MONTANA LEGISLATURE
OFFICE OF RESEARCH & POLICY ANALYSIS

HB 569: GENERALLY REVISE PENSION LAWS (2023)

STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE
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Background and Purpose

HB 569, "Generally Revise Pension Laws", was passed during the 2023 Legislative Session and:

- appropriates OTO funds to the Highway Patrol Officers' Retirement System (HPORS), the Sheriffs' Retirement System (SRS), and the Game Wardens' and Peace Officers' Retirement System (GWPORS) so they will all amortize in 25 years;
- moves HPORS, SRS, GWPORS, and the Judges' Retirement System (JRS) to a layered amortization policy with a modified actuarially determined employer contribution (ADEC) model; and
- changes the retirement criteria for new hires in HPORS and SRS.

At the first State Administration and Veterans' Affairs (SAVA) Interim Committee meeting of the 2023-2024 Interim, committee members heard concerns from stakeholders about potential impacts of the bill, particularly the ADEC model. Committee members asked for additional information about the concerns and for possible changes to consider for a committee bill for the 2025 session.

This paper includes information about the modified ADEC model in HB 569, the relevant sections of the bill, and policy options for the committee's consideration.

Actuarially Determined Employer Contribution (ADEC)

The Reason Foundation defines the Actuarially Determined Employer Contribution (ADEC) as:

> "The amount actuarially calculated each year that is required to be contributed by an employer to a pension plan's pool of assets in order to ensure there will be enough funds to pay promised pension benefits. The contribution rate can be reported either in dollars or a percent of salary. Actuaries annually determine how much should be paid by employers in a given year in order to properly fund a pension plan. This amount is a combination of the employer's share of normal cost plus the unfunded liability amortization payment. The actuarially determined amount is the "required" contribution, but employers are not necessarily legally bound to actually contribute this amount. The ability for employers to not pay 100% of their pension bill is one of the reasons unfunded liabilities can increase."

HB 569 implements a modified ADEC model for HPORS, SRS, GWPORS, and JRS. Here is the statute for GWPORS with the HB 569 changes (additions in bold):

> **19-8-504. Employer's contribution -- definitions.** (1) **From July 1, 2023, through June 30, 2024**, the employer shall pay as employer contributions 10.56% of the compensation paid to all of the employer's employees, except those properly excluded from membership.

(2) (a) Beginning July 1, 2024, each employer shall pay as employer contributions an actuarially determined employer contribution that is determined annually by the public employees' retirement board's actuary in accordance with the provisions of this section and part of the plan's annual actuarial valuation. This actuarially determined employer contribution is effective July 1 following the annual actuarial valuation completed in the prior calendar year with a maximum annual increase of no more than 0.5% in any year.

(b) The actuarially determined employer contribution must be the sum of the following contribution rates minus the employee contribution provided in 19-8-502:

(i) the contribution rate determined under subsection (2)(c) to pay off the legacy unfunded liability;

(ii) the contribution rate determined under subsection (2)(d) to pay for the contemporary unfunded liability; and

(iii) the contribution rate determined under subsection (2)(e) to pay for the normal cost of benefits as they accrue.

(c) (i) Except as provided in subsection (2)(c)(ii), the contribution rate under subsection (2)(b)(i) for the legacy unfunded liability must be the amount required on a level percent basis to amortize the legacy unfunded liability attributable to the employer's employees over a closed 25-year amortization period beginning July 1, 2023.

(ii) If the June 30, 2023, actuarial valuation determines the system's amortization period is less than 25 years, then the closed amortization period used for the purposes of subsection (2)(c)(i) must be that amortization period.

(d) The contribution rate under subsection (2)(b)(ii) for the contemporary unfunded liability must be the amount required on a level percent basis to pay the annual contemporary unfunded liabilities attributable to the employer's employees over a layered amortization schedule so that each fiscal year's contemporary unfunded liability is amortized over a closed 10-year period, starting with the contemporary unfunded liability for the fiscal year ending June 30, 2024.

(e) The contribution rate under subsection (2)(b)(iii) for the normal cost of benefits as they accrue must be the amount required on a level percent basis to pay the normal cost of benefits as determined in the annual actuarial valuation as the benefits accrue for each of the employer's employees.

(3) For the purposes of this section, the following definitions apply:

(a) "Contemporary unfunded liability" means the plan's annual fiscal year actuarial gains and losses smoothed over 5 years starting with the fiscal year ending June 30, 2019.

(b) "Legacy unfunded liability" means the unfunded liability of the plan as of June 30, 2023.

COMMITTEE CONSIDERATIONS

Prior to the passage of HB 569, all statewide retirement systems had statutorily specified employer contribution rates. Any changes to the rate were made by the Legislature based on recommendations from the retirement boards and their actuaries. HB 569 moves JRS, HPORS, SRS, and GWPORS to an actuarially determined employer contribution (ADEC) rate model, removing the Legislature from the decision-making process regarding employer contributions for those systems.

In the modified ADEC model presented in HB 569, the employer contribution rate is set for FY 24 (0% for JRS, 38.33% for HPORS, 13.115% for SRS, and 10.56% for GWPORS). Thereafter, it is recalculated each year based on the actuarial valuation results for each system. The ADEC rate is then effective July 1 the following year and the rate cannot be increased more than 0.5% in a single year, even if the ADEC suggests an increase in excess of 0.5%. The delayed effective date and limit on yearly increases were included in an effort to avoid volatility for the systems and to make budgeting for employers more predictable.

The bill does not include parameters for decreases to the modified ADEC rate in a single year. Based on the June 30, 2023, actuarial valuation results, the employer contribution rate for HPORS will go from 38.33% to 34.40% (decrease of 3.93%), the employer contribution rate for SRS will go from 13.115% to 12.074% (decrease of 1.041%), and the employer contribution rate for GWPORS will go from 10.56% to 9.62% (decrease of 0.94%). The JRS employer contribution rate would stay at 0%. Under the parameters of HB 569, it would take 8 years for HPORS to get back to its current rate, 3 years for SRS, and 2 years for GWPORS.

HB 569 – Generally Revise Pension Laws

The following chart includes information about all sections of HB 569 with notes about the history and/or impact of each, as well as notes about possible changes for the committee to consider.

BILL SECTION	ACTION(S)	COMMENTS
Section 1	OTO appropriation to HPORS of $27.6M to amortize in 25 yrs.	Originally in HB 119, a SAVA committee bill from the 21-22 Interim
Section 2	OTO appropriation to SRS of $26.8M to amortize in 25 yrs.	Originally in HB 119, a SAVA committee bill from the 21-22 Interim
Section 3	OTO appropriation to GWPORS of $41.2M to amortize in 25 yrs.	Originally in HB 119, a SAVA committee bill from the 21-22 Interim
Section 4 (15-10-420)	Changes internal reference based on changes in section 12 of the bill	
Section 5 (17-7-502)	Removes statutory appropriation to HPORS employer contribution MCA section because of ADEC implementation in section 9	
Section 6 (19-2-405)	Exempts JRS, HPORS, SRS, and GWPORS from 30-year amortization	

	period because of move to ADEC model Removes (4)(b) to clean up the MCA	
Section 7 (19-2-409)	Exempts JRS, HPORS, SRS, and GWPORS from 30-year amortization period because of move to ADEC model	
Section 8 (19-5-404)	Moves JRS employer contribution rate to ADEC model	SB 175 (2021) set the employer contribution rate at 0% until June 30, 2023, because the funded ratio was over 100%; if the ADEC model is repealed, the rate would revert to 14%, which is what the rate was set to go to after the expiration of SB 175.
Section 9 (19-6-404)	Moves HPORS employer contribution rate to ADEC model and removes HPORS statutory appropriation	Removal of the statutory appropriation results in the following projected budget loss for DOJ: • 2023 - $1.9 million • 2024 - $1.961 million • 2025 - $2.025 million • 2026 - $2.091 million • 2027 - $2.159 million
Section 10 (19-6-501)	Changes retirement eligibility for new hires in HPORS to 50 years of age and 20 years of service	
Section 11 (19-7-403)	Changes contingency language for a reduced member contribution rate for SRS members from a 25-year amortization period to 100% funded ratio	
Section 12 (19-7-404)	Increases SRS statutory employer contribution rate to 13.115% Moves SRS employer contribution rate to ADEC model	Previous rate was 9.535%; SRS members have requested that the rate be kept at 13.115% if the ADEC model is repealed.
Section 13 (197-501)	Changes retirement eligibility for new hires in SRS to 50 years of age and 20 years of service	

Section 14 (19-8-504)	Increases GWPORS statutory employer contribution rate to 10.56% Moves GWPORS employer contribution rate to ADEC model	The increase to the GWPORS employer contribution rate was originally in HB 119, a SAVA committee bill from the 21-22 Interim.

POLICY OPTIONS

Stakeholders have raised concerns about the long-term impact to the health of the systems if the contribution rates can be decreased by multiple percentage points in a year but can only be increased again by 0.5% per year. With that in mind, here are policy options for the committee's consideration:

Option 1 – Add Limit for Yearly Decreases

Similar to the provision that the employer contribution rate cannot be increased more than 0.5% in a year, add a provision that it can't be decreased more than 0.5% in a year.

Option 2 – Set Statutory Employer Contribution Rate as Baseline

Add language to each of the plans that the employer contribution rate cannot go below the current statutory contribution rates – 38.33% for HPORS, 13.115% for SRS, 10.56% for GWPORS, and 14.0% for JRS.

Option 3 – Remove ADEC Language from Statute

Remove the ADEC language from the MCA, returning the systems to their pre-2023 statutory contribution rates (but keeping SRS at 13.115% and GWPORS at 10.56%) and re-implementing the statutory appropriation for HPORS under 19-6-404.

Option 4 – Other Suggestions from Committee Members

Other suggestions from committee members.

SOURCES

- https://reason.org/backgrounder/glossary-of-pension-terminology/#adec
- https://mpera.mt.gov/_docs/actuarial_info/2023/V.A.FY2023ActuarialValuationPresentation.pdf
- https://leg.mt.gov/bills/2023/billpdf/HB0569.pdf
- https://leg.mt.gov/bills/mca/title_0190/chapter_0080/part_0050/section_0040/0190-0080-0050-0040.html