

HOUSE BILL NO. 180

INTRODUCED BY . DURAM, D. BAUM

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING EMPLOYER ELIGIBILITY IN THE MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM; ADDING TOWNS AS ELIGIBLE PARTICIPATING EMPLOYERS; AMENDING SECTIONS 19-9-102, 19-9-104, 19-9-207, 19-9-209, 19-19-201, AND 19-19-301, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 19-9-102, MCA, is amended to read:

"19-9-102. Purpose -- application of prior law. (1) As cities other than those participating in the statewide police reserve fund provided for in Chapter 335, Laws of 1974, currently have local police retirement funds, the legislature finds and declares that the law regarding such funds, although in conflict with this chapter, cannot be repealed. It is the express intention of the legislature to allow two separate and distinct retirement systems to exist. The first, which includes local police retirement funds, applies to such cities, other than those of the first and second class, that wish to adopt it. The second, created by this chapter, applies to ~~first~~first-class and second-class cities, those other cities that wish to adopt it, towns as described in 7-1-4111 and 7-1-4112, and any city that has adopted the above-mentioned statewide police reserve fund.

(2) The following may not be applied in any way to a city or town operating under the plan created by this chapter: 7-32-4107, 7-32-4120, 7-32-4131, and chapter 19 of this title."

Section 2. Section 19-9-104, MCA, is amended to read:

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

(1) (a) "Compensation" means the remuneration paid from funds controlled by an employer in payment for the member's services before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include:

- 1 (i) overtime, holiday payments, shift differential payments, compensatory time payments, and
2 payments in lieu of sick leave and annual leave;
- 3 (ii) maintenance, allowances, and expenses; or
- 4 (iii) bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and
5 not considered part of base pay.
- 6 (2) "Dependent child" means a child of a deceased member:
- 7 (a) who is unmarried and under 18 years of age; or
- 8 (b) who is unmarried, under 24 years of age, and attending an accredited postsecondary
9 educational institution as a full-time student in anticipation of receiving a certificate or degree.
- 10 (3) "Employer" means any ~~city~~ municipality as described in 7-1-4111 and 7-1-4112 that
11 participated in a prior plan or that elects to join this retirement system under 19-9-207.
- 12 (4) (a) "Final average compensation" means the monthly compensation of a member averaged
13 over the last 36 months of the member's service or, in the event a member has not served at least 36 months,
14 the total compensation earned divided by the number of months of service.
- 15 (b) Excess earnings limits must be applied to the calculation of the final average compensation
16 pursuant to 19-2-1005(2).
- 17 (5) "Minimum retirement date" means the first day of the month coinciding with or, if none
18 coincides, the date on which a member both becomes age 50 and completes 5 years of membership service.
- 19 (6) Any reference to "municipality", "city", or "town" includes those jurisdictions that, prior to the
20 effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts
21 created for urban law enforcement services, or the entire county included in the county-municipal consolidation.
- 22 (7) "Police officer" means an appointed, lawfully trained, appropriately salaried, and regularly
23 acting officer with the requisite professional certification and licensing.
- 24 (8) "Prior plan" means the local police reserve or pension trust fund of a city that elects to join the
25 retirement system under 19-9-207.
- 26 (9) "Retirement date" means the date on which the first payment of the retirement, disability, or
27 survivorship benefits of a member or a survivor is payable.
- 28 (10) "Surviving spouse" means the spouse married to a member at the time of the member's death.

1 (11) "Survivor" means a surviving spouse or dependent child of the member."
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3 **Section 3.** Section 19-9-207, MCA, is amended to read:

4 **"19-9-207. Election to join retirement system -- transfer of assets.** (1) Cities or towns other than
5 those participating in the statewide police reserve fund administered by the board in accordance with Chapter
6 335, Laws of 1974, as of June 30, 1977, may elect to join the retirement system by passing an ordinance
7 stating the election and the consent of the city or town to be bound by the provisions of this retirement system.
8 ~~Upon~~ Following the enactment of an ordinance, the provisions of this retirement system become applicable to
9 the city or town. Any city or town enacting an election ordinance shall send a certified copy of the ordinance to
10 the board and shall, as soon as possible, deposit all cash and securities held by it in its local police reserve or
11 retirement fund ~~into~~ in the municipal police officers' pension trust fund. The value of the securities must be
12 determined by the board.

13 (2) The trustees or other administrative head of the local plan as of the effective date of the
14 election shall certify the proportion, if any, of the funds of the plan that represents the accumulated contributions
15 of the active members and the relative shares of the members as of that date. The shares must be charged to
16 the employer and credited to the respective members in the retirement system and administered as if the
17 contributions had been made during membership in the retirement system. Any excess of employer credits over
18 charges under this section must be offset, with interest, against future required employer contributions for a
19 period determined by the board. Any excess of employer charges over credits under this section are payable by
20 the employer, with interest, for a period of 30 years or less as determined by the board."
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22 **Section 4.** Section 19-9-209, MCA, is amended to read:

23 **"19-9-209. Taxing authority of employers.** For the purpose of making contributions required of a city
24 or town under this chapter, the appropriate authority of the city or town may, subject to 15-10-420, levy a tax
25 that along with other revenue available for that purpose is sufficient to meet the demand."
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27 **Section 5.** Section 19-19-201, MCA, is amended to read:

28 **"19-19-201. Local boards of trustees of funds.** (1) Each city or town that has a police retirement

1 fund must have a board of trustees of the fund, except as provided in subsection (4).

2 (2) A board of trustees existing under subsection (1) must consist of the mayor, clerk, and attorney
3 of the city or town and two members from the active list of police officers of the city or town.

4 (3) The two trustees who are also police officers shall serve terms of 2 years. They must be
5 selected by a majority vote of the members of the police department on the active list of the city or town. One
6 must be selected each year between May 1 and May 10, so that their terms are staggered. Immediately after
7 the selection has been made, a certificate of election must be certified to the city clerk by the presiding officer of
8 the board and secretary of the meeting at which the selection was made.

9 (4) The board of trustees of the police retirement fund of a city or town that elects to participate in
10 the municipal police officers' retirement system under 19-9-207 is abolished as of the time that the transfer of
11 the cash and securities and the certification required by that section is completed. The functions of the board
12 are transferred as of the date of the election to the public employees' retirement board, as provided in the
13 Municipal Police Officers' Retirement Act."
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15 **Section 6.** Section 19-19-301, MCA, is amended to read:

16 **"19-19-301. City's City and town contribution to fund.** Each city or town, other than one of the first
17 or second class, that has a police retirement fund and that did not elect to join the statewide police reserve fund
18 provided for in Chapter 335, Laws of 1974, and has not elected to participate in the plan under 19-9-207 shall
19 deposit in its fund monthly an amount equal to 11% of the total salaries for the preceding month paid to active
20 police officers of the city or town, exclusive of overtime and payments in lieu of sick leave and annual leave. If
21 the demand against a city or town for deposits in its fund cannot be met, the city or town, subject to 15-10-420,
22 may impose an additional levy in an amount that is sufficient to meet the demand."
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24 **NEW SECTION. Section 7. Effective date.** [This act] is effective July 1, 2023.

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