age 70 ½ (if the Member was born before July 1, 1949) or (2) age 72 (if the Member was born after June 30, 1949) or by April 1 of the calendar year following the calendar year in which the member terminates employment.	19-3-2124, MCA sets forth defined contribution plan statutory provisions permitting reemployed employees to continue to receive distributions they elected prior to returning to work if they have reached their RMD date under IRC 401(a)(9).
19-3-2141	Add reference to 19-3-1103 in part 21 to make clear that DC disabilities are subject to DB earnings limitation.	We are applying limit to DC members.	Current practice

Montana Public Employees' Retirement Board
Table of Funding Legislation for 2021

MCA Section	Proposed Change	Reason	Notes
19-3-316 **19-3-319** **19-3-2117** **(PERS)**	Revise the current PERS employer contribution rate statutes to reflect an increased combined employer contribution rate of 10.44%. This revision eliminates the 1.27% employer contribution rate increase with 0.1% increases that sunset in FY2024 under HB 454.	Section V. B. 4 of the MPERB's Funding and Benefits Policy, requires the MPERB to recommend to the Legislature that funding be increased for a defined benefit system to address the financial sustainability of the system if the amortization period of a system's unfunded liabilities is projected to exceed 30 years for two consecutive valuations and the Board cannot reasonably anticipate that the amortization period would decline without an increase in funding sources. A 4 year period of asset smoothing is used to determine each systems actuarial rate of return and to value each system's unfunded liabilities and the period necessary to amortize such liability in any given year. Each system will be dropping off an 11.9 % rate of return and replacing it with what the Board assumes to be a rate of 7.65% for this fiscal year. As such, the MPERB can expect that each system's unfunded liabilities will increase and the period to amortize these liabilities will exceed 30 years again during each system's next valuation.	The current Annual Required Contribution (ARC) for PERS is 9.48%, which is .31% higher than the future statutory rate reached of 9.17% under the 0.1% increase in FY2024.
19-8-504 **(GWPORS)**	Add new subpart (2) and (3) to provide for an additional employer contribution of 1.05% in GWPORS that will terminate when the Board's actuary, as part of its annual valuation, determines the system amortizes in under 25 years without the additional 1.05% employer contribution.		The current Annual Required Contribution (ARC) for GWPORS is 9.57%, which is .57% higher than the current employer contribution rate of 9%.
23-7-402 **17-7-502** **Title 19, ch. 6, part 4** **(HPORS)**	This draft legislative concept proposes the establishment of a general fund statutory appropriation to the Highway Patrol Retirement System trust fund out of a portion of current net revenue generated under Montana's Sports Book Gambling program. Under statute at 23-7-402, MCA, after existing statutory allocations are made of net sports book gambling revenue to the STEM scholarship program, the first $600k of net revenue that will revert to the general fund will be statutorily appropriated to the HPORS trust fund in FY2022. Thereafter, the first $650k of net revenue that will revert to the general fund will be statutorily appropriated to the HPORS trust fund in FY23, and the first $700k of net revenue that will revert to the general fund will be statutorily appropriated to the HPORS trust fund in FY24 as well as for each subsequent fiscal year. This appropriation would be reviewed by the 71st Legislature and necessary recommendations for adjustments would be made at that time.		The current Annual Required Contribution (ARC) shortfall for the HPORS system as of the June 30, 2020 valuation sits at 3.61% and as a level dollar amount this percentage equates to $564,000 worth of shortfall. This means that $564,000 in additional contributions to the HPORS system were needed for it to amortize at 30 years this past valuation. Montana State Lottery estimates that sports book gambling net revenue reverting to the general fund after STEM allocations are made will be $12,468,000 in FY22 and $12,709,000 in FY23.