

Montana Public Employee Retirement Administration
Montana Public Employees' Retirement Board
Table of General Revisions Legislation to be Considered for 2017
Last update 09/02/16

Current Code Section	Proposed Change	Reason	Notes	Responsible Person
19-2-602	Add minimum threshold for refunds to amount greater than the \$3 provided in ARM 2.4.201. No refund will issue for amounts <\$10 absent a request from the member.	Cost to issue minimum payments is greater than the value of these payments and at least 1 person has complained about getting a check for around \$13.	The money will revert to the trust fund.	Kate
19-2-603	Clarify that only active and inactive vested members may purchase service or reinstate service following reemployment in a covered position	Currently statute says "member" even though the purchasing service statutes limit the purchaser to active and inactive vested members.	<i>Lins</i> – if district court decision is appealed, this section will be removed from the bill	Kate and Bill
19-2-704	Clarify that reinstatement of service is a purchase of service	Clarify that only active and inactive vested members can reinstate service	<i>Lins</i> – if district court decision is appealed, this section will be removed from the bill	Kate and Bill
19-2-902(2)(a)	Add payment limit (single lump sum only) for trust beneficiaries in all systems	We can only pay a lump sum to a trust, estate or charity and need to be able to point to MCA section.	PERS is the only system that explicitly provides this limit (see 19-3-1204)...but see new (5) in 19-2-908 (2015) limiting survivorship benefits to persons making the election within 90 days of notice. Consider putting in each system	Kate
19-2-902(2)(b)	Amend to require an alternate payment of "total actuarial present value" if required by federal law.	Member/Beneficiary who is entitled to retirement benefit or survivorship benefit is entitled to election of present value of benefits in lieu of monthly benefit. Unclear what is meant by "present value" – IRC 411(a)(11)(A) provides for "total actuarial present value"	Hollie confirmed with actuary that we can obtain a calculator/table to determine the present value of the benefit in-house Issue has been presented to Ice Miller (tax counsel) to assure correct terminology	Melanie

19-2-903	Reduce overpayments following a death -Provide authority to suspend payment if suspect payment not going to correct recipient; and - Provide authority to reverse EFT/ACH; and	Would like to address suspected incorrect payments with processes other than lawsuits.	EFT/ACH reversal is permitted under federal and state banking laws	Bill
19-2-904	Allow health insurance premiums to be paid to the retiree's employer rather than insurance carrier.	Many obstacles arose when we tried to program PERIS to direct payments to the insurance carrier. TRS pays the employer.	Separate legislation proposed to eliminate payment of health insurance premiums for all starting 1/1/18.	Kate/Patty
19-2-907	Provide a default regarding apportionment of annual increases when FLO fails to address.	FLOs often provide Alternate Payee a percentage of the benefit without specifying whether the GABA is apportioned. .	Recommend that the same % paid to the alternate payee applies to GABA increases unless the FLO directs otherwise.	Kate
19-2-1004	Address federal taxes (18 USC 3613)	Under current statute, federal tax exception is implied. Would be best to specifically exempt so clear that federal tax liens can come out of retirement benefit. . Also need to add federal criminal penalties to the list of exceptions.	To clarify – federal taxes (and federal criminal penalties) are an exception to this statute as retirement benefits can be tapped for those costs.	Kate & Melanie
19-3-108(6)(b) 19-6-101(3)(b) 19-7-101(3)(b) 19-8-101(2)(b)	Remove severance pay from the types of lump sum payments made at termination that are included in HAC (PERS, HPORS, SRS, GWPORS)	Severance pay has been interpreted to be its own class of payment, rather than a descriptor of the included payments. Severance pay is not compensation for retirement purposes as it is not compensation for services.	Using "severance" is confusing to members who then want to include pay for severance (to go away) in their HAC but b/c it is not included in the definition of compensation and we're not collecting contributions on severance, it should come out here.	Melanie
19-3-201 [19-9-210] 19-13-212	Provide the ability to assess actuarial costs to the terminating entity to the terminating entity.	When a local public employer terminated their PERS contract in December 2014, they paid the \$44k liability, but not the \$3k cost MPORA paid the actuary for the calculation. It is reasonable to assess the actuarial cost to the terminating employer, but currently there is no authority to do so.	This issue arises in PERS, MPORS and FURS, the only systems that provided for employers to contract with us for coverage PERS – amend 19-3-201 MPORS – new statute FURS – amend 19-13-212	Bill

19-3-403	County School Superintendents	Clarify that county school superintendents are not covered by PERS.	Consistent with request from Shawn Graham (TRS) to amend 19-3-413	Melanie
19-3-413	County School Superintendents	Clarify that although county school superintendents are elected officials, they aren't in PERS so don't have an optional member election	Request from Shawn Graham at TRS as 19-20-302 references that 19-3-413 doesn't include county school superintendents	Melanie
19-3-1105(2)(b)(ii)	Amend the reference to 19-3-902 to 19-3-906	Overlooked error in 2015 HB 101 rewrite of 19-3-1105 – reference should be to calculation, not eligibility statute		Kate
19-3-1105	Revisit benefit on 2 nd retirement as changes made between 12/5/2014 and 12/9/2014 were not consistent with our goal.	Clarify that 2 nd retirement is calculated based on laws in effect during the 2 nd term of employment	PERS	Kate
19-6-1102 (new) 19-7-1102 (new) 19-8-1202 (new) 19-13-1102 (new)	Add 2 nd retirement benefit to all systems that don't have it already	More and more people are returning to employment following retirement and we don't have a mechanism to address their 2 nd retirement benefit	HPORS, SRS, GWPORS and FURS. PERS has a 2 nd retirement benefit. JRS has a mechanism for returning judges. MPORS adopted its own legislation on this issue in 2015. Question remains regarding what happens if public safety member becomes disabled during 2 nd stint of employment.	
19-6-1101 (new) 19-8-1201 (new) 9-9-1302 (new)	Add working retiree hour limitations to all systems that don't have it already.	More people returning to employment following retirement and many of those only work part-time.	HPORS, GWPORS and MPORS. PERS, SRS and FURS have limits. All safety systems would have the same 480 hour limitation. PERS remains at 960.	
19-3-1106(7)	Exclude licensed independent contractors and overhead costs from working retiree limitations	Difficult to administer.	Trustee McGinley and MACO	Melanie/ Dore
19-3-1210 19-5-802 19-7-503 19-8-1002	Add language stating no remaining accumulated contributions are paid out upon the death of the contingent annuitant	Olsen Issue Issue exists in PERS, JRS, SRS, and GWPORS	If Olsen appeals the Board's Final Order, these statutes will be removed from the bill.	Legal

19-3-2141(3)(c)(i)	Treat DC members hired after 7/1/2011 and incurring a disability similar to those with earlier hire date Allow those who become disabled prior to NRA (60 or 65) to receive disability for 5 years past NRA (65 or 70); those who become disabled after NRA can receive disability for 5 years.	Change in normal retirement age resulted in inconsistent treatment of PERS DC members with a NRA of 60 and PERS DC members with a NRA of 65.	Not prohibited by DC plan document Need to check with tax counsel.	Bill and Patty
19-3-2141	Add reference to 19-3-1103 in part 21 to make clear that DC disabilities are subject to DB earnings limitation	Eliminate the inconsistency between DB and DC members, all or who are PERS members and should be subject to same limitations.		Legal, Patty and Sarah
19-5-502	Reference 19-5-902 in both subsections	2 GABA elections		Melanie
19-6-1005	Amend to clarify that interest is calculated at fiscal yearend	Confusing language as fiscal yearend calculation is listed under monthly adjustments	From SAVA – Ginger Aldrich	Melanie
19-7-410	Add work comp service purchase similar to PERS	Issue from May 2016 illustrates that ERs have to pay compensation to sheriffs in addition to the work comp they receive if injured, but this is not true for detention officers or investigators.	If a detention officer/investigator only receives work comp, under statute as currently worded we don't have authority to collect any contributions. This results in disparate treatment between sheriffs and DOs; and injured DO is penalized not only for their work-related injury from an income perspective, but also for retirement Discussed with SPOA	Kate/Patty/Melanie/Dore
19-9-1204	Amend (1) to reference 19-9-801(1)(a) only.	19-9-801(1)(b) was added in 2013 and expands individuals eligible to retire to those age 50 and vested. This is not the population meant to participate in the DROP and in fact, the 2003 legislation clearly applies only to 20 year members, not vested	There are no MPORS DROP members with less than 20 years.	Melanie

19-9-1207(1)	Repealing (1) - consider newly hired	Language creates unintended issues with contributions, GABA, etc.	They are not “newly hired” for any reason other than to accumulate a new retirement benefit.	Kate and Sheri
19-13-104(10)	Add “fiscal” as year for reporting basis of \$300 annual compensation limit	\$300 a year in the part-paid firefighter definition doesn’t specify whether year is calendar or fiscal.	Donna Bley thinks it has been reported as calendar previously but LOB is based on fiscal	Kate and Donna
19-13-302	Acknowledge proportional membership in 19-2-403(4)...and membership in more than one system for different service/work		Seems to limit membership to one system (FURS)	Kate and Patty
19-17-112(3)	(3) clarify that the roster should include retired members receiving a pension from VFCA, if they have returned to service.	Currently just says “active and inactive members.” 19-17-412, MCA allows retired members to return to service . If they do so, they may not receive credited service but they are eligible for medical and funeral expenses incurred in the line of duty. 19-17-412 allows return to service without loss of benefits.	Under 19-17-501, medical and funeral expenses are available to a member listed on the roster for line of duty death/injury	Bill and Hollie
19-17-112(2)(b)	Remove SSN as a requirement on the annual certificate.	2-6-502 requires limiting use of SSN and	We only need to receive the SSN 1x, to enroll the member. We do not need the SSN on an annual basis.	Bill
19-17-407	Rework section to be consistent with 19-2-1004 and clarify that benefit can be subject to federal tax and criminal penalty levies.			Melanie
19-17-412	Clarify that a retired member returning to service is entitled to additional VFCA benefits including medical or funeral benefits.	Section 412 says they can return to service “without loss of benefits”		Bill and Hollie
19-17-502 (amend) 19-17-503 (amend) 19-17-506 (repeal)	Remove payment directly to medical care or funeral service provider and allow either a bill or a receipt as payment to provider may already have occurred. Also note 503 requires a bill, while 506 requires a receipt – remove need for both?	These payments may be taxable so need to go to the claimant for proper tax treatment	Consistency between funeral and medical benefits with respect to what is required and what is paid when.	Bill, Kate and Hollie