

SENATE BILL NO. 208

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF "DEPENDENT CHILD" IN THE
RETIREMENT SYSTEMS FOR HIGHWAY PATROL OFFICERS, POLICE OFFICERS, AND FIREFIGHTERS;
AND AMENDING SECTIONS 19-6-101, 19-9-104, AND 19-13-104, MCA."

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

Section 1. Section 19-6-101, MCA, is amended to read:

"19-6-101. Definitions. Unless the context requires otherwise, the following definitions apply in this
chapter:

(1) (a) "Compensation" means remuneration paid from funds controlled by an employer in payment
for the member's services or for time during which the member is excused from work because the member has
taken compensatory leave, sick leave, annual leave, or a leave of absence before any pretax deductions
allowed by state or federal law are made.

(b) Compensation does not include:

(i) maintenance, allowances, and expenses; or

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

(2) "Dependent child" means an unmarried child of a deceased retired member, who is:

(a) under 18 years of age; or

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

(3) (a) "Highest average compensation" means a member's highest average monthly
compensation during any 36 consecutive months of membership service or, in the event a member has not
served at least 36 months, the total compensation earned divided by the number of months of service.

1 (b) Lump-sum payments for compensatory leave, sick leave, and annual leave paid to the member
2 upon termination of employment may be used in the calculation of a retirement benefit only to the extent that
3 they are used to replace, on a month-for-month basis, the normal compensation for a month or months included
4 in the calculation of the highest average compensation. A lump-sum payment may not be added to a single
5 month's compensation.

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

8 (4) "Surviving spouse" means the spouse married to a retired member at the time of the retired
9 member's death.

10 (5) "Survivor" means a surviving spouse or dependent child of a member."
11

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

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

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

17 (b) Compensation does not include:

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

20 (ii) maintenance, allowances, and expenses; or

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

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

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

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

27 (3) "Employer" means any city that participated in a prior plan or that elects to join this retirement
28 system under 19-9-207.

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

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

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

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

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

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

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

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

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

20 **Section 3.** Section 19-13-104, MCA, is amended to read:

21 **"19-13-104. Definitions.** Unless the context requires otherwise, the following definitions apply in this
22 chapter:

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

26 (2) "Compensation" means:

27 (a) for a full-paid firefighter, the remuneration paid from funds controlled by an employer in
28 payment for the member's services before any pretax deductions allowed by state and federal law are made;

- 1 (b) for a part-paid firefighter employed by a city of the second class:
- 2 (i) 15% of the regular remuneration, excluding overtime, holiday payments, shift differential
- 3 payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to a
- 4 newly confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or
- 5 (ii) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration,
- 6 excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments
- 7 in lieu of sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters employed by cities
- 8 of the second class.
- 9 (c) Compensation for full-paid and part-paid firefighters does not include:
- 10 (i) overtime, holiday payments, shift differential payments, compensatory time payments, and
- 11 payments in lieu of sick leave;
- 12 (ii) maintenance, allowances, and expenses; or
- 13 (iii) bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and
- 14 not considered part of base pay.
- 15 (3) "Dependent child" means a child of a deceased member who is:
- 16 (a) unmarried and under 18 years of age; or
- 17 (b) unmarried, under 24 years of age, and attending an accredited secondary or postsecondary
- 18 educational institution as a full-time student in anticipation of receiving a certificate or degree.
- 19 (4) "Employer" means:
- 20 (a) any city that is of the first or second class or that elects to join this retirement system under 19-
- 21 13-211;
- 22 (b) a city or a rural fire district referred to in 19-13-210(3);
- 23 (c) with respect to firefighters covered in the retirement system pursuant to 19-13-210(2), the
- 24 department of military affairs established in 2-15-1201; and
- 25 (d) any other statutorily allowed entity that elects to join this retirement system pursuant to 19-13-
- 26 210.
- 27 (5) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.
- 28 (6) "Full-paid firefighter" means a person appointed pursuant to 7-33-4106 by an employer as a

1 firefighter meeting the standards provided in 7-33-4107.

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

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

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

11 (8) "Minimum retirement date" means the first day of the month coinciding with or immediately
12 following, if none coincides, the date on which a member both reaches 50 years of age or older and completes
13 5 or more years of membership service.

14 (9) "Newly confirmed firefighter" means a new member of a fire department appointed pursuant to
15 7-33-4106 and meeting the standards of 7-33-4107.

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

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

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

23 (13) "Retirement system" means the firefighters' unified retirement system provided for in this
24 chapter.

25 (14) "Surviving spouse" means the spouse married to a member at the time of the member's death."

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