

## 1 HOUSE BILL NO. 574

2 INTRODUCED BY J. ESSMANN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MUNICIPAL POLICE OFFICERS' AND THE  
5 FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM LAWS CONCERNING THE DEFINITION OF  
6 "COMPENSATION" AND CONTRIBUTIONS BASED ON THAT COMPENSATION; AMENDING SECTIONS  
7 19-9-104, 19-9-702, 19-9-703, 19-13-104, 19-13-604, AND 19-13-605, MCA; AND PROVIDING A DELAYED  
8 EFFECTIVE DATE."

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10 WHEREAS, a portion of the current 2.75% insurance premium tax in section 33-2-705, MCA, dates back  
11 to an 1864 license fee imposed on fire insurance companies for the specific purpose of funding local fire relief  
12 association disability funds; and

13 WHEREAS, the license fee was expanded in 1897 to apply to all insurance companies doing business  
14 in Montana and was used for local police pension and disability funds; and

15 WHEREAS, in 1911, an additional tax commonly known as the State Fire Marshall's Tax was imposed  
16 on the fire risks portion of the premiums collected by insurance companies to fund the State Fire Marshall's office  
17 as well as local fire departments and was later combined with the other insurance premium taxes which continued  
18 to be used for local police and fire pension and disability benefits; and

19 WHEREAS, the Municipal Police Officers' Retirement System (MPORS) was established in 1977 and  
20 the Firefighters' Unified Retirement System (FURS) was established in 1981 as statewide consolidations of local  
21 police and fire pension and disability funds; and

22 WHEREAS, in 1997, earmarks on the insurance premium taxes were removed, the taxes were deposited  
23 directly to the general fund, and the state's contributions to MPORS and FURS were made directly from the  
24 general fund;

25 WHEREAS, in Fiscal Year 2014, more than \$73 million was collected in insurance premium taxes, with  
26 more than \$60 million deposited to the general fund; and

27 WHEREAS, the current state general fund contributions to MPORS and FURS amount to only about \$26  
28 million; and

29 WHEREAS, it is desirable to revise the definition of "compensation" for police officers and firefighters so  
30 they can save for retirement based on their total compensation; and

1 WHEREAS, it is desirable to specify that a portion of the insurance premium tax revenue now going to  
 2 the general fund be used to offset any fiscal impact to local governments for the revised definition of  
 3 "compensation" in MPORS and FURS.

4

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

6

7 **Section 1.** Section 19-9-104, MCA, is amended to read:

8 **"19-9-104. Definitions.** Unless the context requires otherwise, the following definitions apply in this  
 9 chapter:

10 (1) "Additional compensation" means overtime payments; AND holiday payments; ~~shift differential~~  
 11 ~~payments, compensatory time payments, and payments in lieu of sick leave and annual leave.~~

12 (2) "Base compensation" means compensation excluding overtime payments; AND holiday payments;  
 13 ~~shift differential payments, compensatory time payments, and payments in lieu of sick leave and annual leave.~~

14 (4)(3) (a) "Compensation" means the remuneration paid from funds controlled by an employer in  
 15 payment for the member's services before any pretax deductions allowed by state or federal law are made,  
 16 including overtime; PAYMENTS AND holiday payments; ~~shift differential payments, compensatory time payments,~~  
 17 ~~and payments in lieu of sick leave and annual leave.~~

18 (b) ~~Compensation~~ The term does not include:

19 (i) ~~overtime, holiday payments, shift differential payments, compensatory time payments, and payments~~  
 20 ~~in lieu of sick leave and annual leave;~~

21 (i) SHIFT DIFFERENTIAL PAYMENTS, COMPENSATORY TIME PAYMENTS, AND PAYMENTS IN LIEU OF SICK LEAVE AND  
 22 ANNUAL LEAVE;

23 (ii)(i)(ii) maintenance, allowances, and expenses; or

24 (iii)(ii)(iii) bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and  
 25 not considered part of base pay.

26 (2)(4) "Dependent child" means a child of a deceased member:

27 (a) who is unmarried and under 18 years of age; or

28 (b) who is unmarried, under 24 years of age, and attending an accredited postsecondary educational  
 29 institution as a full-time student in anticipation of receiving a certificate or degree.

30 (3)(5) "Employer" means any city that participated in a prior plan or that elects to join this retirement

1 system under 19-9-207.

2 ~~(4)~~(6) (a) "Final average compensation" means the monthly compensation of a member averaged over  
3 the last 36 months of the member's service or, in the event a member has not served at least 36 months, the total  
4 compensation earned divided by the number of months of service.

5 (b) Excess earnings limits must be applied to the calculation of the final average compensation pursuant  
6 to 19-2-1005(2).

7 ~~(5)~~(7) "Minimum retirement date" means the first day of the month coinciding with or, if none coincides,  
8 the date on which a member both becomes age 50 and completes 5 years of membership service.

9 ~~(6)~~(8) Any reference to "municipality", "city", or "town" includes those jurisdictions that, prior to the  
10 effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created  
11 for urban law enforcement services, or the entire county included in the county-municipal consolidation.

12 ~~(7)~~(9) "Police officer" means an appointed, lawfully trained, appropriately salaried, and regularly acting  
13 officer with the requisite professional certification and licensing.

14 ~~(8)~~(10) "Prior plan" means the local police reserve or pension trust fund of a city that elects to join the  
15 retirement system under 19-9-207.

16 ~~(9)~~(11) "Retirement date" means the date on which the first payment of the retirement, disability, or  
17 survivorship benefits of a member or a survivor is payable.

18 ~~(10)~~(12) "Surviving spouse" means the spouse married to a member at the time of the member's death.

19 ~~(11)~~(13) "Survivor" means a surviving spouse or dependent child of the member."  
20

21 **Section 2.** Section 19-9-702, MCA, is amended to read:

22 **"19-9-702. State contribution.** (1) The state shall make its contributions from the general fund. The  
23 general fund contributions must be made annually after the end of each fiscal year but no later than November  
24 1. The board shall notify the state auditor by September 1 of each fiscal year of the annual compensation paid  
25 to all active members during the preceding fiscal year.

26 (2) The state's contribution is an amount equal to 29.37% of the base compensation paid to members.

27 (3) The state's additional contribution is an amount equal to 14.41% of the additional compensation paid  
28 to members.

29 (4) The contributions are statutorily appropriated as provided in 17-7-502."  
30

1           **Section 3.** Section 19-9-703, MCA, is amended to read:

2           **"19-9-703. Employer contribution.** Each employer shall make its contribution through the city treasurer  
3 or other appropriate official out of money available to the city for that purpose. The employer shall pay as  
4 employer contributions an amount equal to 14.41% of the base compensation paid to all of the employer's  
5 employees, except those properly excluded from membership."  
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7           **Section 4.** Section 19-13-104, MCA, is amended to read:

8           **"19-13-104. Definitions.** Unless the context requires otherwise, the following definitions apply in this  
9 chapter:

10           (1) Any reference to "city" or "town" includes those jurisdictions that, before the effective date of a  
11 county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban  
12 firefighting services, or the entire county included in the county-municipal consolidation.

13           (2) "Additional compensation" means overtime payments; AND holiday payments; shift differential  
14 payments, compensatory time payments, and payments in lieu of sick leave.

15           (3) "Base compensation" means compensation excluding overtime payments; AND holiday payments;  
16 shift differential payments, compensatory time payments, and payments in lieu of sick leave.

17           ~~(2)~~(4) (a) "Compensation" means:

18           ~~(a)~~(i) for a full-paid firefighter, the remuneration paid from funds controlled by an employer in payment  
19 for the member's services before any pretax deductions allowed by state and federal law are made, including  
20 overtime payments; AND holiday payments; shift differential payments, compensatory time payments, and  
21 payments in lieu of sick leave; OR

22           ~~(b)~~(ii) for a part-paid firefighter employed by a city of the second class:

23           ~~(i)~~(A) 15% of the regular remuneration, excluding including overtime PAYMENTS, holiday payments, shift  
24 differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each  
25 year to a newly confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

26           ~~(ii)~~(B) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration,  
27 excluding including overtime PAYMENTS, holiday payments, shift differential payments, compensatory time  
28 payments, and payments in lieu of sick leave, paid on July 1 of each year to all newly confirmed, full-paid  
29 firefighters employed by cities of the second class.

30           ~~(c)~~(b) Compensation for full-paid and part-paid firefighters does not include:

1 ~~(i) overtime, holiday payments, shift differential payments, compensatory time payments, and payments~~  
 2 ~~in lieu of sick leave;~~

3 (I) SHIFT DIFFERENTIAL PAYMENTS, COMPENSATORY TIME PAYMENTS, AND PAYMENTS IN LIEU OF SICK LEAVE;

4 ~~(ii)(i)(II)~~ maintenance, allowances, and expenses; or

5 ~~(iii)(ii)(III)~~ bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and  
 6 not considered part of base pay.

7 ~~(3)(5)~~ "Dependent child" means a child of a deceased member who is:

8 (a) unmarried and under 18 years of age; or

9 (b) unmarried, under 24 years of age, and attending an accredited postsecondary educational institution  
 10 as a full-time student in anticipation of receiving a certificate or degree.

11 ~~(4)(6)~~ "Employer" means:

12 (a) any city that is of the first or second class or that elects to join this retirement system under  
 13 19-13-211;

14 (b) a city or a rural fire district referred to in 19-13-210(3);

15 (c) with respect to firefighters covered in the retirement system pursuant to 19-13-210(2), the department  
 16 of military affairs established in 2-15-1201; and

17 (d) any other statutorily allowed entity that elects to join this retirement system pursuant to 19-13-210.

18 ~~(5)(7)~~ "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

19 ~~(6)(8)~~ "Full-paid firefighter" means a person appointed pursuant to 7-33-4106 by an employer as a  
 20 firefighter meeting the standards provided in 7-33-4107.

21 ~~(7)(9)~~ (a) "Highest average compensation" means the monthly compensation of a member averaged over  
 22 the highest consecutive 36 months of the member's active service or, in the event a member has not served at  
 23 least 36 consecutive months, the total compensation earned divided by the number of months of service.

24 (b) Lump-sum payments for annual leave paid to the member upon termination of employment may be  
 25 used to replace, on a month-for-month basis, the regular compensation for a month or months included in the  
 26 calculation of highest average compensation.

27 (c) Excess earnings limits must be applied to the calculation of the highest average compensation  
 28 pursuant to 19-2-1005(2).

29 ~~(8)(10)~~ "Minimum retirement date" means the first day of the month coinciding with or immediately  
 30 following, if none coincides, the date on which a member both reaches 50 years of age or older and completes

1 5 or more years of membership service.

2 ~~(9)~~(11) "Newly confirmed firefighter" means a new member of a fire department appointed pursuant to  
3 7-33-4106 and meeting the standards of 7-33-4107.

4 ~~(10)~~(12) "Part-paid firefighter" means a person other than a full-paid firefighter employed by a  
5 second-class city who receives compensation in excess of \$300 a year for service as a firefighter and who is  
6 appointed by an employer as a firefighter under the standards provided in 7-33-4106 and 7-33-4107.

7 ~~(11)~~(13) "Prior plan" means the fire department relief association plan of a city that elects to join the  
8 retirement system under 19-13-211 or the fire department relief association plan of a city of the first or second  
9 class.

10 ~~(12)~~(14) "Retirement date" means the date on which the first payment of benefits is payable.

11 ~~(13)~~(15) "Retirement system" means the firefighters' unified retirement system provided for in this chapter.

12 ~~(14)~~(16) "Surviving spouse" means the spouse married to a member at the time of the member's death."  
13

14 **Section 5.** Section 19-13-604, MCA, is amended to read:

15 **"19-13-604. State contribution.** (1) The state shall make its contributions from the general fund. The  
16 general fund contributions must be made annually after the end of each fiscal year but no later than November  
17 1. The board shall notify the state auditor by September 1 of each fiscal year of the annual compensation;  
18 ~~excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments~~  
19 ~~in lieu of sick leave,~~ paid to all active members during the preceding fiscal year.

20 (2) The state's contribution is an amount equal to 32.61% of this total the base compensation paid to all  
21 active members during the preceding fiscal year.

22 (3) The state's additional contribution is an amount equal to 14.36% of the additional compensation paid  
23 to all active members during the preceding fiscal year.

24 (4) The contributions are statutorily appropriated, as provided in 17-7-502."  
25

26 **Section 6.** Section 19-13-605, MCA, is amended to read:

27 **"19-13-605. Employer contribution.** Each employer shall make its contribution on behalf of members  
28 through the city treasurer or other appropriate official from money available for this purpose. The employer shall  
29 pay as employer contributions an amount equal to 14.36% of the base compensation paid to all of the employer's  
30 employees, except those properly excluded from membership. All contributions are payable monthly to the board,

1 which shall, as soon as practicable after their receipt, deposit them in the pension trust fund."

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3 NEW SECTION. **Section 7. Effective date.** [This act] is effective January 1, 2016.

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