

Montana Public Employee Retirement Administration
Montana Public Employees' Retirement Board
Table of General Revisions Legislation to be Considered for 2017
Last update 08/01/16

Current Code Section	Proposed Change	Reason	Notes
19-2-602	Add minimum threshold for refunds to amount greater than the \$3 provided in ARM 2.4.201	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.	Suggest \$25.00 as the threshold. DOA confirmed 4/1/16 that it does not plan to change the \$3 amount in the ARM.
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
19-2-902(2)(a)	Consider replacing the "present value of the benefit" with the "accumulated contributions"?	Member/Beneficiary entitled to retirement benefit or survivorship benefit is entitled to election of present value of benefits in lieu of monthly benefit under this section, but we can't calculate the present value in house currently.,	Hollie confirmed with actuary that we can obtain a calculator/table to determine the present value of the benefit in-house to include in the forms/letters that currently use the accumulated contribution value 19-2-602 re refunds says "accumulated contributions"
19-2-903	Reduce overpayments following a death - Get authority to reverse EFT/ACH; and/or - Suspend payment if recipient suspected to no longer be receiving payment		Consider doing by rule
19-2-904	Add to "retiree" eligibility for health insurance withholding eligibility for spousal (and maybe child?) withholding Or Eliminate this service for everyone	We amended this section in HB101 from 2015 to acknowledge withholding for contingent annuitants, but may want to further clarify which contingent annuitants.	CA who is covered by the member's employer's health insurance – spouse or child? Rule? Difficult to administer

19-2-907	Consider specifying default in (5)(c) regarding annual increases	If FLO provides AP a percentage but doesn't address increases, we have no statutory default to rely on.	Consider requesting clarification from existing FLO participants where this is an issue and don't approve future FLOs w/o specification. or Amend statute so that the % increases are given to the AP unless the FLO says otherwise
19-2-1002	Add authority to assess liability and collect from ER when underlying entity stops participating – ie county nursing home privatizes, resulting in 40 few participants for the reporting county.	Even if ER remains on the hook w GASB requirements, may be preferable to assess cost and get it up front from ER when entity still exists.	See provision for liability when ER terminates contract in 19-3-201(3)(d) or look at each system that has a contract statute.
19-2-1004	Address federal taxes (18 USC 3613)	Currently federal taxes aren't listed as not subject to liens or garnishment, so they are subject to liens or garnishment. Better to be specific.	To clarify – address that federal taxes (and federal criminal penalties) are an exception. Benefits can be tapped for those costs.
19-3-108(6)(b) 19-6-101(3)(b) 19-7-101(3)(b) 19-8-101(2)(b)	Remove “severance pay, including” from what types of lump sum payments made upon termination 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.	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.
19-3-201	Consider adding ability to assess the cost of the actuary calculating the outstanding actuarial liability of the terminating entity to the terminating entity.	When a PERS employer terminated their PERS contract in December 2014, they paid the \$44k liability, but not the \$3k cost MPERA paid the actuary for the calculation. It seems reasonable to assess them and others in a similar situation this cost, but currently there is no authority to do that.	This issue may extend beyond terminating PERS employers so 19-3-201 is not necessarily the best spot to address cost recovery for actuarial work if other issues are at stake (an EE or system wanting a study for informational purposes) or if the ER is not merely terminating the contract but ceasing to exist (bankruptcy, purchase by private entity etc.) 19-2-405 talks about employment of the actuary
19-3-403	County School Superintendents	Clarify that county school superintendents are not covered by and excluded from participating in PERS.	Request from Shawn Graham (TRS)

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
19-3-505(1) 19-2-704	Insert "active or vested" before the word "member" in the statute.	Issue raised in a contested case.	Ensure we limit eligibility to purchase service to active or vested inactive members and not inactive, non-vested members. Consider other service purchase statutes as "member" is too broad of a term.
19-3-1105(2)(b)(ii)	Amend the reference to 19-3-902 to reference 19-3-906 instead.	Overlooked error in 2015 HB 101 rewrite of 19-3-1105 – reference should be to calculation, not eligibility statute	Section (2)(b)(ii) states calculation will be as under "19-3-902 or 19-3-904" [902 is eligibility for early and 904 is amount of service retirement]; assume we meant to reference both -904 and -906, amount for service retirement and amount for early retirement.
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.		Look at other systems – strive for consistency (similar to MPORS?) <i>I think we wanted to leave in what is now (2)(b) the phrase "but only with respect to the service credit earned after reemployment." as it was in (1) prior to 2015 and as was in our proposed draft.</i>
19-3-1106(7)	Independent contractors and temporary contractors/workers	Clarify when working retiree limits apply to ICs and temps.	Trustee McGinley's and MACOs thoughts re ICs/MACO's thoughts re temps
19-3-1106(1)	Limits 960 hours - internally we only count hours worked, not hours paid	Statute provides for employment not to exceed 960 hours, rule states "does not work more than 960 hours"	Steering committee determined to continue past practice in LOB design but to revisit in the future.
19-3-1501(2)(a)	Add language stating no accumulated contributions are paid out upon the death of the contingent annuitant	Issue raised in a contested case.	Address other systems too. Depends on resolution of contested case.

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 (3)(b) allows recipient disability benefits until age 65 if initially under 60 OR for 5 years if initially over 60 – compare with(3)(c) that would allow benefits for less than 5 years depending on age – was this 2011 change intentional??	Equity	Check with tax counsel and plan document
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	Requires input from tax counsel.
19-5-502	Reference 19-5-902 in both subsections	2 GABA elections	
19-6-1005	Amend to clarify that although interest is calculated at fiscal yearend, it is then applied on a monthly basis.	Confusing language as fiscal yearend calculation is listed under monthly adjustments.	From SAVA – Ginger Aldrich
19-7-410	Add work comp service purchase similar to PERS	Issue arising 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 DO/investigator only receives work comp, under statute as currently worded we don't technically have authority to collect any contributions... Problem as this results in disparate treatment from sheriffs AND injured member is penalized not only for their work-related injury from an income perspective, but also for retirement
19-7-1101	Add guidance on benefits for SRS working retirees. Revisit limits in MPORS and FURS. Establish a number of hours - possibly 960; determine how to recalculate benefit if exceed that number of hours.	Statute seems to only direct pausing of benefit but does not provide repayment of benefits paid upon reinstatement or calculation of benefits upon 2 nd retirement. See MPORS statute following passage of HB392 in 2015.	Consider creating working retiree limits in all systems. Currently, if system doesn't address, we don't allow working retirees to return to service in that system.; Consider a uniform 2 nd benefit?

19-9-1204	Amend (1) to say 19-9-801(1)(a).	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 we intended to participate in the DROP and in fact, the 2003 legislation clearly applies only to 20 year members, not vested.	No MPORS DROP members with less than 20 years.
19-9-1207(1) and 19-6-1007	Consider repealing "consider newly hired" (1)	Issues with contributions, GABA, etc.	They are not "newly hired" for any reason other than to accumulate a new retirement benefit.
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. It has been reported as calendar previously but PERIS is based on fiscal	Change law or programming?
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) Wondering about the administration of 19-2-403(4) and how it impacts service credit for members – is it working? Do we want to expand to FURS (assuming this is an expansion)
19-13-1101	Add guidance on benefits for reinstated FURS member		*See Notes for 19-7-1101 Do we want to allow working retirees in all systems and devise one way to calculate the 2 nd benefit?
19-17-102(22)	Define the age requirement	Departments may be violating Montana's child labor laws or Title 7, ch. 33 by allowing <18 volunteers, but FLSA exempts volunteer firefighters from age limits.	Discuss with MT Volunteer FF Assoc 7-33-4107 requires municipal fire department firefighters to be at least 18 years of age.

19-17-109	(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.” “Inactive member” is defined as a member not receiving credit for that year, and 19-17-412 allows retired members to return to service and only states that they may not receive credit. Under 19-17-501 medical and funeral expenses are available to a member listed on the roster for line of duty death/injury	
19-17-112(2)(b)	Remove SSN as a requirement on the annual certificate? Why do we need this annually? If they report it once initially (i.e. to enroll the member), there should be no ongoing need to collect the SSN every year.	2-6-502 requires limiting use of SSN	We have already limited to last 4 on PERIS form but better to remove?
19-17-407	Rework section...or revise 15-30-2110, MCA to specifically include VFCA benefits to allow continued exemption. Also clarify that benefit can be subject to federal tax and criminal penalty levies?	Section 407 provides an exemption from state income tax for the amount determined pursuant to 15-30-2110(2)(c) [\$3600 exemption that phases out between \$30,000 and \$31,800] BUT that section uses the definition of “pension and annuity income” provided in 15-30-2101, which I don’t think includes VFCA benefits.	Wait for VFCA PLR? DOR commented.
19-17-412	Clarify that a retired member returning to service is entitled to medical or funeral benefits.	Section 412 says they can return to service “without loss of benefits”	
19-17-506	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 and so need to go to the claimant for proper tax treatment.	