

HOUSE BILL NO. 336

INTRODUCED BY S. GIBSON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE HIGHWAY PATROL OFFICERS'  
5 RETIREMENT SYSTEM; DECREASING THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT FOR NEW  
6 MEMBERS; REQUIRING NEW MEMBERS TO WAIT 3 YEARS BEFORE RECEIVING THE GUARANTEED  
7 ANNUAL BENEFIT ADJUSTMENT; INCREASING THE YEARS OF MEMBERSHIP SERVICE NEEDED FOR  
8 A NEW MEMBER TO PURCHASE SERVICE CREDIT AND TO RECEIVE A RETIREMENT BENEFIT;  
9 INCREASING EMPLOYEE CONTRIBUTIONS FOR EXISTING MEMBERS AND NEW HIRES; INCREASING  
10 THE STATE EMPLOYER CONTRIBUTION; INCREASING THE BENEFIT MULTIPLIER FOR ALL MEMBERS;  
11 RESTRICTING THE USES OF THE SPECIAL STATE REVENUE FUND TO FUND THE HIGHWAY PATROL  
12 OFFICERS' SALARIES; AMENDING SECTIONS 19-6-301, 19-6-402, 19-6-404, 19-6-502, 19-6-503, 19-6-601,  
13 19-6-707, 19-6-710, 19-6-711, 19-6-801, 19-6-803, AND 19-6-804, MCA; AND PROVIDING AN EFFECTIVE  
14 DATE."

15  
16 WHEREAS, Article VIII, section 15, of the Montana Constitution requires that "Public retirement systems  
17 shall be funded on an actuarially sound basis"; and

18 WHEREAS, Article VIII, section 15, of the Montana Constitution also requires that "Public retirement  
19 system assets, including income and actuarially required contributions, shall not be encumbered, diverted,  
20 reduced, or terminated and shall be held in trust to provide benefits to participants and their beneficiaries and to  
21 defray administrative expenses"; and

22 WHEREAS, the unprecedented collapse of the financial markets in 2008 and 2009 and the subsequent  
23 slow rate of economic recovery has resulted in little or no prospect that current statutory contribution rates  
24 together with future market returns will be sufficient to fund the Highway Patrol Officers' Retirement System on  
25 an actuarially sound basis, and current contributions remain insufficient to pay the past and future accruals of  
26 retirement benefits for current members of the system; and

27 WHEREAS, failure to return the system to a position of actuarially sound funding places the benefits to  
28 be paid to the current system members in jeopardy and results in collection of employee contributions for which  
29 future benefits may not be guaranteed; and

30 WHEREAS, because reasonable increases in employer contributions and future employee contributions

1 and reasonable reductions in benefits for future members alone will not be sufficient to return the system to a  
2 position of actuarially sound funding, increased contributions for current and future members and reduced  
3 benefits for future members are necessary to return the system to a position of actuarially sound funding; and

4 WHEREAS, during the past two legislative sessions and interims, the Legislature, interim committees,  
5 the retirement system board and staff, and the Governor's office have analyzed a range of alternatives for  
6 returning all public employee retirement systems to a position of actuarially sound funding without raising contract  
7 impairment issues for current members, but recent actuarial analysis continues to show that several of the  
8 systems, including the Highway Patrol Officers' Retirement System remain actuarially unsound; and

9 WHEREAS, due to significant strains on the Montana economy and taxpayers, a modest supplemental  
10 contribution rate increase applied to current Highway Patrol Officers' Retirement System members, phased in  
11 over a 4-year period, in conjunction with additional employer and state contributions, is reasonable and necessary  
12 pursuant to the language of *U.S. Trust Company of New York v. New Jersey*, 431 U.S. 1 (1977), concerning  
13 contract impairment and is the least impairing alternative available to the Legislature as it seeks to fulfill its  
14 constitutional obligation to ensure the Highway Patrol Officers' Retirement System is funded in an actuarially  
15 sound manner; and

16 WHEREAS, the defined benefit Highway Patrol Officers' Retirement System is integral to the successful  
17 recruitment and retention of qualified Montana highway patrol officers.

18

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

20

21 **NEW SECTION. Section 1. Guaranteed annual benefit adjustment for employees hired after July**  
22 **1, 2013.** (1) Subject to subsection (2), for employees hired on or after July 1, 2013, on January 1 of each year,  
23 the permanent monthly benefit payable during the preceding January to each recipient who is eligible under  
24 subsection (3) must be increased by 1.5%.

25 (2) (a) If the recipient's benefit payable during the preceding January has been increased by one or more  
26 adjustments not provided for in this section and the adjustments amount to less than a 1.5% annualized increase,  
27 then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 1.5%  
28 in the benefit paid since the preceding January.

29 (b) If a recipient's benefit payable during the preceding January has been increased by one or more  
30 adjustments not provided for in this section and the adjustments amount to more than a 1.5% annualized

1 increase, then the benefit increase provided for under this section must be 0%.

2 (3) Except as provided for in subsection (2)(b), a benefit recipient is eligible for and must receive the  
3 minimum annual benefit adjustment provided for in this section if:

4 (a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the  
5 adjustment is to be made; and

6 (b) the member first became an active member on or after July 1, 2013.

7 (4) The board shall adopt rules to administer the provisions of this section.

8

9 **Section 2.** Section 19-6-301, MCA, is amended to read:

10 **"19-6-301. Membership -- inactive vested members -- inactive nonvested members.** (1) All  
11 members of the Montana highway patrol, including the supervisor and assistant supervisors, must be members  
12 of the retirement system.

13 (2) (a) An inactive member hired before July 1, 2013, with at least 5 years of membership service is an  
14 inactive vested member and retains the right to purchase service and to receive a retirement benefit under the  
15 provisions of this chapter.

16 (b) An inactive member hired on or after July 1, 2013, with at least 10 years of membership service is  
17 an inactive vested member and retains the right to purchase service and to receive a retirement benefit under  
18 the provisions of this chapter.

19 ~~(b)(c)~~ If an inactive vested member chooses to take a lump-sum payment rather than a retirement  
20 benefit, the lump-sum payment consists of only the member's accumulated contributions and not the employer's  
21 contributions.

22 (3) (a) An inactive member hired before July 1, 2013, with less than 5 years of membership service is  
23 an inactive nonvested member and is not eligible for any benefits from the retirement system.

24 (b) An inactive member hired on or after July 1, 2013, with less than 10 years of membership service  
25 is an inactive nonvested member and is not eligible for any benefits from the retirement system.

26 ~~(b)(c)~~ An inactive nonvested member is eligible only for a refund of the member's accumulated  
27 contributions."

28

29 **Section 3.** Section 19-6-402, MCA, is amended to read:

30 **"19-6-402. Member's contribution.** (1) (a) A member not covered under 19-6-710 shall contribute 9%

1 the following percentage of the member's compensation-;

2 (i) beginning July 1, 2013, through June 30, 2014, 10%;

3 (ii) beginning July 1, 2014, through June 30, 2015, 11%;

4 (iii) beginning July 1, 2015, through June 30, 2016, 12%; and

5 (iv) beginning July 1, 2016, 13%.

6 (b) A member covered under 19-6-710, 19-6-711, or [section 1] shall contribute ~~9.05%~~ the following  
7 percentage of the member's compensation-;

8 (i) beginning July 1, 2013, through June 30, 2014, 10.05%;

9 (ii) beginning July 1, 2014, through June 30, 2015, 11.05%;

10 (iii) beginning July 1, 2015, through June 30, 2016, 12.05%; and

11 (iv) beginning July 1, 2016, 13.05%.

12 (2) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as  
13 amended and applicable on July 1, 1985, shall pick up and pay the contributions that would be payable by the  
14 member under subsection (1) for service rendered after June 30, 1985.

15 (3) The member's contributions picked up by the employer must be designated for all purposes of the  
16 retirement system as the member's contributions, except for the determination of a tax upon a distribution from  
17 the retirement system. These contributions must become part of the member's accumulated contributions but  
18 must be accounted for separately from those previously accumulated.

19 (4) The member's contributions picked up by the employer must be payable from the same source as  
20 is used to pay compensation to the member and must be included in the member's wages, as defined in  
21 19-1-102, and compensation as used to define the member's highest average compensation in 19-6-101. The  
22 employer shall deduct from the member's compensation an amount equal to the amount of the member's  
23 contributions picked up by the employer and remit the total of the contributions to the board."  
24

25 **Section 4.** Section 19-6-404, MCA, is amended to read:

26 **"19-6-404. State employer contribution -- statutory appropriation.** The state shall pay as employer  
27 contributions ~~36.33%~~ 38.33% of compensation paid to all of the employer's employees, except those properly  
28 excluded from membership, from the following sources:

29 (1) an amount equal to ~~26.15%~~ 28.15% of the total compensation of the members, which is payable, as  
30 appropriated by the legislature, from the same source that is used to pay compensation to the members; and

1 (2) an amount equal to 10.18% of the total compensation of the members, which is statutorily  
2 appropriated, as provided in 17-7-502, from the general fund to the pension trust fund."

3

4 **Section 5.** Section 19-6-502, MCA, is amended to read:

5 **"19-6-502. Service retirement benefit.** After termination from service and upon application for service  
6 retirement, a member must receive a service retirement benefit equal to ~~2.5%~~ 2.6% of the member's highest  
7 average compensation for each year of service credit."

8

9 **Section 6.** Section 19-6-503, MCA, is amended to read:

10 **"19-6-503. Early retirement benefit for member discontinued from service other than for cause.**

11 (1) If a member hired before July 1, 2013, is discontinued from service other than for cause after having  
12 completed 5 years of membership service but before reaching normal retirement age, the member must, upon  
13 filing a written application with the board, be paid an early service retirement benefit that is of actuarial equivalent  
14 value to a service retirement based on a retirement age of 60.

15 (2) If a member hired on or after July 1, 2013, is discontinued from service other than for cause after  
16 having completed 10 years of membership service but before reaching normal retirement age, the member must,  
17 upon filing a written application with the board, be paid an early service retirement benefit that is of actuarial  
18 equivalent value to a service retirement based on a retirement age of 60."

19

20 **Section 7.** Section 19-6-601, MCA, is amended to read:

21 **"19-6-601. Disability retirement benefit.** (1) A member who becomes disabled must be granted a  
22 disability retirement benefit that is the actuarial equivalent of the service retirement benefit under 19-6-502  
23 standing to the member's credit at the time of the member's disability retirement.

24 (2) A member who becomes disabled as a direct result of the member's service in the line of duty:

25 (a) before completing 20 years of membership service must receive a disability retirement benefit equal  
26 to one-half the member's highest average compensation; or

27 (b) after completing 20 years or more of membership service must receive a disability retirement benefit  
28 equal to ~~2.5%~~ 2.6% of the member's highest average compensation for each year of service credit.

29 (3) Upon the death of a member receiving a disability retirement benefit under this section, the member's  
30 surviving spouse or dependent child is eligible for benefits as provided in 19-6-505."

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2           **Section 8.** Section 19-6-707, MCA, is amended to read:

3           **"19-6-707. Minimum monthly benefit.** (1) Subject to the limitations contained in subsection (2), the  
4 following retired members, or their survivors, who are not covered by 19-6-710, ~~or~~ 19-6-711, or [section 1] are  
5 eligible to receive a monthly benefit of not less than 2% multiplied by the member's service credits multiplied by  
6 the current base compensation received by a probationary highway patrol officer:

7           (a) a retired member who is 55 years of age or older, except as provided in subsection (3), or the  
8 member's survivor, who is receiving a service retirement benefit;

9           (b) a retired member, or the member's survivor, who is receiving a disability retirement benefit; and

10           (c) a recipient of a survivorship benefit.

11           (2) (a) The maximum monthly benefit paid under subsection (1) may not exceed 60% of the current base  
12 compensation of a probationary highway patrol officer.

13           (b) The annual increase in a monthly benefit under subsection (1) may not exceed 5% of the current  
14 monthly benefit paid to a retired member or the member's survivor.

15           (3) A retired member otherwise qualified under subsection (1)(a) who is employed in a position covered  
16 by a retirement system under Title 19 is ineligible to receive the minimum monthly benefit provided for in this  
17 section until the member's service in the covered position is terminated."

18

19           **Section 9.** Section 19-6-710, MCA, is amended to read:

20           **"19-6-710. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), for members hired  
21 before July 1, 2013, on January 1 of each year, the permanent monthly benefit payable during the preceding  
22 January to each recipient who is eligible under subsection (3) must be increased by 3%.

23           (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more  
24 adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase,  
25 then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in  
26 the benefit paid since the preceding January.

27           (b) If a recipient's benefit payable during the preceding January has been increased by one or more  
28 adjustments not provided for in this section and the increases amount to more than a 3% annualized increase,  
29 then the benefit increase provided under this section must be 0%.

30           (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the

1 minimum annual benefit adjustment provided for in this section if:

2 (a) the benefit's commencement date is at least 12 months prior to January 1 of the year in which the  
3 adjustment is to be made; and

4 (b) the member either:

5 (i) first became an active member on or after July 1, 1997; or

6 (ii) filed a voluntary, irrevocable election to be covered under this section. The election must be filed with  
7 the board prior to January 1, 1998, and requires an active member to pay an increased contribution rate from July  
8 1, 1997, forward. A retired member or the member's survivor who is receiving a monthly benefit before July 1,  
9 1997, shall also file the voluntary, irrevocable election no later than January 1, 1998, to be covered under this  
10 section.

11 (4) The board shall adopt rules to administer the provisions of this section."  
12

13 **Section 10.** Section 19-6-711, MCA, is amended to read:

14 **"19-6-711. Election -- guaranteed annual benefit adjustment.** (1) Subject to subsection (2), for  
15 members hired before July 1, 2013, on January 1 of each year, the permanent monthly benefit payable during  
16 the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

17 (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more  
18 adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase,  
19 then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in  
20 the benefit paid since the preceding January.

21 (b) If a recipient's benefit payable during the preceding January has been increased by one or more  
22 adjustments not provided for in this section and the increases amount to more than a 3% annualized increase,  
23 then the benefit increase provided under this section must be 0%.

24 (3) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided  
25 for in this section if:

26 (a) the benefit's commencement date is at least 12 months prior to January 1 of the year in which the  
27 adjustment is to be made; and

28 (b) the member either:

29 (i) first became an active member on or after July 1, 1997; or

30 (ii) filed a voluntary, irrevocable election to be covered under this section. The election:

- 1 (A) must be filed with the board prior to December 1, 2001; and  
 2 (B) requires an active member to pay an increased or revised contribution rate from January 1, 2002,  
 3 forward.  
 4 (4) The board shall adopt rules to administer the provisions of this section.  
 5 (5) The decision of a member who elected to participate under 19-6-710 remains valid. The decision of  
 6 a member who elected not to participate under 19-6-710 may be reversed under this section."

7  
 8 **Section 11.** Section 19-6-801, MCA, is amended to read:

9 **"19-6-801. Application to purchase military service.** (1) (a) Except as provided in subsection (1)(b)  
 10 and subject to 19-6-805, an eligible member may, at any time prior to retirement, file a written application with  
 11 the board to purchase service credit and membership service for up to 5 years of the member's active service  
 12 in the armed forces of the United States.

13 (b) A member is not eligible to purchase active military service credit and membership service under  
 14 subsection (1)(a) if the member:

- 15 (i) has retired from active duty in the armed forces of the United States with military retirement benefits  
 16 based on that military service;  
 17 (ii) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or  
 18 (iii) is eligible to receive credit for that service in any other retirement system or plan.

19 (2) (a) Except as provided in subsection ~~(2)(b)~~ (3) and subject to subsection (2)(b) and 19-6-805, a  
 20 member ~~with at least 5 years of membership service~~ may, at any time prior to retirement, file a written application  
 21 with the board to purchase service credit and membership service for up to 5 years of the member's reserve  
 22 military service in the armed forces of the United States.

23 (b) A member must have at least the following years of membership service to apply to purchase service  
 24 credit under subsection (2)(a):

- 25 (i) for a member hired before July 1, 2013, 5 years; and  
 26 (ii) for a member hired on or after July 1, 2013, 10 years.

27 ~~(b)(3)~~ A member is not eligible to purchase reserve military service credit and membership service under  
 28 subsection (2)(a) if the member is eligible, pursuant to 19-2-707, to receive credit in the system for that service.

29 ~~(3)~~(4) To purchase service credit and membership service under this section:

30 (a) a member with at least 15 years of service credit who is not covered by 19-6-710 shall contribute the



1 amount determined by the board to be due based on the member's compensation and regular contribution rate  
 2 in the member's 16th year for the 1st year purchased and, for each subsequent year purchased, an amount  
 3 based on the member's compensation and contribution rate in each of as many years succeeding the member's  
 4 16th year as are required to complete the purchase, with regular interest from the date the member becomes  
 5 eligible for this benefit to the date the purchase is complete. The combined total of active and reserve military  
 6 service credit and membership service that a member may purchase may be no more than the member's service  
 7 credit in excess of 15 years or 5 years, whichever is less.

8 (b) (i) a member with at least 5 years of membership service who is covered by 19-6-710 shall pay the  
 9 actuarial cost of the member's active or reserve military service credit based on the system's most recent actuarial  
 10 valuation;

11 (ii) a member with at least 10 years of membership service who is covered by [section 1] shall pay the  
 12 actuarial cost of the member's active or reserve military service credit based on the system's most recent actuarial  
 13 valuation."

14  
 15 **Section 12.** Section 19-6-803, MCA, is amended to read:

16 **"19-6-803. Application to purchase law enforcement service performed in another state.** (1) (a)  
 17 Subject to subsection (1)(b) and 19-6-805, a member ~~with at least 5 years of membership service~~ may, at any  
 18 time before retirement, file a written application with the board to purchase 1 year of out-of-state law enforcement  
 19 employment for each year of service credit, unless the member is eligible to receive a retirement benefit in  
 20 another system or plan for that same service.

21 (b) A member must have at least the following years of membership service to apply to purchase service  
 22 credit under this section:

23 (i) for a member hired before July 1, 2013, 5 years; and

24 (ii) for a member hired on or after July 1, 2013, 10 years.

25 (2) To purchase this service credit, a member shall pay the actuarial cost of the service credit in the  
 26 retirement system, as determined by the board, based on:

27 (a) the member's compensation for the 12 months immediately preceding the date of the member's  
 28 election to purchase the service credit under the retirement system; and

29 (b) the actuarial rate in effect at the time of purchase of service credit.

30 (3) Service credit purchased under this section may not be used to qualify a member to purchase military

1 service credit under 19-6-801.

2 (4) Service credit purchased under this section may not be used in calculating a member's retirement  
3 benefit unless the last 5 years of service credit were earned under the retirement system. If, upon retirement, a  
4 member's purchased service credit may not be used in calculating the member's retirement benefit, the  
5 member must receive a refund of the amount paid by the member to purchase the service credit, plus regular  
6 interest on that amount."

7

8 **Section 13.** Section 19-6-804, MCA, is amended to read:

9 **"19-6-804. Application to purchase additional service.** (1) (a) Subject to subsection (1)(b) and  
10 19-6-805, a member ~~with at least 5 years of membership service~~ may, at any time before retirement, file a written  
11 application with the board to purchase 1 year of additional service credit for each 5 years of membership service  
12 that the member has in the retirement system.

13 (b) A member must have at least the following years of membership service to apply to purchase  
14 additional service credit under this section:

15 (i) for a member hired before July 1, 2013, 5 years; and

16 (ii) for a member hired on or after July 1, 2013, 10 years.

17 (2) To purchase service credit under this section, a member shall pay the actuarial cost of the service  
18 credit, based on the system's most recent actuarial valuation as determined by the board.

19 (3) Service credit purchased under this section is not membership service and may not be used to qualify  
20 a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is not eligible  
21 for service retirement."

22

23 **Section 14.** Section 44-1-504, MCA, is amended to read:

24 **"44-1-504. Special revenue account to partially fund highway patrol officers' salaries.** (1) There  
25 is an account in the state special revenue fund provided for in 17-2-102.

26 (2) The money in the account is for the department of justice to fund, pursuant to 2-18-303(5):

27 (a) the base salary and associated operating costs for highway patrol officer positions; and

28 (b) biennial salary increases for highway patrol officers.

29 (3) For the purposes of this section, the term "associated operating costs" does not include the state  
30 employer contribution provided for in 19-6-404."

