

**Montana Public Employees' Retirement Board
Table of General Revision Legislation for 2023**

MCA Section	Proposed Change	Reason	Notes
<p>19-2-403 (All Systems)</p>	<p>Powers and duties of board. (1) The board shall administer the provisions of the chapters enumerated in 19-2-302.</p> <p>...</p> <p>(8) The board shall maintain records and accounts it determines necessary for the administration of the retirement systems, <u>and:</u> <u>(a) record information may be shared with a member's employer to the reasonably minimum extent necessary to conduct retirement system business on behalf of the member.</u></p> <p><i>Renumber remaining</i></p>	<p>Some employers fail to maintain election and other records and then need to ask MPERA for information in order to appropriately make contributions, etc. The law has always been unclear as to whether MPERA can share information about an employee with an employer. This would allow sharing only to the extent that it benefits the administration of that member's retirement account.</p>	
<p>19-2-803 (All Systems)</p>	<p>Payment to custodian of minor beneficiary. (1) Except as provided in subsection (2), if any benefit from a system is payable to a minor, the benefit must be paid to one of the following:</p> <p>...</p> <p>(2) If any benefit payable from the highway patrol officers' retirement system under chapter 6 of this title, the municipal police officers' retirement system under chapter 9 of this title, or the firefighters' unified retirement system under chapter 13 of this title is payable to a <u>minor child or</u> statutory beneficiary who is a dependent child, as defined under the provisions of <u>chapters 6, 9, or 13 of this title that system</u>, of a system member and the system member has established a trust for the <u>minor child or</u> dependent child, then the benefit must be paid to the trustee of that trust.</p>	<p>Such an amendment allows for additional protection for a minor child's benefit payment interest under certain circumstances.</p>	

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<p>19-2-1005 (All Systems)</p>	<p>(2) (a) Except as provided in subsection (2)(b), <u>when calculating a highest average compensation for a member with at least 84 months of service credit or final average compensation for a member with 48 months of service credit and</u> hired on or after July 1, 2013, a retirement system or plan subject to this chapter may not include the following amounts of excess earnings in the calculation of a member's highest average compensation or final average compensation:</p>	<p>Calculating HAC and FAC for retiring members who do not have an entire "baseline" year of service prior to the first year of HAC/FAC requires extrapolation such as annualizing compensation for a partial year or using year one of the HAC/FAC as the zero year. Because of the functioning of subsection (2)(b), eliminating the applicability of this statute to this group of just-vested retiring members does not change the ultimate HAC/FAC.</p>	
<p>19-3-108 (PERS)</p>	<p>Definitions. Unless the context requires otherwise, as used in this chapter, the following definitions apply:</p> <p>...</p> <p>(b) Compensation does not include:</p> <p>...</p> <p>(vi) bonuses provided after July 1, 2013, that are one-time, <u>or</u> temporary payments in addition to and not considered part of base pay.</p> <p>(vii) <u>remuneration paid to a member to reimburse the member for what would normally be an employer's costs of doing business when those costs are incurred as part of a telework arrangement, such as for workstation equipment or internet or cell phone service;</u></p> <p>(viii) <u>volunteer stipends</u></p>	<p>Employer stipends for the purpose of facilitating work from home during the COVID-19 pandemic and volunteer stipends have been an increasing area of confusion for employers. This definition change simply makes it clear that these two categories of payments are not considered pensionable compensation.</p>	

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19-3-403 (PERS)	<p>19-3-403. Exclusions from membership. The following persons may not become members of the retirement system and, except as provided in subsection (7), may not later purchase previous service under 19-3-505:</p> <p>(1) inmates or residents of state institutions or correctional institutions;</p> <p>(2) persons in state institutions principally for the purpose of training but who receive compensation;</p> <p>(3) independent contractors;</p> <p>(4) <u>volunteers;</u></p> <p>(5) <u>student interns; except that a student intern who later becomes an active member by otherwise becoming an employee may affirmatively exercise the option of purchasing the service credit excluded by this subsection by applying to the board in writing after becoming an active member and becoming eligible to receive service credit for the excluded service under the provisions of 19-3-505;</u></p> <p><i>Renumber remaining</i></p>	<p>Employers have increasingly been reporting volunteers and student interns to PERS. While other definitions within Title 19 should make it clear that these positions are not covered employment, this definition change will help to minimize confusion.</p>	

<p>19-3-511 (PERS)</p>	<p>Transfer and purchase of service credits and contributions from teachers' retirement system. (1) Except as provided in subsection (3)(b), an active member may, at any time before retirement, file a written application with the board to purchase in the public employees' retirement system the member's service in the teachers' retirement system to the extent that the member has either received or is eligible to receive a refund for the service.</p> <p>(2) The cost of purchasing service credit under this section is the sum of subsections (2)(a) and (2)(b) as follows:</p> <p>(a) The teachers' retirement system shall transfer directly <u>to the public employees' retirement system employer contributions in</u> an amount equal to 72% of the amount payable by the member.</p> <p>(b) The member shall pay either directly or by transferring contributions on account with the teachers' retirement system <u>teacher's retirement system shall transfer</u> an amount equal to the member's accumulated contributions at the time that active membership was terminated with the teachers' retirement system, plus accrued interest. Interest must be calculated from the date of termination until payment is received by the public employees' retirement system, based on the interest tables in use by the teachers' retirement system.</p> <p>(3) (a) The amount of service credit granted in subsection (1) must be on a month-by-month basis <u>and equal to the service credit that had been on account with the teachers' retirement system.</u></p> <p>(b) Service credit transferred from the teachers' retirement system is subject to the provisions and limitations of 19-3-514, except as provided in subsection (3)(c).</p> <p>(c) Active service transferred from the teachers' retirement system or refunded service from the teachers' retirement system that is eligible to be purchased under this section is not subject to</p>	<p>These amendments mirror proposed changes by TRS in that system's general revisions bill. The proposed changes facilitate increased operability for members who move between PERS and TRS in terms of service purchases and transfers.</p>	
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service credit limitations.

(4) Subject to the provisions of 19-2-403, the board is the sole authority in determining the amount of service credit that a member may purchase under this section and the amount paid to the retirement system under subsection (2).

~~(5) If an active member who has service credit in the teachers' retirement system dies before the member purchases this service credit in the public employees' retirement system, and if the service credit from both systems, when combined, entitles the member's designated beneficiary to a survivorship benefit, the payment of the survivorship benefit is the liability of the public employees' retirement system. Before payment of the survivorship benefit, the teachers' retirement board shall transfer to the public employees' retirement system the contributions necessary to purchase this service credit in the public employees' retirement system, as provided in subsection (2).~~ When an active member of the public employees' retirement system dies and while also having service credit on account with the teachers' retirement system, the member's designated beneficiary may apply to have the deceased member's service transferred from the teachers' retirement system to the public employees' retirement system if the following requirements are met:

(a) the member has not previously retired under either retirement system;

(b) the member is not vested with either system at the time of death;

(c) the member's total creditable service following transfer will entitle the designated beneficiary to receive a survivor benefit from the public employees' retirement system in the form of a monthly benefit payable for the beneficiary's lifetime;

(d) at least one, individual designated beneficiary will elect the

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	<p><u>lifetime benefit;</u></p> <p><u>(v) the designated beneficiary entitled to payment on behalf of the deceased is the same individual in each retirement system; and</u></p> <p><u>(vi) the transfer of service credit to the public employees' retirement system is upon a full withdrawal of the deceased member's service credit from the teacher's retirement system.</u></p> <p>(6) If the board determines that a member was erroneously classified and reported to the teachers' retirement system, the member's accumulated contributions and service credit, together with the employer contributions plus interest, must be transferred to the public employees' retirement system. Employee and employer contributions due as calculated under 19-3-315 and 19-3-316 are the liability of the employee and the employing entity, respectively, where the error occurred. For the period of time that the employer contributions are held by the teachers' retirement system, interest paid on employer contributions transferred under this subsection must be calculated at the short-term investment pool rate earned by the board of investments in the fiscal year preceding the transfer request.</p>		

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<p>19-3-1015 19-5-612 19-6-612 19-7-612 19-8-712 19-9-904 19-13-805 (All Systems)</p>	<p>Amend the cancellation and reinstatement of disability benefit provisions in PERS, JRS, HPORS, SRS, GWPORS, MPORS, and FURS to allow for expeditious cancelling of a disability benefit when a member receiving a disability benefit independently confirms they are no longer incapacitated and returns to covered employment.</p> <p>Additional Section to be included for each system's statute:</p> <p><u>When a disabled member receiving a disability retirement benefit independently determines that they are no longer incapacitated and returns to covered employment, the member shall immediately notify retirement system administrative staff so that the member's disability retirement benefit may be canceled.</u></p>	<p>Persons returning to work should not have to wait for Board approval.</p>	

MCA Section	Proposed Change	Reason	Notes
<p>19-3-1106 (PERS)</p>	<p>19-3-1106. Limited reemployment -- reduction of service retirement benefit upon exceeding limits -- reporting obligations - - liability -- exceptions. (1) A retired member under 65 years of age who was hired prior to July 1, 2011, who has been terminated from employment for at least 90 days, and who is receiving a service retirement benefit or early retirement benefit may return to employment covered by the retirement system for a period not to exceed 960 <u>compensated</u> hours in any calendar year without returning to active service and without any effect to the retiree's retirement benefit. The retirement benefit for any retiree exceeding this 960-hour limitation in any calendar year after retirement must be temporarily reduced \$1 for each \$1 <u>of compensation</u> earned after working 960 hours in that calendar year.</p> <p>...</p> <p>(7) (a) For the purposes of this section, "employment covered by the retirement system" includes:</p> <p>(i) work performed by a retiree through a professional employer arrangement, an employee leasing arrangement, or a temporary service contractor as those terms are defined in 39-8-102; and</p> <p>(ii) services performed by a retiree as an independent contractor for an employer participating in the system.</p> <p>(b) For purposes of this section, compensation for a retiree covered by subsection (7)(a) is limited to compensation for the work performed by the retiree as defined in 19-3-108 and does not include any additional payment for overhead costs or costs not directly related to the work performed.</p>	<p>This limit has been the subject of a fair amount of confusion for working retirees. Some employers have informed working retirees that compensated hours such as holiday or vacation time do not count towards the limit.</p>	

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<p>19-7-101 (SRS)</p>	<p>19-7-101. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:</p> <p>...</p> <p>(5) "Sheriff" means any elected or appointed county sheriff or undersheriff or any appointed, lawfully trained, appropriately salaried, and regularly acting full time deputy sheriff with the requisite professional certification and licensing.</p>	<p>"Regularly acting" is not defined in the code and has caused confusion among various county employers. Some counties report part time sheriff deputies to SRS while the majority believe that it is prohibited due to Mont. Code Ann. § 7-32-202:</p> <p>7-32-202. Prohibition on participation in certain pension and retirement systems. (1) A reserve officer may not participate in any pension or retirement system established for full-time law enforcement officers. (2) An auxiliary officer may not participate in any pension or retirement system established for full-time law enforcement officers.</p>	
<p>19-17-112 (VFCA)</p>	<p>(5) The current fire chief shall file any late or amended annual certificates and the associated certified training records within 3 years of the original annual certificate due date. An annual certificate may be amended only once. The board shall consider and may approve late filings <u>up to 3 years after their due date</u>. Information provided to the board by the fire chief must be in accordance with the board's rules.</p>	<p>The existing language is confusing and does not make it clear whether the Board may consider annual certificates filed more than 3 years late. This amendment clarifies that timeline and still allows for plenty of time for a fire chief to file a late annual report.</p>	